

1 *Senate* BILL NO. *175*  
 2 INTRODUCED BY *Warden Blaylock Ober Healy*  
 3 *Debbie McHenry Lee Rogerson Dan Webb*  
 4 BY REQUEST OF *Tom Thomas*  
 5 *John Mandy Lou Thomas*  
 6 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES  
 7 *Janard Rasmussen Robert Flynn*

8 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A RESOURCE  
 9 RECOVERY PROGRAM IN THE STATE OF MONTANA; AUTHORIZING THE  
 10 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO CREATE A  
 11 LOCAL GOVERNMENT PLANNING FUND FOR THE CREATION OF A  
 12 RESOURCE RECOVERY PROGRAM; SPECIFYING THE POWERS OF A LOCAL  
 13 GOVERNMENT TO SECURE GRANTS AND LOANS FOR THE CREATION OF A  
 14 RESOURCE RECOVERY PROGRAM; AND SPECIFYING THE DUTIES OF THE  
 15 DEPARTMENT IN ADMINISTERING PROVISIONS OF THE ACT."

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 17 Section 1. Short title. This act may be cited as the  
 18 "Resource Recovery Act".

19 Section 2. Purpose and public policy. The purpose of  
 20 this act is to encourage the conservation of natural  
 21 resources through the promotion or development of systems to  
 22 collect, separate, reclaim, recycle, and dispose of solid  
 23 waste for energy production purposes and to provide a  
 24 coordinated state solid waste and resource recovery plan. To  
 25 implement this act, the following are declared to be public  
 policies of this state:

1 (1) that maximum recycling from solid waste is  
 2 necessary to protect the public health, welfare, and quality  
 3 of the natural environment;

4 (2) that solid waste management systems shall be  
 5 developed, financed, planned, designed, constructed, and  
 6 operated for the benefit of the people of this state;

7 (3) that private industry is to be utilized to the  
 8 maximum extent possible in planning, designing, managing,  
 9 constructing, operating, manufacturing, and marketing  
 10 functions related to solid waste management systems;

11 (4) that local governments shall retain primary  
 12 responsibility for adequate solid waste management with the  
 13 state preserving those functions necessary to assure  
 14 effective solid waste management systems throughout the  
 15 state;

16 (5) that encouragement and support be given to  
 17 individuals and municipalities to separate solid waste at  
 18 its source in order to maximize the value of such wastes for  
 19 reuse;

20 (6) that the state shall provide technical advisory  
 21 assistance to local governments and other affected persons  
 22 in the planning, developing, financing, and implementation  
 23 of solid waste management systems; and

24 (7) that actions and activities performed or carried  
 25 out by persons and their contractors in accordance with this

*SB175*

1 act shall be in conformity with the state solid waste plan.

2 Section 3. Definitions. Unless the context clearly  
3 requires otherwise in this act, the following definitions  
4 apply:

5 (1) "Resource recovery facility" means any facility at  
6 which solid waste is processed for the purpose of  
7 extracting, converting to energy, or otherwise separating  
8 and preparing solid waste for reuse.

9 (2) "Solid waste management system" means any system  
10 which controls the storage, treatment, recycling, recovery,  
11 or disposal of solid waste.

12 (3) "Front-end planning funds" means the state money  
13 granted to local governments for contract negotiations  
14 between local governments, predesign engineering and cost  
15 estimates, administrative costs, preliminary contract  
16 negotiations with energy users and waste suppliers,  
17 financial feasibility analysis by a financial consultant,  
18 legal consultations, opinions, and review of contracts.

19 (4) "Front-end organizational funds" means the state  
20 money to be loaned to local governments for initial  
21 operating capital, site evaluation and negotiation, final  
22 design engineering and cost estimates, construction contract  
23 documents, final contract negotiations with energy users,  
24 material markets and waste suppliers, contract negotiations  
25 with private operational managers, and financial and legal

1 consultations.

2 (5) "State solid waste plan" means the statewide plan  
3 formulated by the department as authorized by this act.

4 (6) "Department" means the department of health and  
5 environmental sciences provided for in Title 62A, chapter 6.

6 (7) "Solid waste" means all putrescible and  
7 nonputrescible wastes, including but not limited to garbage,  
8 rubbish, refuse, hazardous wastes, ashes, sludge from sewage  
9 treatment plants, water supply treatment plants or air  
10 pollution control facilities; septic tank and cesspool  
11 pumpings; construction and demolition wastes; dead animals,  
12 including offal; discarded home and industrial appliances;  
13 wood wastes and inert materials; but does not include  
14 municipal sewage, industrial wastewater effluents, or mining  
15 wastes as regulated under the mining and reclamation laws  
16 administered by the department of state lands.

17 (8) "Local government" means a county, incorporated  
18 city or town, or refuse disposal district organized under  
19 the laws of this state.

20 (9) "Person" means any individual, firm, partnership,  
21 company, association, corporation, city, town, local  
22 governmental entity, or any other state, federal, or private  
23 entity whether organized for profit or not.

24 Section 4. Duties of department. (1) The department  
25 shall:

1 (a) develop a state solid waste management and  
2 resource recovery plan;

3 (b) adopt rules necessary for the implementation of  
4 this act, including but not limited to rules governing the  
5 submission of plans for a solid waste management system,  
6 rules governing procedures to be followed in applying for  
7 and making loans, and rules governing agreements between a  
8 local government and the department for grants or loans  
9 under the act;

10 (c) provide financial assistance to local governments  
11 for front-end planning activities for a proposed solid waste  
12 management system which is compatible with the state plan  
13 whenever such financial assistance is available;

14 (d) provide technical assistance to persons within the  
15 state for planning, designing, constructing, financing, and  
16 operating a solid waste management system in order to insure  
17 that the system conforms to the state plan;

18 (e) provide front-end organizational loans for the  
19 implementation of an approved solid waste management system  
20 whenever funds for such loans are available;

21 (f) enforce and administer the provisions of this act;

22 (g) administer loans made by the state under the  
23 provisions of this act; and

24 (h) approve plans for a proposed solid waste  
25 management system submitted by a local government.

1 (2) The department may:

2 (a) accept loans and grants from the federal  
3 government and other sources to carry out the provisions of  
4 this act; and

5 (b) make loans to a local government for the planning,  
6 design, and implementation of a solid waste management  
7 system.

8 Section 5. Powers and duties of local government. A  
9 local government may:

10 (1) plan, develop, and implement a solid waste  
11 management system consistent with the state's solid waste  
12 plan and propose modifications to the state's solid waste  
13 plan;

14 (2) employ appropriate personnel to carry out the  
15 provisions of this act;

16 (3) purchase, rent, or execute leasing agreements for  
17 equipment and material necessary for the implementation of a  
18 solid waste management system;

19 (4) cooperate with and enter into agreements with any  
20 persons in order to implement an effective solid waste  
21 management system;

22 (5) receive gifts, grants, or donations or acquire by  
23 gift, deed, or purchase land necessary for the  
24 implementation of any provision of this act;

25 (6) enforce the rules of the department or a local

1 board of health pertaining to solid waste management through  
2 the appropriate county attorney;

3 (7) apply for and utilize state, federal, or other  
4 available money for developing or operating a solid waste  
5 management system;

6 (8) borrow from any lending agency funds available for  
7 assistance in planning a solid waste management system;

8 (9) finance a solid waste management system through  
9 the assessment of a tax as authorized by state law;

10 (10) sell on an installment sales contract or lease to  
11 a person all or a portion of a solid waste management system  
12 which the local government plans, designs, or constructs for  
13 such consideration and upon such terms as are established by  
14 the local governments and consistent with the loan  
15 requirements as set forth in this act and rules;

16 (11) procure insurance against any loss in connection  
17 with property, assets, or activities;

18 (12) mortgage or otherwise encumber all or a portion of  
19 a solid waste management system when the local government  
20 finds the action is necessary to implement the purposes of  
21 this act, as long as the action is consistent with the loan  
22 requirements set forth in this act and rules;

23 (13) hold or dispose of real property and, subject to  
24 agreements with lessors and lessees, develop or alter the  
25 property by making improvements or betterments for the

1 purpose of enhancing the value and usefulness of the  
2 property;

3 (14) finance, design, construct, own, and operate a  
4 solid waste management system or contract for any or all of  
5 the aforementioned powers;

6 (15) control the disposition of solid waste generated  
7 within the jurisdiction of a local government;

8 (16) enter into long-term contracts with local  
9 governments and private entities for:

10 (a) financing, designing, constructing, and operating  
11 a solid waste management system;

12 (b) marketing all raw or processed material recovered  
13 from solid waste;

14 (c) marketing energy products or by-products resulting  
15 from processing or utilization of solid waste;

16 (17) finance an areawide solid waste management system  
17 through the use of any of the sources of revenue available  
18 to the implementation entity for public works projects, by  
19 the use of revenue bonds issued by the city or county, or by  
20 fees levied by a refuse disposal district, whichever is  
21 appropriate;

22 (18) enter into interlocal agreements in order to  
23 achieve and implement the powers enumerated in this act.

24 Section 5. Solid waste management loans. (1) The  
25 department may, in the name of the state of Montana, enter

1 into agreements with a local government for loans, subject  
 2 to any existing contractual obligations of the local  
 3 government. A loan agreement shall include but not be  
 4 limited to the following:

5 (a) the amount of the loan, not to exceed the  
 6 estimated reasonable amount of the total implementation  
 7 cost, excluding equipment, construction, or land acquisition  
 8 as determined by the department;

9 (b) an agreement by the department to pay part of the  
 10 amount of the loan to the local government on a timetable as  
 11 may be agreed upon by the parties;

12 (c) an agreement by the local government to proceed  
 13 with the project in accordance with plans approved by the  
 14 department;

15 (d) an agreement by the local government to commence  
 16 operation of the project on its completion and not to  
 17 discontinue operations or dispose of the project without the  
 18 approval of the department;

19 (e) an agreement by the local government to operate  
 20 and maintain a solid waste management system in accordance  
 21 with applicable provisions of the solid waste management act  
 22 and rules of the department;

23 (f) an agreement by the local government to pledge any  
 24 available sources of revenue to the repayment of loans  
 25 according to the schedule established by the department. Any

1 revenues from the sale of energy or recycled materials  
 2 recovered from the solid waste management system and any  
 3 money received under federal grants for local solid waste  
 4 management may be used to make such payments. State loan  
 5 funds for local solid waste management systems may be used  
 6 only for front-end organizational activities.

7 (g) an agreement by the local government to establish  
 8 and maintain adequate financial records for the project,  
 9 including an annual audit of the financial records and  
 10 transactions covering each fiscal year by a certified public  
 11 accountant. A copy of each audit shall be submitted to the  
 12 department of administration and the department within 30  
 13 days after its completion. Failure of a local government to  
 14 file a copy of the audit as required by this section shall  
 15 be grounds for rescinding the loan agreement.

16 (2) In allocating loan funds to local governments, the  
 17 department shall establish priority based on a consideration  
 18 of the plan that:

19 (a) most fully utilizes private enterprise for  
 20 planning, design, management, construction, and operation of  
 21 the facilities required to implement a solid waste  
 22 management system;

23 (b) includes the largest population;

24 (c) is the most financially viable; and

25 (d) addresses the most pressing environmental and

1 public health concerns.

2 (3) The department may enter into further agreements  
3 with a local government and acquire further guarantees or  
4 securities as are necessary to implement the provisions of  
5 this act.

6 (4) A loan agreement entered into pursuant to this act  
7 is subject to approval by the department and shall be  
8 accounted for on forms prepared by the department.

9 (5) The department shall establish a schedule of  
10 payments to be made by a local government under a loan  
11 agreement. Payment shall be made in an amount sufficient to  
12 pay the principal and interest cost of the loan obtained  
13 from the department.

14 (6) In the event that the revenues of a project are  
15 insufficient to meet the payment schedule established by the  
16 department, a local government may levy a tax as authorized  
17 by law sufficient to make such payments.

18 (7) If a local government fails to comply with the  
19 payment schedule established by the department, the state  
20 may, after giving 30 days written notice, withhold an equal  
21 share of any state taxes which are otherwise apportioned to  
22 the local government.

23 Section 7. Authority of local governments to incur  
24 indebtedness. A local government may enter into an agreement  
25 under the provisions of this act notwithstanding and without

1 regard to any limit on indebtedness provided by law.  
2 However, all action required or authorized to be taken under  
3 this act by a governing body of any local government shall  
4 be taken in accordance with the applicable public notice and  
5 public participation requirements of applicable state law or  
6 local ordinance.

7 Section 8. Act supplemental. This act is in addition  
8 and supplemental to any other law providing for the  
9 financing of a solid waste management system and does not  
10 amend or repeal any other law.

11 Section 9. Availability of state loans. Loan money as  
12 provided for under this act is only available if the local  
13 government is unable to secure adequate financing from other  
14 lending institutions or is unable to provide the adequate  
15 and necessary bonding for the implementation of a proposed  
16 solid waste management system.

17 Section 10. Severability. If a part of this act is  
18 invalid, all valid parts that are severable from the invalid  
19 part remain in effect. If a part of this act is invalid in  
20 one or more of its applications, the part remains in effect  
21 in all valid applications that are severable from the  
22 invalid applications.

-End-

STATE OF MONTANA

REQUEST NO. 143-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 175 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a resource recovery program in the state of Montana; authorizing the Department of Health and Environmental Sciences to create a local government planning fund for the creation of a resource recovery program; specifying the powers of a local government to secure grants and loans for the creation of a resource recovery program; and specifying the duties of the department in administering provisions of the act.

ASSUMPTIONS:

1. Financial assistance will be extended to thirteen (13) local government units where waste disposal sites are under consideration.
2. Monies provided to local government will come from the Coal Tax Renewable Resource Earmarked Revenue Account or available federal funds.

FISCAL IMPACT:

|                            | <u>FY 78</u>     | <u>FY 79</u>     | <u>TOTAL</u>     |
|----------------------------|------------------|------------------|------------------|
| Grants to local government | <u>\$225,000</u> | <u>\$ 75,000</u> | <u>\$300,000</u> |

In addition to the above direct grants, loans approximating \$1,000,000 in each year of the biennium are expected to be necessary.

*Richard L. DeLong*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-28-77

Approved by Comm.  
on Local Government

1                   SENATE BILL NO. 175  
2           INTRODUCED BY WARDEN, BLAYLOCK, ABER, HEALY, DUNKLE,  
3           MEHRENS, LEE, PETERSON, TOWE, WATT, REGAN, DEVINE, MANLEY,  
4           LOWE, THOMAS, FASBENDER, LENSINK, RASMUSSEN, ROBERTS, FLYNN  
5                   BY REQUEST OF  
6           THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES  
7  
8           A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A RESOURCE  
9           RECOVERY SOLID WASTE MANAGEMENT PROGRAM IN THE STATE OF  
10          MONTANA; AUTHORIZING THE DEPARTMENT OF HEALTH AND  
11          ENVIRONMENTAL SCIENCES TO CREATE A LOCAL GOVERNMENT PLANNING  
12          GRANT FUND FOR THE CREATION OF A RESOURCE-RECOVERY SOLID  
13          WASTE MANAGEMENT PROGRAM; SPECIFYING THE POWERS OF A LOCAL  
14          GOVERNMENT TO SECURE GRANTS AND LOANS FOR THE CREATION OF A  
15          RESOURCE RECOVERY PROGRAM; AND SPECIFYING THE DUTIES OF THE  
16          DEPARTMENT IN ADMINISTERING PROVISIONS OF THE ACT."  
17  
18          BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
19                Section 1. Short title. This act may be cited as the  
20                "Resource-Recovery SOLID WASTE MANAGEMENT Act".  
21                Section 2. Purpose and public policy. The purpose of  
22                this act is to encourage the GOOD MANAGEMENT OF SOLID WASTE  
23                AND THE conservation of natural resources through the  
24                promotion or development of systems to collect, separate,  
25                reclaim, recycle, and dispose of solid waste for energy

1           production purposes WHERE ECONOMICALLY FEASIBLE and to  
2           provide a coordinated state solid waste and resource  
3           recovery plan. To implement this act, the following are  
4           declared to be public policies of this state:  
5                   (1) that maximum recycling from solid waste is  
6           necessary to protect the public health, welfare, and quality  
7           of the natural environment;  
8                   (2) that solid waste management systems shall be  
9           developed, financed, planned, designed, constructed, and  
10          operated for the benefit of the people of this state;  
11                   (3) that private industry is to be utilized to the  
12          maximum extent possible in planning, designing, managing,  
13          constructing, operating, manufacturing, and marketing  
14          functions related to solid waste management systems;  
15                   (4) that local governments shall retain primary  
16          responsibility for adequate solid waste management with the  
17          state preserving those functions necessary to assure  
18          effective solid waste management systems throughout the  
19          state;  
20                   (5) that encouragement and support be given to  
21          individuals and municipalities to separate solid waste at  
22          its source in order to maximize the value of such wastes for  
23          reuse;  
24                   (6) that the state shall provide technical advisory  
25          assistance to local governments and other affected persons



1 in the planning, developing, financing, and implementation  
2 of solid waste management systems; and

3 (7) that actions and activities performed or carried  
4 out by persons and their contractors in accordance with this  
5 act shall be in conformity with the state solid waste plan.

6 Section 3. Definitions. Unless the context clearly  
7 requires otherwise in this act, the following definitions  
8 apply:

9 (1) "Resource recovery facility" means any facility at  
10 which solid waste is processed for the purpose of  
11 extracting, converting to energy, or otherwise separating  
12 and preparing solid waste for reuse.

13 (2) "Solid waste management system" means any system  
14 which controls the storage, treatment, recycling, recovery,  
15 or disposal of solid waste.

16 (3) "Front-end planning funds" means the state money  
17 granted to local governments for contract negotiations  
18 between local governments, predesign engineering and cost  
19 estimates, administrative costs, preliminary contract  
20 negotiations with energy users and waste suppliers,  
21 financial feasibility analysis by a financial consultant,  
22 legal consultations, opinions, and review of contracts.

23 (4) "Front-end organizational funds" means the state  
24 money to be loaned to local governments for initial  
25 operating capital, site evaluation and negotiation, final

1 design engineering and cost estimates, construction contract  
2 documents, final contract negotiations with energy users,  
3 material markets and waste suppliers, contract negotiations  
4 with private operational managers, and financial and legal  
5 consultations.

6 (5) "State solid waste plan" means the statewide plan  
7 formulated by the department as authorized by this act.

8 (6) "Department" means the department of health and  
9 environmental sciences provided for in Title 82A, chapter 6.

10 (7) "Solid waste" means all putrescible and  
11 nonputrescible wastes, including but not limited to garbage,  
12 rubbish, refuse, hazardous wastes, ashes, sludge from sewage  
13 treatment plants, water supply treatment plants or air  
14 pollution control facilities; septic tank and cesspool  
15 pumpings; construction and demolition wastes; dead animals,  
16 including offal; discarded home and industrial appliances;  
17 wood wastes and inert materials; but does not include  
18 municipal sewage, industrial wastewater effluents, or mining  
19 wastes as regulated under the mining and reclamation laws  
20 administered by the department of state lands.

21 (8) "Local government" means a county, incorporated  
22 city or town, or refuse disposal district organized under  
23 the laws of this state.

24 (9) "Person" means any individual, firm, partnership,  
25 company, association, corporation, city, town, local

1 governmental entity, or any other state, federal, or private  
2 entity whether organized for profit or not.

3 (10) "BOARD" MEANS THE BOARD OF HEALTH AND  
4 ENVIRONMENTAL SCIENCES PROVIDED FOR IN TITLE 82A, CHAPTER 6.

5 section 4. Duties of department. (1) The department  
6 shall:

7 (a) ~~develop~~ PREPARE a state solid waste management and  
8 resource recovery plan FOR SUBMISSION TO THE BOARD;

9 (b) ~~adopt~~ PREPARE rules necessary for the  
10 implementation of this act FOR SUBMISSION TO THE BOARD,  
11 including but not limited to rules governing the submission  
12 of plans for a solid waste management system, rules  
13 governing procedures to be followed in applying for and  
14 making loans, and rules governing agreements between a local  
15 government and the department for grants or loans under the  
16 act;

17 (c) provide financial assistance to local governments  
18 for front-end planning activities for a proposed solid waste  
19 management system which is compatible with the state plan  
20 whenever such financial assistance is available;

21 (d) provide technical assistance to persons within the  
22 state for planning, designing, constructing, financing, and  
23 operating a solid waste management system in order to insure  
24 that the system conforms to the state plan;

25 (e) provide front-end organizational loans for the

1 implementation of an approved solid waste management system  
2 whenever funds for such loans are available;

3 (f) enforce and administer the provisions of this act;

4 (g) administer loans made by the state under the  
5 provisions of this act; and

6 (h) approve plans for a proposed solid waste  
7 management system submitted by a local government.

8 (2) The department may:

9 (a) accept loans and grants from the federal  
10 government and other sources to carry out the provisions of  
11 this act; and

12 (b) make loans to a local government for the planning,  
13 design, and implementation of a solid waste management  
14 system.

15 SECTION 5. THERE IS A NEW R.C.M. SECTION THAT READS AS  
16 FOLLOWS:

17 powers and duties of the board. The board shall:

18 (1) adopt a state solid waste management and resource  
19 recovery plan after complying with the procedures outlined  
20 in section 5; and

21 (2) adopt rules necessary for the implementation of  
22 this act, including but not limited to rules governing the  
23 submission of plans for a solid waste management system,  
24 rules governing the procedures to be followed in applying  
25 for and making loans, and rules governing agreements between

1 the local government and the department for grants and loans  
2 under the act.

3 SECTION 6. THERE IS A NEW R.C.M. SECTION THAT READS AS  
4 FOLLOWS:

5 The state solid waste management plan. (1) A proposed  
6 solid waste management plan shall be prepared by the  
7 department in conjunction with local governments in the  
8 state of Montana and any other interested person. After a  
9 draft of a proposed solid waste management plan has been  
10 prepared, the department shall circulate a copy of the  
11 proposed plan to the board of county commissioners in each  
12 county in the state of Montana, the governing body of every  
13 incorporated city or town in the state of Montana, any  
14 person responsible for the operation of a solid waste  
15 management system under the provisions of Title 69, chapter  
16 40, the governor, the environmental quality council, and any  
17 other interested person for at least 90 days prior to  
18 submission of a final proposed solid waste management plan  
19 to the board. During the 90-day period for receipt of  
20 comments on the draft plan, the department shall hold at  
21 least three public hearings around the state on the draft  
22 plan.

23 (2) A final proposed plan shall be prepared based on  
24 the comments and objections received at the public hearings  
25 and from the persons who have submitted comments on the

1 draft solid waste management plan. The final plan submitted  
2 to the board shall include a discussion of all comments and  
3 objections received and the reasons why recommendations for  
4 changes or amendments to the proposed plan were accepted or  
5 rejected. The board shall consider the final proposed solid  
6 waste management plan after giving notice and holding at  
7 least one public hearing pursuant to the rulemaking  
8 procedures outlined in the Montana Administrative Procedure  
9 Act.

10 Section 7. Powers and duties of local government. A  
11 local government may:

12 (1) plan, develop, and implement a solid waste  
13 management system consistent with the state's solid waste  
14 plan and propose modifications to the state's solid waste  
15 plan;

16 (2) UPON ADOPTION OF THE STATE PLAN BY THE BOARD OF  
17 HEALTH AND ENVIRONMENTAL SCIENCES, PASS AN ORDINANCE OR  
18 RESOLUTION TO EXEMPT THE LOCAL JURISDICTION FROM COMPLYING  
19 WITH THE STATE PLAN AND SUBSEQUENT RULES IMPLEMENTING THE  
20 STATE PLAN; THE ORDINANCE OR RESOLUTION MUST INCLUDE A MEANS  
21 TO PROVIDE SOLID WASTE DISPOSAL TO THE CITIZENS OF THE  
22 JURISDICTION AS REQUIRED IN TITLE 69, CHAPTER 40;

23 ~~(3)~~(3) employ appropriate personnel to carry out the  
24 provisions of this act;

25 ~~(4)~~(4) purchase, rent, or execute leasing agreements

1 for equipment and material necessary for the implementation  
 2 of a solid waste management system;

3 (4)(12) cooperate with and enter into agreements with  
 4 any persons in order to implement an effective solid waste  
 5 management system;

6 (5)(16) receive gifts, grants, or donations or acquire  
 7 by gift, deed, or purchase land necessary for the  
 8 implementation of any provision of this act;

9 (6)(11) enforce the rules of the department or a local  
 10 board of health pertaining to solid waste management through  
 11 the appropriate county attorney;

12 (7)(18) apply for and utilize state, federal, or other  
 13 available money for developing or operating a solid waste  
 14 management system;

15 (8)(19) borrow from any lending agency funds available  
 16 for assistance in planning a solid waste management system;

17 (9)(110) finance a solid waste management system through  
 18 the assessment of a tax as authorized by state law;

19 (10)(111) sell on an installment sales contract or lease  
 20 to a person all or a portion of a solid waste management  
 21 system which the local government plans, designs, or  
 22 constructs for such consideration and upon such terms as are  
 23 established by the local governments and consistent with the  
 24 loan requirements as set forth in this act and rules;

25 (11)(121) procure insurance against any loss in

1 connection with property, assets, or activities;

2 (12)(131) mortgage or otherwise encumber all or a  
 3 portion of a solid waste management system when the local  
 4 government finds the action is necessary to implement the  
 5 purposes of this act, as long as the action is consistent  
 6 with the loan requirements set forth in this act and rules;

7 (13)(141) hold or dispose of real property and, subject  
 8 to agreements with lessors and lessees, develop or alter the  
 9 property by making improvements or betterments for the  
 10 purpose of enhancing the value and usefulness of the  
 11 property;

12 (14)(151) finance, design, construct, own, and operate a  
 13 solid waste management system or contract for any or all of  
 14 the aforementioned powers;

15 (15)(161) control the disposition of solid waste  
 16 generated within the jurisdiction of a local government;

17 (16)(171) enter into long-term contracts with local  
 18 governments and private entities for:

19 (a) financing, designing, constructing, and operating  
 20 a solid waste management system;

21 (b) marketing all raw or processed material recovered  
 22 from solid waste;

23 (c) marketing energy products or by-products resulting  
 24 from processing or utilization of solid waste;

25 (17)(181) finance an areawide solid waste management

1 system through the use of any of the sources of revenue  
 2 available to the implementation entity for public works  
 3 projects, by the use of revenue bonds issued by the city or  
 4 county, or by fees levied by a refuse disposal district,  
 5 whichever is appropriate;

6 ~~(10)(17)~~ enter into interlocal agreements in order to  
 7 achieve and implement the powers enumerated in this act.

8 Section 8. Solid waste management loans. (1) The  
 9 department may, in the name of the state of Montana, enter  
 10 into agreements with a local government for loans, subject  
 11 to any existing contractual obligations of the local  
 12 government. A loan agreement shall include but not be  
 13 limited to the following:

14 (a) the amount of the loan, not to exceed the  
 15 estimated reasonable amount of the total implementation  
 16 cost, excluding equipment, construction, or land acquisition  
 17 as determined by the department;

18 (b) an agreement by the department to pay part of the  
 19 amount of the loan to the local government on a timetable as  
 20 may be agreed upon by the parties;

21 (c) an agreement by the local government to proceed  
 22 with the project in accordance with plans approved by the  
 23 department;

24 (d) an agreement by the local government to commence  
 25 operation of the project on its completion and not to

1 discontinue operations or dispose of the project without the  
 2 approval of the department;

3 (e) an agreement by the local government to operate  
 4 and maintain a solid waste management system in accordance  
 5 with applicable provisions of the solid waste management act  
 6 and rules of the department;

7 (f) an agreement by the local government to pledge any  
 8 available sources of revenue to the repayment of loans  
 9 according to the schedule established by the department. Any  
 10 revenues from the sale of energy or recycled materials  
 11 recovered from the solid waste management system and any  
 12 money received under federal grants for local solid waste  
 13 management may be used to make such payments. State loan  
 14 funds for local solid waste management systems may be used  
 15 only for front-end organizational activities.

16 (g) an agreement by the local government to establish  
 17 and maintain adequate financial records for the project,  
 18 including an annual audit of the financial records and  
 19 transactions covering each fiscal year by a certified public  
 20 accountant. A copy of each audit shall be submitted to the  
 21 department of administration and the department within 30  
 22 days after its completion. Failure of a local government to  
 23 file a copy of the audit as required by this section shall  
 24 be grounds for rescinding the loan agreement.

25 (2) In allocating loan funds to local governments, the

1 department shall establish priority based on a consideration  
2 of the plan that:

3 (a) most fully utilizes private enterprise for  
4 planning, design, management, construction, and operation of  
5 the facilities required to implement a solid waste  
6 management system;

7 (b) includes the largest population;

8 (c) is the most financially viable; and

9 (d) addresses the most pressing environmental and  
10 public health concerns.

11 (3) The department may enter into further agreements  
12 with a local government and acquire further guarantees or  
13 securities as are necessary to implement the provisions of  
14 this act.

15 (4) A loan agreement entered into pursuant to this act  
16 is subject to approval by the department and shall be  
17 accounted for on forms prepared by the department.

18 (5) The department shall establish a schedule of  
19 payments to be made by a local government under a loan  
20 agreement. Payment shall be made in an amount sufficient to  
21 pay the principal and interest cost of the loan obtained  
22 from the department.

23 ~~(6) In the event that the revenues of a project are~~  
24 ~~insufficient to meet the payment schedule established by the~~  
25 ~~department, a local government may levy a tax as authorized~~

1 ~~by law sufficient to make such payments.~~ IN THE EVENT THE  
2 REVENUES OF A PROJECT ARE INSUFFICIENT TO PAY THE COSTS, A  
3 LOCAL GOVERNMENT MAY LEVY A PRO RATA FEE AGAINST THE USERS  
4 OF THE SOLID WASTE MANAGEMENT DISTRICT. SUCH PRO RATA FEE  
5 SHALL BE BASED ON A PER TON, PER POUND ASSESSMENT OR VOLUME  
6 ASSESSMENT.

7 (7) If a local government fails to comply with the  
8 payment schedule established by the department, the state  
9 may, after giving 30 days written notice, withhold an equal  
10 share of any state taxes which are otherwise apportioned to  
11 the local government.

12 Section 9. Authority of local governments to incur  
13 indebtedness. A local government may enter into an agreement  
14 under the provisions of this act notwithstanding and without  
15 regard to any limit on indebtedness provided by law.  
16 However, all action required or authorized to be taken under  
17 this act by a governing body of any local government shall  
18 be taken in accordance with the applicable public notice and  
19 public participation requirements of applicable state law or  
20 local ordinance.

21 Section 10. Act supplemental. This act is in addition  
22 and supplemental to any other law providing for the  
23 financing of a solid waste management system and does not  
24 amend or repeal any other law.

25 Section 11. Availability of state loans. Loan money as

1 provided for under this act is only available if the local  
2 government is unable to secure adequate financing from other  
3 lending institutions or is unable to provide the adequate  
4 and necessary bonding for the implementation of a proposed  
5 solid waste management system.

6 Section 12. Severability. If a part of this act is  
7 invalid, all valid parts that are severable from the invalid  
8 part remain in effect. If a part of this act is invalid in  
9 one or more of its applications, the part remains in effect  
10 in all valid applications that are severable from the  
11 invalid applications.

-End-

1                   SENATE BILL NO. 175  
 2           INTRODUCED BY WARDEN, BLAYLOCK, ABER, HEALY, DUNKLE,  
 3   MEHRENS, LEE, PETERSON, TOME, WATT, REGAN, DEVINE, MANLEY,  
 4   LOWE, THOMAS, FASBENDER, LENSINK, RASMUSSEN, ROBERTS, FLYNN  
 5                   BY REQUEST OF  
 6           THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

7  
 8   A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A RESOURCE  
 9   RECOVERY SOLID WASTE MANAGEMENT PROGRAM IN THE STATE OF  
 10   MONTANA; AUTHORIZING THE DEPARTMENT OF HEALTH AND  
 11   ENVIRONMENTAL SCIENCES TO CREATE A LOCAL GOVERNMENT PLANNING  
 12   GRANT FUND FOR THE CREATION OF A RESOURCE-RECOVERY SOLID  
 13   WASTE MANAGEMENT PROGRAM; SPECIFYING THE POWERS OF A LOCAL  
 14   GOVERNMENT TO SECURE GRANTS AND LOANS FOR THE CREATION OF A  
 15   RESOURCE RECOVERY PROGRAM; AND SPECIFYING THE DUTIES OF THE  
 16   DEPARTMENT IN ADMINISTERING PROVISIONS OF THE ACT."

17  
 18   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19           Section 1. Short title. This act may be cited as the  
 20   "Resource-Recovery SOLID WASTE MANAGEMENT Act".

21           Section 2. Purpose and public policy. The purpose of  
 22   this act is to encourage the GOOD MANAGEMENT OF SOLID WASTE  
 23   AND THE conservation of natural resources through the  
 24   promotion or development of systems to collect, separate,  
 25   reclaim, recycle, and dispose of solid waste for energy

1   production purposes WHERE ECONOMICALLY FEASIBLE and to  
 2   provide a coordinated state solid waste and resource  
 3   recovery plan. To implement this act, the following are  
 4   declared to be public policies of this state:

5           (1) that maximum recycling from solid waste is  
 6   necessary to protect the public health, welfare, and quality  
 7   of the natural environment;

8           (2) that solid waste management systems shall be  
 9   developed, financed, planned, designed, constructed, and  
 10   operated for the benefit of the people of this state;

11           (3) that private industry is to be utilized to the  
 12   maximum extent possible in planning, designing, managing,  
 13   constructing, operating, manufacturing, and marketing  
 14   functions related to solid waste management systems;

15           (4) that local governments shall retain primary  
 16   responsibility for adequate solid waste management with the  
 17   state preserving those functions necessary to assure  
 18   effective solid waste management systems throughout the  
 19   state;

20           (5) that encouragement and support be given to  
 21   individuals and municipalities to separate solid waste at  
 22   its source in order to maximize the value of such wastes for  
 23   reuse;

24           (6) that the state shall provide technical advisory  
 25   assistance to local governments and other affected persons



1 in the planning, developing, financing, and implementation  
2 of solid waste management systems; and

3 (7) that actions and activities performed or carried  
4 out by persons and their contractors in accordance with this  
5 act shall be in conformity with the state solid waste plan.

6 Section 3. Definitions. Unless the context clearly  
7 requires otherwise in this act, the following definitions  
8 apply:

9 (1) "Resource recovery facility" means any facility at  
10 which solid waste is processed for the purpose of  
11 extracting, converting to energy, or otherwise separating  
12 and preparing solid waste for reuse.

13 (2) "Solid waste management system" means any system  
14 which controls the storage, treatment, recycling, recovery,  
15 or disposal of solid waste.

16 (3) "Front-end planning funds" means the state money  
17 granted to local governments for contract negotiations  
18 between local governments, predesign engineering and cost  
19 estimates, administrative costs, preliminary contract  
20 negotiations with energy users and waste suppliers,  
21 financial feasibility analysis by a financial consultant,  
22 legal consultations, opinions, and review of contracts.

23 (4) "Front-end organizational funds" means the state  
24 money to be loaned to local governments for initial  
25 operating capital, site evaluation and negotiation, final

1 design engineering and cost estimates, construction contract  
2 documents, final contract negotiations with energy users,  
3 material markets and waste suppliers, contract negotiations  
4 with private operational managers, and financial and legal  
5 consultations.

6 (5) "State solid waste plan" means the statewide plan  
7 formulated by the department as authorized by this act.

8 (6) "Department" means the department of health and  
9 environmental sciences provided for in Title 82A, chapter 6.

10 (7) "Solid waste" means all putrescible and  
11 nonputrescible wastes, including but not limited to garbage,  
12 rubbish, refuse, hazardous wastes, ashes, sludge from sewage  
13 treatment plants, water supply treatment plants or air  
14 pollution control facilities; septic tank and cesspool  
15 pumpings; construction and demolition wastes; dead animals,  
16 including offal; discarded home and industrial appliances;  
17 wood wastes and inert materials; but does not include  
18 municipal sewage, industrial wastewater effluents, or mining  
19 wastes as regulated under the mining and reclamation laws  
20 administered by the department of state lands.

21 (8) "Local government" means a county, incorporated  
22 city or town, or refuse disposal district organized under  
23 the laws of this state.

24 (9) "Person" means any individual, firm, partnership,  
25 company, association, corporation, city, town, local

1 governmental entity, or any other state, federal, or private  
2 entity whether organized for profit or not.

3 (1) "BOARD" MEANS THE BOARD OF HEALTH AND  
4 ENVIRONMENTAL SCIENCES PROVIDED FOR IN TITLE 82A, CHAPTER 6.

5 Section 4. Duties of department. (1) The department  
6 shall:

7 (a) ~~develop~~ PREPARE a state solid waste management and  
8 resource recovery plan FOR SUBMISSION TO THE BOARD;

9 (b) ~~adopt~~ PREPARE rules necessary for the  
10 implementation of this act FOR SUBMISSION TO THE BOARD,  
11 including but not limited to rules governing the submission  
12 of plans for a solid waste management system, rules  
13 governing procedures to be followed in applying for and  
14 making loans, and rules governing agreements between a local  
15 government and the department for grants or loans under the  
16 act;

17 (c) provide financial assistance to local governments  
18 for front-end planning activities for a proposed solid waste  
19 management system which is compatible with the state plan  
20 whenever such financial assistance is available;

21 (d) provide technical assistance to persons within the  
22 state for planning, designing, constructing, financing, and  
23 operating a solid waste management system in order to insure  
24 that the system conforms to the state plan;

25 (e) provide front-end organizational loans for the

1 implementation of an approved solid waste management system  
2 whenever funds for such loans are available;

3 (f) enforce and administer the provisions of this act;

4 (g) administer loans made by the state under the  
5 provisions of this act; and

6 (h) approve plans for a proposed solid waste  
7 management system submitted by a local government.

8 (2) The department may:

9 (a) accept loans and grants from the federal  
10 government and other sources to carry out the provisions of  
11 this act; and

12 (b) make loans to a local government for the planning,  
13 design, and implementation of a solid waste management  
14 system.

15 SECTION 5. THERE IS A NEW R.C.M. SECTION THAT READS AS  
16 FOLLOWS:

17 Powers and duties of the board. The board shall:

18 (1) adopt a state solid waste management and resource  
19 recovery plan after complying with the procedures outlined  
20 in section 5; and

21 (2) adopt rules necessary for the implementation of  
22 this act, including but not limited to rules governing the  
23 submission of plans for a solid waste management system,  
24 rules governing the procedures to be followed in applying  
25 for and making loans, and rules governing agreements between

1 the local government and the department for grants and loans  
2 under the act.

3 SECTION 6. THERE IS A NEW R.C.M. SECTION THAT READS AS  
4 FOLLOWS:

5 The state solid waste management plan. (1) A proposed  
6 solid waste management plan shall be prepared by the  
7 department in conjunction with local governments in the  
8 state of Montana and any other interested person. After a  
9 draft of a proposed solid waste management plan has been  
10 prepared, the department shall circulate a copy of the  
11 proposed plan to the board of county commissioners in each  
12 county in the state of Montana, the governing body of every  
13 incorporated city or town in the state of Montana, any  
14 person responsible for the operation of a solid waste  
15 management system under the provisions of Title 69, chapter  
16 40, the governor, the environmental quality council, and any  
17 other interested person for at least 90 days prior to  
18 submission of a final proposed solid waste management plan  
19 to the board. During the 90-day period for receipt of  
20 comments on the draft plan, the department shall hold at  
21 least three public hearings around the state on the draft  
22 plan.

23 (2) A final proposed plan shall be prepared based on  
24 the comments and objections received at the public hearings  
25 and from the persons who have submitted comments on the

1 draft solid waste management plan. The final plan submitted  
2 to the board shall include a discussion of all comments and  
3 objections received and the reasons why recommendations for  
4 changes or amendments to the proposed plan were accepted or  
5 rejected. The board shall consider the final proposed solid  
6 waste management plan after giving notice and holding at  
7 least one public hearing pursuant to the rulemaking  
8 procedures outlined in the Montana Administrative Procedure  
9 Act.

10 Section 7. Powers and duties of local government. A  
11 local government may:

12 (1) plan, develop, and implement a solid waste  
13 management system consistent with the state's solid waste  
14 plan and propose modifications to the state's solid waste  
15 plan;

16 (2) UPON ADOPTION OF THE STATE PLAN BY THE BOARD OF  
17 HEALTH AND ENVIRONMENTAL SCIENCES, PASS AN ORDINANCE OR  
18 RESOLUTION TO EXEMPT THE LOCAL JURISDICTION FROM COMPLYING  
19 WITH THE STATE PLAN AND SUBSEQUENT RULES IMPLEMENTING THE  
20 STATE PLAN; THE ORDINANCE OR RESOLUTION MUST INCLUDE A MEANS  
21 TO PROVIDE SOLID WASTE DISPOSAL TO THE CITIZENS OF THE  
22 JURISDICTION AS REQUIRED IN TITLE 69, CHAPTER 40;

23 ~~(3)~~ employ appropriate personnel to carry out the  
24 provisions of this act;

25 ~~(4)~~ purchase, rent, or execute leasing agreements

1 for equipment and material necessary for the implementation  
 2 of a solid waste management system;

3 ~~(4)~~(2) cooperate with and enter into agreements with  
 4 any persons in order to implement an effective solid waste  
 5 management system;

6 ~~(5)~~(6) receive gifts, grants, or donations or acquire  
 7 by gift, deed, or purchase land necessary for the  
 8 implementation of any provision of this act;

9 ~~(6)~~(7) enforce the rules of the department or a local  
 10 board of health pertaining to solid waste management through  
 11 the appropriate county attorney;

12 ~~(7)~~(8) apply for and utilize state, federal, or other  
 13 available money for developing or operating a solid waste  
 14 management system;

15 ~~(8)~~(9) borrow from any lending agency funds available  
 16 for assistance in planning a solid waste management system;

17 ~~(9)~~(10) finance a solid waste management system through  
 18 the assessment of a tax as authorized by state law;

19 ~~(10)~~(11) sell on an installment sales contract or lease  
 20 to a person all or a portion of a solid waste management  
 21 system which the local government plans, designs, or  
 22 constructs for such consideration and upon such terms as are  
 23 established by the local governments and consistent with the  
 24 loan requirements as set forth in this act and rules;

25 ~~(11)~~(12) procure insurance against any loss in

1 connection with property, assets, or activities;

2 ~~(12)~~(13) mortgage or otherwise encumber all or a  
 3 portion of a solid waste management system when the local  
 4 government finds the action is necessary to implement the  
 5 purposes of this act, as long as the action is consistent  
 6 with the loan requirements set forth in this act and rules;

7 ~~(13)~~(14) hold or dispose of real property and, subject  
 8 to agreements with lessors and lessees, develop or alter the  
 9 property by making improvements or betterments for the  
 10 purpose of enhancing the value and usefulness of the  
 11 property;

12 ~~(14)~~(15) finance, design, construct, own, and operate a  
 13 solid waste management system or contract for any or all of  
 14 the aforementioned powers;

15 ~~(15)~~(16) control the disposition of solid waste  
 16 generated within the jurisdiction of a local government;

17 ~~(16)~~(17) enter into long-term contracts with local  
 18 governments and private entities for:

19 (a) financing, designing, constructing, and operating  
 20 a solid waste management system;

21 (b) marketing all raw or processed material recovered  
 22 from solid waste;

23 (c) marketing energy products or by-products resulting  
 24 from processing or utilization of solid waste;

25 ~~(17)~~(18) finance an areawide solid waste management

1 system through the use of any of the sources of revenue  
2 available to the implementation entity for public works  
3 projects, by the use of revenue bonds issued by the city or  
4 county, or by fees levied by a refuse disposal district,  
5 whichever is appropriate;

6 ~~(10)~~(12) enter into interlocal agreements in order to  
7 achieve and implement the powers enumerated in this act.

8 Section 8. Solid waste management loans. (1) The  
9 department may, in the name of the state of Montana, enter  
10 into agreements with a local government for loans, subject  
11 to any existing contractual obligations of the local  
12 government. A loan agreement shall include but not be  
13 limited to the following:

14 (a) the amount of the loan, not to exceed the  
15 estimated reasonable amount of the total implementation  
16 cost, excluding equipment, construction, or land acquisition  
17 as determined by the department;

18 (b) an agreement by the department to pay part of the  
19 amount of the loan to the local government on a timetable as  
20 may be agreed upon by the parties;

21 (c) an agreement by the local government to proceed  
22 with the project in accordance with plans approved by the  
23 department;

24 (d) an agreement by the local government to commence  
25 operation of the project on its completion and not to

1 discontinue operations or dispose of the project without the  
2 approval of the department;

3 (e) an agreement by the local government to operate  
4 and maintain a solid waste management system in accordance  
5 with applicable provisions of the solid waste management act  
6 and rules of the department;

7 (f) an agreement by the local government to pledge any  
8 available sources of revenue to the repayment of loans  
9 according to the schedule established by the department. Any  
10 revenues from the sale of energy or recycled materials  
11 recovered from the solid waste management system and any  
12 money received under federal grants for local solid waste  
13 management may be used to make such payments. State loan  
14 funds for local solid waste management systems may be used  
15 only for front-end organizational activities.

16 (g) an agreement by the local government to establish  
17 and maintain adequate financial records for the project,  
18 including an annual audit of the financial records and  
19 transactions covering each fiscal year by a certified public  
20 accountant. A copy of each audit shall be submitted to the  
21 department of administration and the department within 30  
22 days after its completion. Failure of a local government to  
23 file a copy of the audit as required by this section shall  
24 be grounds for rescinding the loan agreement.

25 (2) In allocating loan funds to local governments, the

1 department shall establish priority based on a consideration  
2 of the plan that:

3 (a) most fully utilizes private enterprise for  
4 planning, design, management, construction, and operation of  
5 the facilities required to implement a solid waste  
6 management system;

7 (b) includes the largest population;

8 (c) is the most financially viable; and

9 (d) addresses the most pressing environmental and  
10 public health concerns.

11 (3) The department may enter into further agreements  
12 with a local government and acquire further guarantees or  
13 securities as are necessary to implement the provisions of  
14 this act.

15 (4) A loan agreement entered into pursuant to this act  
16 is subject to approval by the department and shall be  
17 accounted for on forms prepared by the department.

18 (5) The department shall establish a schedule of  
19 payments to be made by a local government under a loan  
20 agreement. Payment shall be made in an amount sufficient to  
21 pay the principal and interest cost of the loan obtained  
22 from the department.

23 ~~(6) In the event that the revenues of a project are~~  
24 ~~insufficient to meet the payment schedule established by the~~  
25 ~~department, a local government may levy a tax as authorized~~

1 ~~by law sufficient to make such payments. IN THE EVENT THE~~  
2 ~~REVENUES OF A PROJECT ARE INSUFFICIENT TO PAY THE COSTS, A~~  
3 ~~LOCAL GOVERNMENT MAY LEVY A PRO RATA FEE AGAINST THE USERS~~  
4 ~~OF THE SOLID WASTE MANAGEMENT DISTRICT. SUCH PRO RATA FEE~~  
5 ~~SHALL BE BASED ON A PER TON, PER POUND ASSESSMENT OR VOLUME~~  
6 ~~ASSESSMENT.~~

7 (7) If a local government fails to comply with the  
8 payment schedule established by the department, the state  
9 may, after giving 30 days written notice, withhold an equal  
10 share of any state taxes which are otherwise apportioned to  
11 the local government.

12 Section 9. Authority of local governments to incur  
13 indebtedness. A local government may enter into an agreement  
14 under the provisions of this act notwithstanding and without  
15 regard to any limit on indebtedness provided by law.  
16 However, all action required or authorized to be taken under  
17 this act by a governing body of any local government shall  
18 be taken in accordance with the applicable public notice and  
19 public participation requirements of applicable state law or  
20 local ordinance.

21 Section 10. Act supplemental. This act is in addition  
22 and supplemental to any other law providing for the  
23 financing of a solid waste management system and does not  
24 amend or repeal any other law.

25 Section 11. Availability of state loans. Loan money as

1 provided for under this act is only available if the local  
2 government is unable to secure adequate financing from other  
3 lending institutions or is unable to provide the adequate  
4 and necessary bonding for the implementation of a proposed  
5 solid waste management system.

6 Section 12. Severability. If a part of this act is  
7 invalid, all valid parts that are severable from the invalid  
8 part remain in effect. If a part of this act is invalid in  
9 one or more of its applications, the part remains in effect  
10 in all valid applications that are severable from the  
11 invalid applications.

-End-

HOUSE OF REPRESENTATIVES

April 6. 1977

HOUSE COMMITTEE ON NATURAL RESOURCES AMENDMENT TO SENATE BILL 175

1. Amend page 14, section 9, lines 12 through 20.  
Strike: section 9 in its entirety  
Renumber: subsequent sections

AS AMENDED

BE NOT CONCURRED IN



SENATE BILL NO. 175

INTRODUCED BY WARDEN, BLAYLOCK, ABER, HEALY, DUNKLE,  
MEHRENS, LEE, PETERSON, TOWE, WATT, REGAN, DEVINE, MANLEY,  
LOWE, THOMAS, FASBENDER, LENSINK, RASMUSSEN, ROBERTS, FLYNN

BY REQUEST OF

THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A RESOURCE  
RECOVERY SOLID WASTE MANAGEMENT PROGRAM IN THE STATE OF  
MONTANA; AUTHORIZING THE DEPARTMENT OF HEALTH AND  
ENVIRONMENTAL SCIENCES TO CREATE A LOCAL GOVERNMENT PLANNING  
GRANT FUND FOR THE CREATION OF A RESOURCE-RECOVERY SOLID  
WASTE MANAGEMENT PROGRAM; SPECIFYING THE POWERS OF A LOCAL  
GOVERNMENT TO SECURE GRANTS AND LOANS FOR THE CREATION OF A  
RESOURCE RECOVERY PROGRAM; AND SPECIFYING THE DUTIES OF THE  
DEPARTMENT IN ADMINISTERING PROVISIONS OF THE ACT."

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

Section 1. Short title. This act may be cited as the  
"Resource-Recovery SOLID WASTE MANAGEMENT Act".

Section 2. Purpose and public policy. The purpose of  
this act is to encourage the GOOD MANAGEMENT OF SOLID WASTE  
AND THE conservation of natural resources through the  
promotion or development of systems to collect, separate,  
reclaim, recycle, and dispose of solid waste for energy

production purposes WHERE ECONOMICALLY FEASIBLE and to  
provide a coordinated state solid waste and resource  
recovery plan. To implement this act, the following are  
declared to be public policies of this state:

(1) that maximum recycling from solid waste is  
necessary to protect the public health, welfare, and quality  
of the natural environment;

(2) that solid waste management systems shall be  
developed, financed, planned, designed, constructed, and  
operated for the benefit of the people of this state;

(3) that private industry is to be utilized to the  
maximum extent possible in planning, designing, managing,  
constructing, operating, manufacturing, and marketing  
functions related to solid waste management systems;

(4) that local governments shall retain primary  
responsibility for adequate solid waste management with the  
state preserving those functions necessary to assure  
effective solid waste management systems throughout the  
state;

(5) that encouragement and support be given to  
individuals and municipalities to separate solid waste at  
its source in order to maximize the value of such wastes for  
reuse;

(6) that the state shall provide technical advisory  
assistance to local governments and other affected persons

1 in the planning, developing, financing, and implementation  
2 of solid waste management systems; and

3 (7) that actions and activities performed or carried  
4 out by persons and their contractors in accordance with this  
5 act shall be in conformity with the state solid waste plan.

6 Section 3. Definitions. Unless the context clearly  
7 requires otherwise in this act, the following definitions  
8 apply:

9 (1) "Resource recovery facility" means any facility at  
10 which solid waste is processed for the purpose of  
11 extracting, converting to energy, or otherwise separating  
12 and preparing solid waste for reuse.

13 (2) "Solid waste management system" means any system  
14 which controls the storage, treatment, recycling, recovery,  
15 or disposal of solid waste.

16 (3) "Front-end planning funds" means the state money  
17 granted to local governments for contract negotiations  
18 between local governments, predesign engineering and cost  
19 estimates, administrative costs, preliminary contract  
20 negotiations with energy users and waste suppliers,  
21 financial feasibility analysis by a financial consultant,  
22 legal consultations, opinions, and review of contracts.

23 (4) "Front-end organizational funds" means the state  
24 money to be loaned to local governments for initial  
25 operating capital, site evaluation and negotiation, final

1 design engineering and cost estimates, construction contract  
2 documents, final contract negotiations with energy users,  
3 material markets and waste suppliers, contract negotiations  
4 with private operational managers, and financial and legal  
5 consultations.

6 (5) "State solid waste plan" means the statewide plan  
7 formulated by the department as authorized by this act.

8 (6) "Department" means the department of health and  
9 environmental sciences provided for in Title 82A, chapter 6.

10 (7) "Solid waste" means all putrescible and  
11 nonputrescible wastes, including but not limited to garbage,  
12 rubbish, refuse, hazardous wastes, ashes, sludge from sewage  
13 treatment plants, water supply treatment plants or air  
14 pollution control facilities; septic tank and cesspool  
15 pumpings; construction and demolition wastes; dead animals,  
16 including offal; discarded home and industrial appliances;  
17 wood wastes and inert materials; but does not include  
18 municipal sewage, industrial wastewater effluents, or mining  
19 wastes as regulated under the mining and reclamation laws  
20 administered by the department of state lands.

21 (8) "Local government" means a county, incorporated  
22 city or town, or refuse disposal district organized under  
23 the laws of this state.

24 (9) "Person" means any individual, firm, partnership,  
25 company, association, corporation, city, town, local

1 governmental entity, or any other state, federal, or private  
 2 entity whether organized for profit or not.

3 (10) "BOARD" MEANS THE BOARD OF HEALTH AND  
 4 ENVIRONMENTAL SCIENCES PROVIDED FOR IN TITLE B2A, CHAPTER 6.

5 Section 4. Duties of department. (1) The department  
 6 shall:

7 (a) develop PREPARE a state solid waste management and  
 8 resource recovery plan FOR SUBMISSION TO THE BOARD;

9 (b) adopt PREPARE rules necessary for the  
 10 implementation of this act FOR SUBMISSION TO THE BOARD,  
 11 including but not limited to rules governing the submission  
 12 of plans for a solid waste management system, rules  
 13 governing procedures to be followed in applying for and  
 14 making loans, and rules governing agreements between a local  
 15 government and the department for grants or loans under the  
 16 act;

17 (c) provide financial assistance to local governments  
 18 for front-end planning activities for a proposed solid waste  
 19 management system which is compatible with the state plan  
 20 whenever such financial assistance is available;

21 (d) provide technical assistance to persons within the  
 22 state for planning, designing, constructing, financing, and  
 23 operating a solid waste management system in order to insure  
 24 that the system conforms to the state plan;

25 (e) provide front-end organizational loans for the

1 implementation of an approved solid waste management system  
 2 whenever funds for such loans are available;

3 (f) enforce and administer the provisions of this act;

4 (g) administer loans made by the state under the  
 5 provisions of this act; and

6 (h) approve plans for a proposed solid waste  
 7 management system submitted by a local government.

8 (2) The department may:

9 (a) accept loans and grants from the federal  
 10 government and other sources to carry out the provisions of  
 11 this act; and

12 (b) make loans to a local government for the planning,  
 13 design, and implementation of a solid waste management  
 14 system.

15 SECTION 5. THERE IS A NEW R.C.M. SECTION THAT READS AS  
 16 FOLLOWS:

17 Powers and duties of the board. The board shall:

18 (1) adopt a state solid waste management and resource  
 19 recovery plan after complying with the procedures outlined  
 20 in section 6; and

21 (2) adopt rules necessary for the implementation of  
 22 this act, including but not limited to rules governing the  
 23 submission of plans for a solid waste management system,  
 24 rules governing the procedures to be followed in applying  
 25 for and making loans, and rules governing agreements between

1 the local government and the department for grants and loans  
2 under the act.

3 SECTION 6. THERE IS A NEW R.C.M. SECTION THAT READS AS  
4 FOLLOWS:

5 The state solid waste management plan. (1) A proposed  
6 solid waste management plan shall be prepared by the  
7 department in conjunction with local governments in the  
8 state of Montana and any other interested person. After a  
9 draft of a proposed solid waste management plan has been  
10 prepared, the department shall circulate a copy of the  
11 proposed plan to the board of county commissioners in each  
12 county in the state of Montana, the governing body of every  
13 incorporated city or town in the state of Montana, any  
14 person responsible for the operation of a solid waste  
15 management system under the provisions of Title 69, chapter  
16 40, the governor, the environmental quality council, and any  
17 other interested person for at least 90 days prior to  
18 submission of a final proposed solid waste management plan  
19 to the board. During the 90-day period for receipt of  
20 comments on the draft plan, the department shall hold at  
21 least three public hearings around the state on the draft  
22 plan.

23 (2) A final proposed plan shall be prepared based on  
24 the comments and objections received at the public hearings  
25 and from the persons who have submitted comments on the

1 draft solid waste management plan. The final plan submitted  
2 to the board shall include a discussion of all comments and  
3 objections received and the reasons why recommendations for  
4 changes or amendments to the proposed plan were accepted or  
5 rejected. The board shall consider the final proposed solid  
6 waste management plan after giving notice and holding at  
7 least one public hearing pursuant to the rulemaking  
8 procedures outlined in the Montana Administrative Procedure  
9 Act.

10 Section 7. Powers and duties of local government. A  
11 local government may:

12 (1) plan, develop, and implement a solid waste  
13 management system consistent with the state's solid waste  
14 plan and propose modifications to the state's solid waste  
15 plan;

16 (2) UPON ADOPTION OF THE STATE PLAN BY THE BOARD OF  
17 HEALTH AND ENVIRONMENTAL SCIENCES, PASS AN ORDINANCE OR  
18 RESOLUTION TO EXEMPT THE LOCAL JURISDICTION FROM COMPLYING  
19 WITH THE STATE PLAN AND SUBSEQUENT RULES IMPLEMENTING THE  
20 STATE PLAN; THE ORDINANCE OR RESOLUTION MUST INCLUDE A MEANS  
21 TO PROVIDE SOLID WASTE DISPOSAL TO THE CITIZENS OF THE  
22 JURISDICTION AS REQUIRED IN TITLE 69, CHAPTER 40;

23 ~~(2)~~(3) employ appropriate personnel to carry out the  
24 provisions of this act;

25 ~~(3)~~(4) purchase, rent, or execute leasing agreements

1 for equipment and material necessary for the implementation  
 2 of a solid waste management system;  
 3 ~~(4)(5)~~ cooperate with and enter into agreements with  
 4 any persons in order to implement an effective solid waste  
 5 management system;  
 6 ~~(5)(6)~~ receive gifts, grants, or donations or acquire  
 7 by gift, deed, or purchase land necessary for the  
 8 implementation of any provision of this act;  
 9 ~~(6)(7)~~ enforce the rules of the department or a local  
 10 board of health pertaining to solid waste management through  
 11 the appropriate county attorney;  
 12 ~~(7)(8)~~ apply for and utilize state, federal, or other  
 13 available money for developing or operating a solid waste  
 14 management system;  
 15 ~~(8)(9)~~ borrow from any lending agency funds available  
 16 for assistance in planning a solid waste management system;  
 17 ~~(9)(10)~~ finance a solid waste management system through  
 18 the assessment of a tax as authorized by state law;  
 19 ~~(10)(11)~~ sell on an installment sales contract or lease  
 20 to a person all or a portion of a solid waste management  
 21 system which the local government plans, designs, or  
 22 constructs for such consideration and upon such terms as are  
 23 established by the local governments and consistent with the  
 24 loan requirements as set forth in this act and rules;  
 25 ~~(11)(12)~~ procure insurance against any loss in

1 connection with property, assets, or activities;  
 2 ~~(12)(13)~~ mortgage or otherwise encumber all or a  
 3 portion of a solid waste management system when the local  
 4 government finds the action is necessary to implement the  
 5 purposes of this act, as long as the action is consistent  
 6 with the loan requirements set forth in this act and rules;  
 7 ~~(13)(14)~~ hold or dispose of real property and, subject  
 8 to agreements with lessors and lessees, develop or alter the  
 9 property by making improvements or betterments for the  
 10 purpose of enhancing the value and usefulness of the  
 11 property;  
 12 ~~(14)(15)~~ finance, design, construct, own, and operate a  
 13 solid waste management system or contract for any or all of  
 14 the aforementioned powers;  
 15 ~~(15)(16)~~ control the disposition of solid waste  
 16 generated within the jurisdiction of a local government;  
 17 ~~(16)(17)~~ enter into long-term contracts with local  
 18 governments and private entities for:  
 19 (a) financing, designing, constructing, and operating  
 20 a solid waste management system;  
 21 (b) marketing all raw or processed material recovered  
 22 from solid waste;  
 23 (c) marketing energy products or by-products resulting  
 24 from processing or utilization of solid waste;  
 25 ~~(17)(18)~~ finance an areawide solid waste management

1 system through the use of any of the sources of revenue  
 2 available to the implementation entity for public works  
 3 projects, by the use of revenue bonds issued by the city or  
 4 county, or by fees levied by a refuse disposal district,  
 5 whichever is appropriate;

6 ~~(10)~~(19) enter into interlocal agreements in order to  
 7 achieve and implement the powers enumerated in this act.

8 Section 8. Solid waste management loans. (1) The  
 9 department may, in the name of the state of Montana, enter  
 10 into agreements with a local government for loans, subject  
 11 to any existing contractual obligations of the local  
 12 government. A loan agreement shall include but not be  
 13 limited to the following:

14 (a) the amount of the loan, not to exceed the  
 15 estimated reasonable amount of the total implementation  
 16 cost, excluding equipment, construction, or land acquisition  
 17 as determined by the department;

18 (b) an agreement by the department to pay part of the  
 19 amount of the loan to the local government on a timetable as  
 20 may be agreed upon by the parties;

21 (c) an agreement by the local government to proceed  
 22 with the project in accordance with plans approved by the  
 23 department;

24 (d) an agreement by the local government to commence  
 25 operation of the project on its completion and not to

1 discontinue operations or dispose of the project without the  
 2 approval of the department;

3 (e) an agreement by the local government to operate  
 4 and maintain a solid waste management system in accordance  
 5 with applicable provisions of the solid waste management act  
 6 and rules of the department;

7 (f) an agreement by the local government to pledge any  
 8 available sources of revenue to the repayment of loans  
 9 according to the schedule established by the department. Any  
 10 revenues from the sale of energy or recycled materials  
 11 recovered from the solid waste management system and any  
 12 money received under federal grants for local solid waste  
 13 management may be used to make such payments. State loan  
 14 funds for local solid waste management systems may be used  
 15 only for front-end organizational activities.

16 (g) an agreement by the local government to establish  
 17 and maintain adequate financial records for the project,  
 18 including an annual audit of the financial records and  
 19 transactions covering each fiscal year by a certified public  
 20 accountant. A copy of each audit shall be submitted to the  
 21 department of administration and the department within 30  
 22 days after its completion. Failure of a local government to  
 23 file a copy of the audit as required by this section shall  
 24 be grounds for rescinding the loan agreement.

25 (2) In allocating loan funds to local governments, the

1 department shall establish priority based on a consideration  
2 of the plan that:

3 (a) most fully utilizes private enterprise for  
4 planning, design, management, construction, and operation of  
5 the facilities required to implement a solid waste  
6 management system;

7 (b) includes the largest population;

8 (c) is the most financially viable; and

9 (d) addresses the most pressing environmental and  
10 public health concerns.

11 (3) The department may enter into further agreements  
12 with a local government and acquire further guarantees or  
13 securities as are necessary to implement the provisions of  
14 this act.

15 (4) A loan agreement entered into pursuant to this act  
16 is subject to approval by the department and shall be  
17 accounted for on forms prepared by the department.

18 (5) The department shall establish a schedule of  
19 payments to be made by a local government under a loan  
20 agreement. Payment shall be made in an amount sufficient to  
21 pay the principal and interest cost of the loan obtained  
22 from the department.

23 ~~(6) In the event that the revenues of a project are~~  
24 ~~insufficient to meet the payment schedule established by the~~  
25 ~~department, a local government may levy a tax as authorized~~

1 ~~by tax sufficient to make such payments. IN THE EVENT THE~~  
2 ~~REVENUES OF A PROJECT ARE INSUFFICIENT TO PAY THE COSTS, A~~  
3 ~~LOCAL GOVERNMENT MAY LEVY A PRO RATA FEE AGAINST THE USERS~~  
4 ~~OF THE SOLID WASTE MANAGEMENT DISTRICT. SUCH PRO RATA FEE~~  
5 ~~SHALL BE BASED ON A PER TON, PER POUND ASSESSMENT OR VOLUME~~  
6 ~~ASSESSMENT.~~

7 (7) If a local government fails to comply with the  
8 payment schedule established by the department, the state  
9 may, after giving 30 days written notice, withhold an equal  
10 share of any state taxes which are otherwise apportioned to  
11 the local government.

12 ~~Section 9. Authority of local governments to incur~~  
13 ~~indebtedness. A local government may enter into an~~  
14 ~~agreement under the provisions of this act notwithstanding~~  
15 ~~and without regard to any limit on indebtedness provided by~~  
16 ~~law. However, all action required or authorized to be taken~~  
17 ~~under this act by a governing body of any local government~~  
18 ~~shall be taken in accordance with the applicable public~~  
19 ~~notice and public participation requirements of applicable~~  
20 ~~state law or local ordinance.~~

21 Section 9. Act supplemental. This act is in addition  
22 and supplemental to any other law providing for the  
23 financing of a solid waste management system and does not  
24 amend or repeal any other law.

25 Section 10. Availability of state loans. Loan money as

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1 provided for under this act is only available if the local  
2 government is unable to secure adequate financing from other  
3 lending institutions or is unable to provide the adequate  
4 and necessary bonding for the implementation of a proposed  
5 solid waste management system.

6 Section 11. Severability. If a part of this act is  
7 invalid, all valid parts that are severable from the invalid  
8 part remain in effect. If a part of this act is invalid in  
9 one or more of its applications, the part remains in effect  
10 in all valid applications that are severable from the  
11 invalid applications.

-End-