

Senate Bill 433

In The Senate

February 11, 1981	Introduced and referred to Committee on Public Health, Welfare and Safety.
	Fiscal note requested.
February 16, 1981	Fiscal note returned.
April 23, 1981	Died in Committee.

1 *Senate* BILL NO. *433*
 2 INTRODUCED BY *Hagan* BURNETT *John Dovel*
 3 *Secretary*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 5 RECYCLING OF MATERIALS AND PRODUCTS AND TO CONTROL LITTER IN
 6 MONTANA; AMENDING SECTION 15-30-111, MCA; REPEALING SECTION
 7 61-8-365, MCA; AND PROVIDING EFFECTIVE DATES."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Short title. [This act] may
 11 be cited as the "Resource Recycling and Beautification Act
 12 of 1981".

13 NEW SECTION. Section 2. Purpose. (1) It is the intent
 14 of the legislature to encourage the recycling of materials
 15 and products used in this state in order to maintain the
 16 natural environment of the state as nearly litter free as
 17 possible.

18 (2) It is the belief of the legislature that official
 19 encouragement of private and public recovery of materials
 20 results in the recovery and reuse of major quantities of
 21 basic materials and a significant savings of energy.

22 (3) It is the belief of the legislature that a
 23 litter-free environment is possible through enactment of a
 24 strong and well-balanced program of litter prevention and
 25 public education, because it is people who litter, not the

1 materials and products that become litter.

2 (4) The legislature acknowledges that the people of
 3 this state have expressed a desire for a comprehensive
 4 litter and recycling act administered by a single agency
 5 that will address all types of litter and enhance
 6 multiproduct recycling.

7 NEW SECTION. Section 3. Definitions. In [sections 1
 8 through 18], unless the context requires otherwise, the
 9 following definitions apply:

10 (1) "Litter" means all improperly discarded waste
 11 material, including but not limited to convenience food,
 12 beverage, and other product packages or containers that are
 13 thrown or deposited on land or in water, but not including
 14 the properly discarded waste of the primary processing of
 15 agriculture, mining, logging, sawmilling, or manufacturing.

16 (2) "Recycling" means the process of collecting,
 17 sorting, cleansing, treating, and reconstituting waste or
 18 other discarded materials for the purpose of using the
 19 altered material.

20 (3) "Person" includes any individual, organization,
 21 partnership, or corporation or a city, county, department,
 22 or agency of the state.

23 (4) "Public place" means any area used or held out for
 24 public use, including but not limited to highways, parks,
 25 campgrounds, trailer parks, drive-in and fast food

1 restaurants, gasoline service stations, taverns, shopping
2 centers, grocery stores, parking lots, marinas, boat
3 launching areas, beaches, school grounds, business district
4 sidewalks, and sporting event sites when such an area is in
5 use.

6 (5) "Highways" means those roadways designated by law
7 as primary or secondary highways of the state.

8 (6) "Department" means the department of health and
9 environmental sciences provided for in Title 2, chapter 15,
10 part 21.

11 (7) "Litter receptacle" means a container specified by
12 or acceptable to the department.

13 (8) "Account" means the resource recycling and
14 beautification account provided for in [section 9].

15 NEW SECTION. Section 4. Advisory council. (1) There
16 is an advisory council to the department that consists of
17 seven members appointed by the governor.

18 (2) Members appointed to the council must be aware of
19 and concerned with achieving the goals of [sections 1
20 through 18].

21 (3) Members serve at the pleasure of the governor.

22 (4) Members of the council shall serve without
23 compensation but are entitled to per diem and travel
24 expenses, as provided for in 2-18-501 through 2-19-503, for
25 each day in attendance at council meetings.

1 NEW SECTION. Section 5. Meetings -- duties. (1) The
2 council shall meet at least annually, or more often if
3 necessary.

4 (2) The advisory council shall advise the department
5 concerning litter reduction and increased recycling methods
6 and measures. The council shall encourage participation by
7 industry, labor, municipalities, and the public in programs
8 established pursuant to [sections 1 through 18].

9 NEW SECTION. Section 6. Duties of the department. (1)
10 The department shall:

11 (a) serve as the coordinating agency between agencies
12 of government and private persons involved in litter
13 reduction, control, and collection and in recycling
14 activities;

15 (b) encourage, organize, and coordinate voluntary
16 local campaigns or campaigns developed by local persons
17 seeking to focus public attention on programs to control
18 litter and increase recycling;

19 (c) engage in educational programs to foster and
20 sustain public awareness of litter;

21 (d) study and adopt those programs that have proven
22 successful in other states for the prevention and reduction
23 of litter;

24 (e) identify and adopt public relations and
25 educational programs;

1 (f) provide grants for programs designed to prevent
2 and reduce litter and enhance recycling;

3 (g) identify existing and potential markets within and
4 outside the state for recyclable materials and the economic,
5 legal, and technical barriers affecting increased recycling
6 in the state;

7 (h) develop and implement programs for litter
8 prevention and increased recycling, including but not
9 limited to the distribution of litter bags and a recycling
10 hotline if determined by the department to be both necessary
11 and feasible;

12 (i) adopt rules under the Montana Administrative
13 Procedure Act necessary to implement the provisions of
14 [sections 1 through 18].

15 (2) The department may:

16 (a) contract with any person for the pickup and
17 removal of litter from public places;

18 (b) contract with any person for educational programs
19 designed to create public awareness of litter problems,
20 recycling, and compliance with the provisions of [sections 1
21 through 18];

22 (c) expend money from the account established in
23 [section 9].

24 NEW SECTION. Section 7. Surveys -- annual reports.
25 (1) Within 12 months of July 1, 1981, the department shall

1 conduct or contract with a public agency or private entity
2 to conduct:

3 (a) a survey measuring the amount, by item count, and
4 composition of litter in selected areas of the state. The
5 areas to be surveyed shall be chosen consistent with the
6 necessity of measurement of progress and the need for
7 annual, consistent identification of littering rates. The
8 specific areas surveyed must be representative of the
9 geographic areas and land uses in the state.

10 (b) a survey of the resources being recycled in the
11 state. The survey shall consider resources by volume or
12 weight and economic impact.

13 (2) Within 6 months of July 1, 1981, the department
14 shall conduct or contract with a public agency or private
15 entity to conduct a survey of the litter receptacles in
16 existence on July 1, 1981, and the frequency and manner of
17 collection of their contents.

18 (3) The department shall conduct annual surveys
19 designed for comparison with earlier surveys and report to
20 the governor and the legislature the status and progress
21 achieved by the programs established in [sections 1 through
22 18].

23 NEW SECTION. Section 8. Incentives for recycling. (1)
24 All money earned through recycling efforts is exempt from
25 the Montana state individual income tax provided for in

1 Title 15, chapter 30.

2 (2) All state agencies, divisions of state government,
3 and state and local government contractors shall, whenever
4 feasible, purchase and use products manufactured from
5 recycled materials.

6 NEW SECTION. Section 9. Resource recycling and
7 beautification account -- creation -- expenditures. (1)
8 There is a resource recycling and beautification account
9 within the earmarked revenue fund created in 17-2-102. The
10 state treasurer shall draw warrants from this account upon
11 order of the department.

12 (2) The department may order warrants drawn from the
13 account to:

14 (a) reimburse units of state government or persons on
15 contract for the placement and emptying of litter
16 receptacles in those areas designated by the department;

17 (b) produce and distribute educational and
18 informational materials concerning litter and recycling
19 programs;

20 (c) conduct surveys required by [section 7];

21 (d) provide grants authorized in [section 10].

22 NEW SECTION. Section 10. Grants. The department may
23 make grants to persons for the establishment and operation
24 of programs authorized in [sections 1 through 18]. The time
25 period for a grant may not exceed 18 months. A program

1 qualifying for a grant may include but is not limited to:

2 (1) courses of instruction or the distribution of
3 informative materials to schools or to the public;

4 (2) public information programs to inform the public
5 concerning litter, recycling, and the provisions of
6 [sections 1 through 18];

7 (3) organization and operation of litter removal
8 activities and recyclable materials collection programs
9 conducted by municipalities, private organizations, and
10 service groups;

11 (4) assistance to recycling centers, including
12 information and consultation on available technology,
13 operating procedures, markets for materials, transportation,
14 and publicity techniques;

15 (5) the creation and expansion of litter law
16 enforcement programs;

17 (6) the initial purchase or lease of recycling
18 equipment and payment of the cost of operating equipment and
19 the initial cost of developing and implementing collection
20 methods for recyclable materials.

21 NEW SECTION. Section 11. Grants -- rules. The
22 department shall adopt rules under the Montana
23 Administrative Procedure Act that establish:

24 (1) eligibility requirements for grant applicants;

25 (2) standards for the evaluation of proposals

1 submitted by applicants for grants;

2 (3) the maximum dollar amount allowable for a single
3 grant;

4 (4) other conditions necessary to provide for a
5 variety of programs.

6 NEW SECTION. Section 12. Littering prohibited --
7 penalty. (1) Any person who deposits, throws, discards, or
8 otherwise disposes of any litter on any public or private
9 property or in any waters commits the offense of littering
10 unless:

11 (a) such property is an area designated by law for
12 disposal of the material and the person is authorized by the
13 proper public authority to so use the property; or

14 (b) the litter is placed in a receptacle or container
15 installed for that purpose.

16 (2) This section may not be construed to restrict a
17 private owner in the use of his own property if the placing,
18 depositing, or dumping of waste matter by the owner on the
19 property does not create a public nuisance or a hazard to
20 public health or safety.

21 (3) A person who operates a vehicle from which has
22 fallen an object that obstructs or endangers travel shall
23 immediately remove the object at his own expense or pay the
24 cost of removal incurred by the state or by a person.

25 (4) A person convicted of a violation of this section

1 shall be punished by a mandatory fine of \$10. In addition to
2 the fine, the court may order the person to gather and
3 dispose of litter in an area for a length of time determined
4 by the court.

5 NEW SECTION. Section 13. Litter receptacles --
6 penalties. (1) The department shall adopt rules under the
7 Montana Administrative Procedure Act that establish:

8 (a) minimum standards for one or more sizes of litter
9 receptacles which are reasonably uniform as to shape and
10 which shall bear an antilitter symbol designated and adopted
11 by the department. To facilitate public recognition and use
12 of such receptacles, the department shall attempt to emulate
13 antilitter symbols and receptacles used by other states.

14 (b) the minimum number of litter receptacles required
15 to be placed in public places and along highways and the
16 frequency of emptying, maintenance, and replacement.
17 Consideration shall be given to the costs involved.

18 (2) The use of any litter receptacle that was in use
19 prior to the establishment of the adopted standards does not
20 contravene the requirements of subsection (1) if the
21 continued use is conditioned on placement of the antilitter
22 symbol upon each receptacle.

23 (3) A person who owns or operates a public place in
24 which litter receptacles are required shall procure, place,
25 and maintain such receptacles at his own expense in

1 accordance with rules adopted by the department.

2 (4) An agency of state government shall remove litter
3 from litter receptacles placed by that agency, but the
4 department shall reimburse that agency for all costs
5 incurred in the procurement, placement, maintenance, and
6 litter removal, according to verification procedures
7 established by the department.

8 (5) The operator of privately owned property used by
9 the public shall remove litter from litter receptacles
10 placed on that property.

11 (6) All litter shall be disposed of in a manner
12 acceptable to the department.

13 (7) No person may damage, deface, abuse, or misuse any
14 litter receptacle not owned by him so as to interfere with
15 its proper function or to detract from its proper
16 appearance.

17 (8) No person may deposit leaves, clippings, prunings,
18 or other gardening refuse or household solid waste in any
19 litter receptacle. However, this subsection may not be
20 construed to mean that wastes of food consumed on the
21 premises of a public place may not be deposited in litter
22 receptacles.

23 (9) Litter receptacles in any public place designated
24 by the department that were in place prior to July 1, 1981,
25 shall be modified to conform with marking requirements no

1 later than October 1, 1981.

2 (10) All litter receptacles in any public place on July
3 1, 1981, that are subsequently replaced shall conform with
4 all rules adopted by the department relating to size and
5 shape.

6 (11) A person who violates any provision of this
7 section is guilty of a misdemeanor and is punishable by a
8 fine of not less than \$50 or more than \$100.

9 NEW SECTION. Section 14. Detachable opens
10 prohibited. (1) No person may sell or offer for sale at
11 retail in this state any metal beverage container so
12 designed and constructed that a part of the container is
13 detachable when opening the container.

14 (2) This section does not apply to a beverage
15 container that is opened by a detachable piece of tape,
16 foil, or other soft material.

17 NEW SECTION. Section 15. Violations -- penalty. A
18 violation of [section 14] is a misdemeanor and is punishable
19 as provided in 46-18-212. Each day on which a violation
20 occurs is a separate offense.

21 NEW SECTION. Section 16. Public notice --
22 enforcement. (1) Statements and penalties for violating
23 provisions of [sections 1 through 18] shall be posted at
24 such public places as the department considers necessary.

25 (2) The provisions of [sections 1 through 18] and all

1 rules adopted by the department in accordance with [sections
2 1 through 18] shall be enforced by peace officers of this
3 state, including wardens of the department of fish,
4 wildlife, and parks.

5 NEW SECTION. Section 17. Municipal litter ordinances
6 -- restrictions. (1) A municipality may adopt an ordinance
7 that prohibits the same conduct provided for in [sections 12
8 and 13] provided that the penalty imposed by such an
9 ordinance is equal to or greater than that provided for in
10 [sections 12 and 13].

11 (2) No local government may enact an ordinance
12 requiring deposits on containers or requiring an assessment
13 on litter-related products.

14 NEW SECTION. Section 18. Litter patrols. The
15 department may design litter patrol programs and provide
16 financial assistance through grants for litter pickup and
17 removal using unemployed persons and youths aged 14 to 17,
18 on a seasonal basis. When designing such programs, the
19 department shall cooperate and coordinate with federal and
20 other governmental and private programs established to
21 provide jobs for the unemployed.

22 Section 19. Section 15-30-111, MCA, is amended to
23 read:

24 "15-30-111. Adjusted gross income. (1) Adjusted gross
25 income shall be the taxpayer's federal income tax adjusted

1 gross income as defined in section 62 of the Internal
2 Revenue Code of 1954 or as that section may be labeled or
3 amended and in addition shall include the following:

4 (a) interest received on obligations of another state
5 or territory or county, municipality, district, or other
6 political subdivision thereof;

7 (b) refunds received of federal income tax, to the
8 extent the deduction of such tax resulted in a reduction of
9 Montana income tax liability.

10 (2) Adjusted gross income does not include the
11 following which are exempt from taxation under this chapter:

12 (a) interest income from obligations of the United
13 States government, the state of Montana, county,
14 municipality, district, or other political subdivision
15 thereof;

16 (b) all benefits received under the Federal Employees'
17 Retirement Act not in excess of \$3,600;

18 (c) all benefits paid under the teachers' retirement
19 law which are specified as exempt from taxation by 19-4-706;

20 (d) all benefits paid under The Public Employees'
21 Retirement System Act which are specified as exempt from
22 taxation by 19-3-105;

23 (e) all benefits paid under the highway patrol
24 retirement law which are specified as exempt from taxation
25 by 19-6-705;

1 (f) all Montana income tax refunds or credits thereof;

2 (g) all benefits paid under 19-11-602, 19-11-604, and
3 19-11-605 to retired and disabled firefighters, their
4 surviving spouses and orphans;

5 (h) all benefits paid by first- or second-class cities
6 for the policemen's retirement system provided for by Title
7 19, chapter 9;

8 ~~(i) all Montana income earned from recycling materials~~
9 ~~in accordance with [section 8].~~

10 (3) In the case of a shareholder of a corporation with
11 respect to which the election provided for under subchapter
12 S. of the Internal Revenue Code of 1954, as amended, is in
13 effect but with respect to which the election provided for
14 under 15-31-202, as amended, is not in effect, adjusted
15 gross income does not include any part of the corporation's
16 undistributed taxable income, net operating loss, capital
17 gains or other gains, profits, or losses required to be
18 included in the shareholder's federal income tax adjusted
19 gross income by reason of the said election under subchapter
20 S. However, the shareholder's adjusted gross income shall
21 include actual distributions from the corporation to the
22 extent they would be treated as taxable dividends if the
23 subchapter S. election were not in effect."

24 Section 20. Severability. If a part of this act is
25 invalid, all valid parts that are severable from the invalid

1 part remain in effect. If a part of this act is invalid in
2 one or more of its applications, the part remains in effect
3 in all valid applications that are severable from the
4 invalid applications.

5 Section 21. Repealer. Section 61-8-365, MCA, is
6 repealed.

7 Section 22. Effective dates. (1) Sections 1 through 13
8 and 16 through 21 of this act are effective July 1, 1981.

9 (2) Sections 14 and 15 of this act are effective July
10 1, 1982.

-End-

STATE OF MONTANA

REQUEST NO. 358-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 11, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 433 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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 to control litter in Montana and provide for the recycling of certain materials and products.

Assumptions

1. It is assumed that the revenue needed to support these activities will come from House Bill 567.
2. The annual rate of inflation will be approximately 10%.

Fiscal Impact

The revenue for this activity will be supplied by the General Fund and the coal severance tax trust fund:

<u>Source of Funds</u>	<u>FY 1982</u>	<u>FY 1983</u>
General Fund	\$ 750,000	\$ 750,000
Coal Severance Tax	250,000	250,000
Total	<u>\$1,000,000</u>	<u>\$1,000,000</u>

Expenditures:

The expenditures related to this activity will be:

Purpose

3 Grade 14 professionals	\$ 51,300	\$
1 Grade 9 secretary	11,100	
Benefits	11,230	
Operations	4,370	
Subtotal	<u>\$ 78,000</u>	<u>\$ 85,800</u>
Grants for Products	\$ 40,000	\$
Contracts	500,000	470,000
Litter Grants	382,000	444,200
Total	<u>\$1,000,000</u>	<u>\$1,000,000</u>

There are no data available to estimate the amount of the reduction in individual income tax receipts which would result from the exclusion of all income earned through recycling efforts from Montana adjusted gross income.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-16-81

STATE OF MONTANA

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FISCAL NOTE

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General Fund	\$ 750,000	\$ 750,000
Coal Severance Tax	250,000	250,000
TOTAL	\$1,000,000	\$1,000,000

Expenditures

The expenditures related to this activity will be:

<u>Purpose</u>	<u>1982</u>	<u>1983</u>
3 Gr. 14 professional	\$ 55,323	
1 Gr. 9 secretary	12,502	
Benefits	10,175	
Operations	27,500	
(legal services = 5000)	Subtotal \$105,500	\$113,800
(travel = 8000)		
(supplies & materials = 2000)		
(communication = 4000)		
(rent = 3000)		
(repair and maintenance = 500)		
(capital outlay = 5000)		
(1 typewriter, 4 desks and chairs, calculator)		

David M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-81

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STATE OF MONTANA

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FISCAL NOTE

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David M. Lewis
BUDGET DIRECTOR

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(continued)

	<u>1982</u>	<u>1983</u>
Grants for products	\$ 40,000	
Contracts	500,000	\$ 442,000
Litter Grants	<u>354,500</u>	<u>444,200</u>
TOTAL	\$1,000,000	\$1,000,000

There are no data available to estimate the amount of the reduction in individual income tax receipts which would result from the exclusion of all income earned through recycling efforts from Montana adjusted gross income.

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____