

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE MONTANA BROWNFIELDS
5 REVITALIZATION ACT; PROVIDING DEFINITIONS; AUTHORIZING THE MONTANA BROWNFIELDS FUND;
6 PROVIDING FOR BROWNFIELD REDEVELOPMENT VIABILITY AND ELIGIBILITY; PROVIDING
7 RULEMAKING AUTHORITY; ELIMINATING THE MONTANA PETROLEUM BROWNFIELDS
8 REVITALIZATION ACT; AMENDING SECTIONS 17-7-502 AND 75-11-309, MCA; REPEALING SECTIONS
9 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 8] may be cited as the "Montana
14 Brownfields Revitalization Act".

15

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 properties may be eligible for
19 brownfields funding.

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

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

25 (4) not all sites impacted by hazardous substances are assessed or cleaned up by the
26 Comprehensive Environmental Cleanup and Responsibility Act in chapter 10, part 7, of this title or the federal
27 Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.

28

1 **NEW SECTION. Section 3. Definitions.** (1) The definitions used in [sections 1 through 8] are for the
2 purpose of determining the eligibility of sites to receive and expend federal brownfields funding received by a
3 grant recipient from the United States environmental protection agency under the federal Brownfields
4 Revitalization and Environmental Restoration Act of 2001, Title II of Public Law 107-118.

5 (2) As used in [sections 1 through 8] unless the context clearly indicates otherwise, the following
6 definitions apply:

7 (a) "Brownfield site" means an abandoned, idle, blighted, or underutilized property, for which the
8 expansion, redevelopment, or reuse of may be complicated by the presence or potential presence of hazardous
9 substances, pollutants, or contaminants.

10 (b) "Brownfields redevelopment" means any work or undertaking by a person to acquire a
11 brownfield site and to raze, demolish, remove, reconstruct, renovate, or rehabilitate the site or existing
12 buildings, structures, or other improvements at the site for the purpose of promoting the use of the site for
13 residential, commercial, industrial, or other purposes. The term does not include construction of new facilities
14 on the site for any purpose other than environmental remediation activities.

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

16 (d) "Eligible entity" means a city, town, county, consolidated city-county, tribal government,
17 economic development organization, nonprofit organization, or state agency that has received federal
18 brownfields funding from the environmental protection agency or other state agency.

19 (e) "Environmental remediation activities" means:

20 (i) investigation, analysis, and monitoring of a brownfields site to determine the existence and
21 extent of actual or potential environmental pollution;

22 (ii) redevelopment planning; or

23 (iii) abatement, removal, or containment of environmental pollution at a brownfields site.

24 (f) "Hazardous substance" has the same meaning as provided in 75-10-602.

25 (g) "Petroleum" or "petroleum product" has the same meaning as provided in 75-11-302.

26 (h) "Petroleum tank release site" means a site where there has been a release from a petroleum
27 storage tank and assessment or remediation, or both, are being pursued in accordance with Title 75, chapter
28 11, part 3.

1 (i) "Reasonable steps" means, as appropriate, stopping continuing releases, preventing
2 threatened future releases, or preventing or limiting human, environmental, or natural resource exposure to
3 previous petroleum, petroleum product, or hazardous substance releases. The term may include limiting access
4 to the property, monitoring known contaminants, and complying with state, local, or both state and local
5 requirements.

6 (j) "Responsible party" means:

7 (i) a person responsible for conducting the assessment, investigation, and cleanup at a brownfield
8 site as determined through:

9 (A) a judgment rendered in a court of law or an administrative order;

10 (B) an enforcement action by federal authorities or the department; or

11 (C) a citizen suit, contribution action, or other third-party claim brought against the current owner of
12 a brownfield site; or

13 (ii) a current owner of a brownfield site who:

14 (A) dispensed or disposed of petroleum or petroleum product or hazardous substance
15 contamination at the site;

16 (B) exacerbated existing contamination at the site;

17 (C) owned the site when any dispensing or disposal of petroleum or hazardous substances by
18 others took place; or

19 (D) failed to take reasonable steps with regard to contamination at the site.

20 (k) "Viable responsible party" means a responsible party determined by the department to have
21 the financial capability to conduct environmental remediation activities at a brownfield site.

22
23 NEW SECTION. **Section 4. Viability at a petroleum release site.** (1) For the purpose of determining
24 the viability of a responsible party at a brownfield site where petroleum contamination is the predominant
25 contaminant, the department shall presume that:

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

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

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

8 (3) It is an applicant's responsibility to provide the department with sufficient financial information
9 about a responsible party identified in a petroleum brownfields site eligibility application to determine whether
10 the responsible party is a viable responsible party.

11
12 **NEW SECTION. Section 5. Eligibility for brownfields funding -- determination and limitations.**

13 (1) Before an eligible entity may expend federal brownfields funds at a brownfield site, either the United States
14 environmental protection agency or the department shall make a written determination that:

- 15 (a) there is no viable responsible party for the contamination as determined pursuant to [section 4];
16 (b) the brownfield site will not be assessed, investigated, or cleaned up by a responsible party; and
17 (c) the brownfield site is not subject to an order under section 9003(h) of the federal Solid Waste
18 Disposal Act, 42 U.S.C. 6991b(h), or Title 75, chapter 11.

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

23 (3) The department may not limit the use of money from the petroleum tank release cleanup fund
24 established in 75-11-313 when used as a commitment to a federal brownfields loan to an eligible entity for
25 remediation of petroleum at a brownfield site.

26 (4) (a) Except as provided in subsection (4)(b), a determination made by the department or the
27 United States environmental protection agency that a brownfield site is eligible for federal brownfields funding
28 does not limit or alter the responsible party's, owner's, or operator's responsibility to assess or remediate:

1 (i) a petroleum or hazardous substance release in accordance with Title 75, chapter 11; or
2 (ii) a liability at a facility subject to the Comprehensive Environmental Cleanup and Responsibility
3 Act in accordance with Title 75, chapter 10.

4 (b) The department shall approve a comprehensive remediation plan and allow for the use of
5 federal brownfields funding at the brownfield site if
6 the department determines that an eligible entity has proposed to conduct timely and comprehensive
7 environmental remediation activities using federal brownfields funding at a brownfield site that:

8 (i) is eligible for brownfield funding as determined by the department or U.S. environmental
9 protection agency;

10 (ii) proposes a remediation plan of environmental remediation activities that meets or exceeds
11 department remediation standards; and

12 (iii) meets or exceeds financial commitments required by the petroleum tank release compensation
13 board pursuant to Title 75, chapter 11, part 3.

14
15 NEW SECTION. Section 6. Site access. Upon presentation of the proper credentials, an authorized
16 representative of the department may enter any building, property, premises, place, or facility where brownfield
17 redevelopment or environmental remediation activities are being performed or have been performed for the
18 purpose of making an inspection to ensure compliance by any person pursuant to the provisions of [sections 1
19 through 8] or rules promulgated pursuant to [sections 1 through 8].

20
21 NEW SECTION. Section 7. Rulemaking authority. The department may adopt rules to implement
22 the provisions of [sections 1 through 8] and to:

23 (1) prescribe the form and content of applications for assistance from the brownfields site
24 redevelopment fund;

25 (2) apply eligibility criteria for awarding assistance from the brownfields site redevelopment fund;

26 (3) establish additional terms and conditions for assistance from the brownfields site
27 redevelopment fund;

28 (4) establish maximum amounts for an individual award of assistance from the brownfields site

1 redevelopment fund, if considered appropriate and necessary for the successful administration of the program;

2 (5) ensure compliance of the program with the provisions of the Small Business Liability Relief and
3 Brownfields Revitalization Act, Public Law 107-118, and rules promulgated under the act unless these matters
4 are specifically governed by [sections 8]; and

5 (6) maintain the financial integrity of the program.

6
7 **NEW SECTION. Section 8. Brownfields site redevelopment fund -- statutory appropriation.** (1) It

8 is the intent of the brownfield program to strengthen communities throughout this state and to promote
9 economic development by encouraging environmental remediation activities and brownfields redevelopment of
10 properties blighted by real or perceived contamination.

11 (2) The brownfields site redevelopment fund is an account in the state special revenue fund for
12 assessment and cleanup of brownfield sites.

13 (3) The money in the account:

14 (a) may be deposited through an allocation of money.

15 (b) must be deposited through money received by the department in the form of legislative
16 appropriations, reimbursements, gifts, or donations from any source that is intended to be used for the
17 purposes of this account.

18 (4) The money in the account is statutorily appropriated, as provided in 17-7-502, to the
19 department to be used only for:

20 (a) investigation and cleanup of petroleum or hazardous substances on an eligible site or facility
21 for the purposes of brownfields redevelopment;

22 (b) demolition of structures, buildings, or other improvements located on an eligible site or facility;

23 (c) interior contaminant abatement activities on an eligible site or facility for asbestos abatement
24 activities, as described in 75-2-502, or lead-based paint abatement activities as described in 40 CFR, part 745,
25 subpart E; or

26 (d) removal of underground tank systems.

27 (5) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in
28 the account.

1 (6) Interest income on the account must deposited and remain in the account.

2

3 **Section 9.** Section 17-7-502, MCA, is amended to read:

4 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory

5 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
6 the need for a biennial legislative appropriation or budget amendment.

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

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

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

12 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-
13 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-
14 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121;
15 15-1-142; 15-1-143; 15-1-218; 15-1-2302; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-
16 117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-
17 3-212; 17-3-222; 17-3-241; 17-6-101; 17-6-214; 17-7-133; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-410;
18 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; 20-3-
19 369; 20-7-1709; 20-8-107; 20-9-250; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-
20 116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-
21 204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-213; 44-13-102; 50-
22 1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-
23 309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; [section 8]; 75-26-308; 76-13-150; 76-
24 13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-
25 1-113; 81-2-203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603;
26 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

27 (4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees
28 associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due

1 in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued
2 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
3 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
4 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
5 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
6 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
7 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
8 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
9 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
10 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
11 terminates June 30, 2025; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates
12 September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027;
13 pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs.
14 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch.
15 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021,
16 the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-
17 310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates
18 June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025;
19 pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to
20 sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-
21 113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 9, Ch. 44, L. 2023, the inclusion of 15-1-142
22 terminates December 31, 2025; pursuant to sec. 10, Ch. 47, L. 2023, the inclusion of 15-1-2302 terminates
23 June 30, 2025; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031;
24 pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates December 31, 2029; pursuant to
25 sec. 4, Ch. 621, L. 2023, the inclusion of 22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L.
26 2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 10, Ch. 758, L. 2023, the inclusion
27 of 44-4-1506 terminates June 30, 2027; and pursuant to sec. 10, Ch. 764, L. 2023, the inclusion of 15-1-143
28 terminates December 31, 2025.)"

1

2 **Section 10.** Section 75-11-309, MCA, is amended to read:

3 **"75-11-309. Procedures for reimbursement of eligible costs -- corrective action plans.** (1) An
4 owner or operator seeking reimbursement for eligible costs and the department shall comply with the following
5 procedures:

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

10 (b) Except for a tank for which a permit is sought under 75-11-308(1)(b)(iii) and that is closed
11 within 120 days of discovery of the release, following discovery of the release, the petroleum storage tank must
12 remain in compliance with applicable state and federal laws and rules that the board determines pertain to
13 prevention and mitigation of petroleum releases.

14 (c) The owner or operator shall conduct a thorough investigation of the release and, subject to
15 subsection (1)(d), report the findings to the department, and, as determined necessary by the department,
16 prepare and submit for approval by the department a corrective action plan that conforms with state, tribal
17 (when applicable), and federal corrective action requirements.

18 (d) For a release in which the costs are expected to exceed \$100,000, an owner or operator, a
19 representative of the owner or operator, the department, the board, and board staff shall meet to discuss the
20 response to the release. For a release in which the costs are expected to be less than \$100,000, an owner or
21 operator, a representative of the owner or operator, the department, the board, and board staff may meet to
22 discuss the response to the release if any party requests a meeting.

23 (e) (i) The department shall review the corrective action plan and forward a copy to a local
24 government office, the board, and, when applicable, a tribal government office with jurisdiction over a corrective
25 action for the release. The local or tribal government office and the board shall inform the department if it wants
26 any modification of the proposed plan.

27 (ii) Based on its own review and comments received from a local government, a tribal government,
28 the board, or other source, the department, subject to ~~75-11-408(4)(b)~~ [section 5(4)(b)], may approve the

1 proposed corrective action plan, make or request the owner or operator to modify the proposed plan, or prepare
2 its own plan for compliance by the owner or operator. A plan finally approved by the department through any
3 process provided in this subsection (1)(d) is the approved corrective action plan.

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

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

8 (g) The department shall notify the owner or operator of its approval of a corrective action plan and
9 shall promptly submit a copy of the approved corrective action plan to the board.

10 (h) The owner or operator shall implement the corrective action plan or plans approved by the
11 department until the release is resolved. The department may oversee the implementation of the plan, require
12 reports and monitoring from the owner or operator, undertake inspections, and otherwise exercise its authority
13 concerning corrective action under Title 75, chapter 10, part 7, Title 75, chapter 11, part 5, and other applicable
14 law and rules.

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

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

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

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

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

27 (k) In addition to the documentation in subsections (1)(i) and (1)(j), when the release is claimed to
28 have originated from a properly designed and installed double-walled tank system, the owner or operator shall

1 document, in the manner required by the board, the following:

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

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

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

12 (3) The board shall review each claim received under subsections (1)(i) and (1)(j), make the
13 determination required by this subsection, inform the owner or operator of its determination, and, as
14 appropriate, reimburse the owner or operator from the fund. Before approving a reimbursement, the board shall
15 affirmatively determine that:

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

17 (i) are eligible costs; and

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

21 (b) the owner or operator:

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

23 (ii) has complied with this section and any rules adopted pursuant to this section. Upon a
24 determination by the board that the owner or operator has not complied with this section or rules adopted
25 pursuant to this section, all reimbursement of pending and future claims must be suspended. Upon a
26 determination by the board that the owner or operator has returned to compliance with this section or rules
27 adopted pursuant to this section, suspended and future claims may be reimbursed according to criteria
28 established by the board. In establishing the criteria, the board shall consider the effect and duration of the

1 noncompliance.

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

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

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

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

14 (5) The board shall obligate money for reimbursement of eligible costs of owners and operators in
15 the order that the costs are finally approved by the board.

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

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

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

26

27 NEW SECTION. **Section 11. Repealer.** The following sections of the Montana Code Annotated are
28 repealed:

- | | | |
|---|------------|---|
| 1 | 75-11-401. | Short title. |
| 2 | 75-11-402. | Findings and intent -- purposes. |
| 3 | 75-11-403. | Definitions -- application. |
| 4 | 75-11-407. | Viability. |
| 5 | 75-11-408. | Brownfields site eligibility at petroleum tank release sites -- determinations and limitations. |
| 6 | 75-11-409. | Use of petroleum brownfields funding acquired by state -- limitations. |

7

8 NEW SECTION. **Section 12. Notification to tribal governments.** The secretary of state shall send a

9 copy of [this act] to each federally recognized tribal government in Montana.

10

11 NEW SECTION. **Section 13. Codification instruction.** [Sections 1 through 8] are intended to be

12 codified as an integral part of Title 75, chapter 11, and the provisions of Title 75, chapter 11, apply to [sections

13 1 through 8].

14 - END -