

SENATE BILL 268

Introduced by Svrcek, et al.

2/04	Introduced
2/04	Referred to Natural Resources
2/04	First Reading
2/04	Fiscal Note Requested
2/11	Fiscal Note Received
2/12	Fiscal Note Printed
2/20	Hearing
2/23	Committee Report--Bill Passed as Amended
2/25	2nd Reading Passed as Amended
2/26	3rd Reading Passed
	Transmitted to House
3/04	First Reading
3/04	Referred to Natural Resources
3/19	Hearing
3/22	Tabled in Committee

SENATE BILL NO. 268  
INTRODUCED BY *Frank Radwin* *Harvey* *Pepr*

1 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE USE OF  
2 RECYCLED GOODS BY PUBLIC AGENCIES; TO PROVIDE A PURCHASE  
3 PREFERENCE FOR GOODS MANUFACTURED FROM RECYCLED MATERIAL; TO  
4 INCREASE STATE AGENCY CONSERVATION AND PURCHASING PRACTICES  
5 RELATING TO RECYCLED AND RECYCLABLE MATERIALS; TO ENCOURAGE  
6 PAPER CONSERVATION BY STATE AGENCIES; AND TO PROVIDE AN  
7 AUDIT OF AND REPORT ON THE PURCHASE PREFERENCE PROGRAM TO  
8 THE 1993 LEGISLATURE."

STATEMENT OF INTENT

9 A statement of intent is necessary for this bill because  
10 [sections 4 and 6] grant rulemaking authority to the  
11 department of administration.

12 The department shall promulgate rules to guide the  
13 recycling decisions and purchasing options of state  
14 agencies. The rules should encourage public agency purchase  
15 and use of recycled materials, with emphasis on innovative  
16 and cost-saving uses of the many types of recycled materials  
17 other than just paper. The department shall:

18 (1) make rules relating to specific materials or  
19 categories of materials that are subject to the provisions  
20 of this bill;

- 21 (2) regulate state agency conservation and recycling  
22 efforts;
- 23 (3) govern use of the recycled material purchase  
24 preference, including encouragement of innovative use of  
25 nonpaper recycled materials;
- 26 (4) establish paper specifications applicable to state  
27 agency recycling use; and
- 28 (5) regulate other matters the department believes will  
29 enhance the objectives of the bill.

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

31 NEW SECTION. **Section 1. Definitions.** As used in  
32 [sections 1 through 6], unless the context requires  
33 otherwise, the following definitions apply:

34 (1) "Department" means the department of administration  
35 as established in 2-15-1001.

36 (2) "Public agency" means a county, municipality,  
37 consolidated local government, special district, school  
38 district, state agency, and any subdivision of any of them.

39 (3) "Recycled materials" and "recycled paper" mean  
40 items and paper products produced from previously used  
41 material or paper. The department shall, as provided in  
42 [section 7], define and redefine these terms in more detail.

43 (4) "State agency" means a department, commission,  
44 council, board, bureau, committee, institution, legislative

1 body, agency, government corporation, or other entity,  
 2 instrumentality, or official of the executive, legislative,  
 3 or judicial branch of this state. The term includes the  
 4 board of regents and the Montana university system.

5 NEW SECTION. Section 2. Preference to recycled  
 6 materials. (1) In addition to the bid preferences set forth  
 7 in this title, a public agency charged with the purchase of  
 8 materials and supplies for any public use shall give  
 9 preference, pursuant to subsection (2), to the purchase of  
 10 goods manufactured from recycled materials.

11 (2) A public agency shall give preference to goods  
 12 manufactured from recycled materials if, after all other  
 13 preferences have been applied in awarding the contract, the  
 14 bid of a person or manufacturing concern offering goods  
 15 manufactured from recycled materials does not exceed by more  
 16 than 15% the lowest bid for goods made from nonrecycled  
 17 materials.

18 NEW SECTION. Section 3. State agency purchasing -- use  
 19 of recovered resources and recycled material. Each state  
 20 agency purchasing supplies, materials, equipment, or  
 21 personal services shall:

22 (1) review its current procurement specifications to  
 23 eliminate, whenever economically feasible, discrimination  
 24 against the procurement of recycled materials;

25 (2) provide incentives, whenever economically feasible,

1 for the maximum possible use of recycled materials in all  
 2 procurement specifications;

3 (3) develop purchasing practices that, to the maximum  
 4 extent economically feasible, assure purchase of materials  
 5 that are recycled or that may be recycled or reused when  
 6 discarded;

7 (4) establish management practices that minimize the  
 8 volume of solid waste generated by limiting the amount of  
 9 materials consumed and discarded;

10 (5) use recycled paper to the maximum extent  
 11 economically feasible; and

12 (6) require persons with whom it contracts to use  
 13 recycled paper in the performance of the contract work, to  
 14 the extent economically feasible.

15 NEW SECTION. Section 4. Rules for recycling and  
 16 reusing solid waste -- exemption. (1) The department shall  
 17 adopt rules that establish:

18 (a) procedures for the separation of solid waste that  
 19 is generated by state agencies and that can be recycled or  
 20 reused; and

21 (b) a system for the collection of solid waste that is  
 22 generated by state agencies and that can be recycled or  
 23 reused. The collection system must assure that the material  
 24 is made available to appropriate agencies or private  
 25 industries for reuse or recycling at the greatest economic

1 value and to the greatest extent feasible for recycling.

2 (2) The department may exempt any single activity or  
3 facility of a state agency from compliance under this  
4 section if the department determines that the exemption is  
5 in the best interest of the state. An exemption may not  
6 exceed 1 year, but additional exemptions may be granted. The  
7 department shall print in the Montana Administrative  
8 Register a public notice of each exemption, together with  
9 the reason for granting the exemption.

10 NEW SECTION. Section 5. Guidelines and procedures to  
11 encourage paper conservation. (1) The department shall  
12 encourage paper conservation.

13 (2) The department shall provide guidelines to state  
14 agencies and state contractors on the availability of  
15 recycled paper and paper products, including the sources of  
16 supply and the potential uses of various grades of recycled  
17 paper.

18 (3) The department shall review the total paper  
19 purchases and use by each state agency.

20 (4) The department shall, in conjunction with the  
21 administrative heads of state agencies, develop procedures  
22 to eliminate excessive or unnecessary paper use, including  
23 but not limited to overpurchase of paper, overprinting of  
24 materials, purchase of too high a grade of paper, purchase  
25 of paper that is not recyclable, and purchase of new paper

1 when recycled paper is available in the same grade.

2 NEW SECTION. Section 6. Department to make rules. (1)

3 The department shall adopt rules necessary to carry out the  
4 purposes of [sections 1 through 5].

5 (2) The department shall adopt rules defining terms  
6 used in [sections 1 through 5] that apply to recycled  
7 materials, recycled paper, and other recycling matters. The  
8 definitions must be based upon generally accepted industry  
9 standards used for describing materials subject to recycling  
10 and materials made up of recycled materials. The definitions  
11 are expected to be changed over the course of time to  
12 reflect changes in industry uses and standards, new ways in  
13 which the state and other public agencies use and recycle  
14 materials, and technological developments that may dictate  
15 changes in definitions.

16 NEW SECTION. Section 7. Purchase preference -- audit

17 report. Prior to the convening of the 1993 session of the  
18 legislature, the legislative audit committee shall conduct a  
19 programmatic audit of the recycled material purchase  
20 preference established in [section 2]. The legislative audit  
21 committee shall report to the 1993 legislature on:

22 (1) the effectiveness of the program;

23 (2) whether the preference percentage rate operates to  
24 materially enhance public agency purchase of recycled  
25 materials;

1       (3) whether the department of administration needs  
2 further guidance in operation of the program; and

3       (4) any other matter that may affect the program.

4       NEW SECTION.   **Section 8.**   Codification       instruction.

5       [Sections 1 through 6] are intended to be codified as an  
6 integral part of Title 18, and the provisions of Title 18  
7 apply to [sections 1 through 6].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0268, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

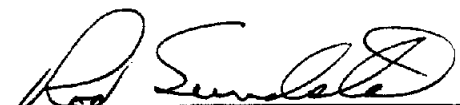
An act to increase the use of recycled goods by public agencies; to provide a purchase preference for goods manufactured from recycled material; to increase state agency conservation and purchasing practices relating to recycled and recyclable materials; to encourage paper conservation by state agencies; and to provide an audit of and report on the purchase preference program to the 1993 Legislature.


ASSUMPTIONS:

1. Recycled white paper and computer paper will be purchased at costs which are approximately 15% more than non-recycled paper.
2. Approximately 50% of the publication of public documents will be produced with recycled paper at costs which are approximately 10% more than non-recycled paper.
3. Recycled paper will be available in the necessary quantities to meet the total needs of all effected public agencies.
4. Current trends for paper and printing will remain unchanged during the 1993 biennium.
5. The Purchasing Bureau of the Department of Administration will need 1.00 FTE at grade 15 to develop administrative procedures which will eliminate excessive or unnecessary use of paper and encourage conservation and recycling efforts per the provisions of the proposed legislation.
6. The Surplus Property Program of the Property and Supply Bureau in the Department of Administration will need 1.00 FTE at grade 15 to develop procedures for the separation of solid waste that is generated by state agencies and that can be recycled or reused per the provisions of the proposed legislation.
7. Increased cost in paper and printing for state agencies will be funded by an increase in the cost of goods sold through the Property and Supply Bureau of the Department of Administration.
8. Current law is represented by the executive budget recommendation for the Property and Supply Bureau and the Purchasing Bureau of the Department of Administration.

FISCAL IMPACT:

see next page

  
ROD SUNDSTED, BUDGET DIRECTOR      2-9-91      DATE  
Office of Budget and Program Planning

  
PAUL S. SVRCEK, PRIMARY SPONSOR      2/12/91      DATE  
Fiscal Note for SB0268, as introduced      SB 268

FISCAL IMPACT:

Purchasing Bureau:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	12.33	13.33	1.00	12.33	13.33	1.00
Personal Services	327,646	352,050	24,404	327,189	351,593	24,404
Operating Costs	104,651	104,651	0	105,725	105,725	0
Equipment	2,000	2,000	0	2,000	2,000	0
Total	434,297	458,701	24,404	434,914	459,318	24,404

Funding:

General Fund	434,297	458,701	24,404	434,914	459,318	24,404
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Property & Supply Bureau:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	15.84	16.84	1.00	15.84	16.84	1.00
Personal Services	412,421	436,825	24,404	411,968	436,372	24,404
Operating Costs	3,349,215	3,786,643	437,428	3,472,993	3,946,402	473,409
Equipment	38,000	38,000	0	0	0	0
Total	3,799,636	4,261,468	461,832	3,884,961	4,382,774	497,813

Funding:

Proprietary Fund	3,799,636	4,261,468	461,832	3,884,961	4,382,774	497,813
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Revenues:

Central Store Fees	4,098,113	4,559,945	461,832	4,221,658	4,719,471	497,813
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Net Impact:

	298,477	298,477	0	336,697	336,697	0
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Since the proposed legislation applies generally to all public agencies, local governments and school districts would experience increases of approximately 15% in paper cost and 10% in printing cost. The fiscal impact of the proposed legislation can not be determine with information currently available.

SB 268

APPROVED BY COMM. ON  
NATURAL RESOURCES

SENATE BILL NO. 268

INTRODUCED BY SVRCEK, KADAS, HARPER, CRIPPEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE USE OF RECYCLED GOODS BY PUBLIC STATE AGENCIES; TO PROVIDE A VOLUNTARY STATE AGENCY PURCHASE PREFERENCE FOR GOODS MANUFACTURED FROM RECYCLED MATERIAL; TO INCREASE STATE AGENCY CONSERVATION AND PURCHASING PRACTICES RELATING TO RECYCLED AND RECYCLABLE MATERIALS; TO ENCOURAGE PAPER CONSERVATION BY PUBLIC AND STATE AGENCIES; AND TO PROVIDE AN AUDIT OF AND REPORT ON THE PURCHASE PREFERENCE PROGRAM TO THE 1993 LEGISLATURE."

STATEMENT OF INTENT

A statement of intent is necessary for this bill because [sections 4 and 6] grant rulemaking authority to the department of administration.

The department shall promulgate rules to guide the recycling decisions and purchasing options of state agencies. The rules should encourage public AND STATE agency purchase and use of recycled materials, with emphasis on innovative and cost-saving uses of the many types of recycled materials other than just paper. The department shall:

- (1) ENSURE THAT ALL RECYCLED MATERIALS PURCHASED BY THE

STATE MEET APPLICABLE SAFETY STANDARDS;

(2) make rules relating to specific materials or categories of materials that are subject to the provisions of this bill;

(3) regulate state agency conservation PROCUREMENT and recycling efforts;

(4) govern use of the recycled material purchase preference, including encouragement of innovative use of nonpaper recycled materials;

(5) establish paper specifications applicable to state agency recycling use; and

(6) regulate other matters the department believes will enhance the objectives of the bill.

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

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(2) "Public agency" means a county, municipality, consolidated local government, special district, school district, state-agency, and any subdivision of any of them.

(3) "Recycled materials" and "recycled paper" mean items and paper products produced from previously used





1 material or paper. The department shall, as provided in  
2 [section 7], define and redefine these terms in more detail.

3 (4) "State agency" means a department, commission,  
4 council, board, bureau, committee, institution, legislative  
5 body, agency, government corporation, or other entity,  
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7 or judicial branch of this state. The term includes the  
8 board of regents and the Montana university system.

9 NEW SECTION. Section 2. Preference to recycled  
10 materials. (1) In addition to the bid preferences set forth  
11 in this title, a public STATE agency charged with the  
12 purchase of materials and supplies for any public STATE use  
13 shall MAY give preference, pursuant to subsection (2), to  
14 the purchase of goods manufactured from recycled materials.

15 (2) A public STATE agency shall MAY give preference to  
16 goods manufactured from recycled materials if, after all  
17 other preferences have been applied in awarding the  
18 contract, the bid of a person or manufacturing concern  
19 offering goods manufactured from recycled materials does not  
20 exceed by more than 15% the lowest bid for goods made from  
21 nonrecycled materials.

22 NEW SECTION. Section 3. State agency purchasing -- use  
23 of recovered resources and recycled material. Each state  
24 agency purchasing supplies, materials, equipment, or  
25 personal services shall:

1 (1) review its current procurement specifications to  
2 eliminate, whenever economically feasible, discrimination  
3 against the procurement of recycled materials;

4 (2) provide incentives, whenever economically feasible,  
5 for the maximum possible use of recycled materials in all  
6 procurement specifications;

7 (3) develop purchasing practices that, to the maximum  
8 extent economically feasible, assure purchase of materials  
9 that are recycled or that may be recycled or reused when  
10 discarded;

11 (4) establish management practices that minimize the  
12 volume of solid waste generated by limiting the amount of  
13 materials consumed and discarded;

14 (5) use recycled paper to the maximum extent  
15 economically feasible; and

16 (6) require persons with whom it contracts to use  
17 recycled paper in the performance of the contract work, to  
18 the extent economically feasible.

19 NEW SECTION. Section 4. Rules for recycling and  
20 reusing solid waste -- exemption. (1) The department shall  
21 adopt rules that establish:

22 (a) procedures for the separation of solid waste that  
23 is generated by state agencies and that can be recycled or  
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25 (b) a system for the collection of solid waste that is

1 generated by state agencies and that can be recycled or  
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 3 is made available to appropriate agencies or private  
 4 industries for reuse or recycling at the greatest economic  
 5 value and to the greatest extent feasible for recycling.

6 (2) The department may exempt any single activity or  
 7 facility of a state agency from compliance under this  
 8 section if the department determines that the exemption is  
 9 in the best interest of the state. An exemption may not  
 10 exceed 1 year, but additional exemptions may be granted. The  
 11 department shall print in the Montana Administrative  
 12 Register a public notice of each exemption, together with  
 13 the reason for granting the exemption.

14 NEW SECTION. Section 5. Guidelines and procedures to  
 15 encourage paper conservation. (1) The department shall  
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 19 recycled paper and paper products, including the sources of  
 20 supply and the potential uses of various grades of recycled  
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 23 purchases and use by each state agency.

24 (4) The department shall, in conjunction with the  
 25 administrative heads of state agencies, develop procedures

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 2 but not limited to overpurchase of paper, overprinting of  
 3 materials, purchase of too high a grade of paper, purchase  
 4 of paper that is not recyclable, and purchase of new paper  
 5 when recycled paper is available in the same grade.

6 (5) THE DEPARTMENT SHALL IMPLEMENT THE PROVISIONS OF  
 7 THIS SECTION WITHIN AVAILABLE RESOURCES.

8 NEW SECTION. Section 6. Department to make rules. (1)  
 9 The department shall adopt rules necessary to carry out the  
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22 NEW SECTION. Section 7. Purchase preference -- audit  
 23 report. Prior to the convening of the 1993 session of the  
 24 legislature, the legislative audit committee shall conduct a  
 25 programmatic audit of the recycled material purchase

1 preference established in [section 2]. The legislative audit  
2 committee shall report to the 1993 legislature on:

3 (1) the effectiveness of the program;

4 (2) whether the preference percentage rate operates to  
5 materially enhance public STATE agency purchase of recycled  
6 materials;

7 (3) whether the department of administration needs  
8 further guidance in operation of the program; and

9 (4) any other matter that may affect the program.

10 NEW SECTION. **Section 8.** Codification instruction.

11 [Sections 1 through 6] are intended to be codified as an  
12 integral part of Title 18, and the provisions of Title 18  
13 apply to [sections 1 through 6].

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