

HOUSE BILL NO. 752

INTRODUCED BY RANEY, COHEN, KADAS, O'KEEFE

IN THE HOUSE

MARCH 1, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
MARCH 3, 1989	FIRST READING.
MARCH 27, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. PRINTING REPORT.
MARCH 29, 1989	SECOND READING, DO PASS.
MARCH 30, 1989	ENGROSSING REPORT. THIRD READING, PASSED. AYES, 92; NOES, 5. TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 31, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES. FIRST READING.
APRIL 11, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 12, 1989	PASS CONSIDERATION.
APRIL 13, 1989	SECOND READING, CONCURRED IN. ON MOTION, RULES SUSPENDED TO PLACE BILL ON THIRD READING THIS DAY THIRD READING, CONCURRED IN. AYES, 46; NOES, 2.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 17, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 17, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 18, 1989

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 19, 1989

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 19, 1989

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 20, 1989

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

of the emissions and until the emissions and projected ambient concentrations are known to constitute a negligible risk to the public health, safety, and welfare and to the environment.

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

NEW SECTION. **Section 1. Solid waste management fee.**

(1) Except as provided in subsection (2), any person who owns an incinerator that burns more than 1,000 tons of solid waste a year or a solid waste disposal facility that is licensed pursuant to 75-10-221 and rules adopted under 75-10-221 and that disposes of more than 1,000 tons of solid waste a year shall pay to the department a quarterly fee that is calculated based on the classification of the disposal facility, the weight of the solid waste incinerated or disposed of at the facility, and the origin of the waste, as follows:

(a) For an incinerator or for a licensed facility that is a Class I or Class II disposal site under rules adopted pursuant to 75-10-204, the fee is:

(i) 10 cents a ton for the incineration or disposal of waste generated within its region; and

(ii) \$1 a ton for the incineration or disposal of waste generated in a different region.

(b) For a licensed facility that is a Class III

disposal site authorized to accept only inert waste under rules adopted pursuant to 75-10-204, the fee is:

(i) 5 cents a ton for the disposal of waste generated within its region; and

(ii) 50 cents a ton for the disposal of waste generated in a different region.

(2) (a) For a facility subject to subsection (1)(a), the fee provided for in subsection (1)(a)(i) may apply to the incineration or disposal of waste generated in a different region if, based on the recommendation of the department or on evidence provided at hearing, the board finds that the incineration or disposal is consistent with state solid waste management goals and results in equivalent or improved protection of the public health, safety, and welfare and the environment when compared to the alternative of intraregional incineration or disposal.

(b) For a facility subject to subsection (1)(b), the fee provided for in subsection (1)(b)(i) may apply to the disposal of waste generated in a different region if, based on the recommendation of the department or on evidence provided at hearing, the board finds that the disposal is consistent with state solid waste management goals and results in equivalent or improved protection of the public health, safety, and welfare and the environment when compared to the alternative of intraregional disposal.

(3) All fees collected must be deposited in the solid waste management account provided for in [section 2].

NEW SECTION. Section 2. Solid waste management account. (1) There is a solid waste management account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) all revenue from the solid waste management fee provided for in [section 1]; and

(b) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source, intended to be used for the purposes of the account.

(3) The account may be used by the department only for the administration of part 2 and this part.

NEW SECTION. Section 3. Solid waste disposal regions.

(1) There are six solid waste disposal regions, as follows:

(a) eastern Montana, consisting of Phillips, Garfield, Rosebud, and Powder River counties and all Montana counties east of these counties;

(b) northern Montana, consisting of Blaine, Cascade, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole counties;

(c) south central Montana, consisting of Bighorn, Carbon, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Stillwater, Sweet Grass, Treasure, Wheatland, and

Yellowstone counties;

(d) southwestern Montana, consisting of Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Meagher, Park, Powell, and Silver Bow counties;

(e) northwest Montana, consisting of Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders counties; and

(f) all areas outside of Montana.

(2) The department shall assist and encourage persons involved in solid waste management to coordinate activities within each region in Montana to provide for the safe, efficient, and effective management of solid waste.

NEW SECTION. Section 4. Penalties for failure to pay fee. A person who owns a solid waste disposal facility subject to a fee under [section 1] and fails to pay the fee in the manner provided by department rule is subject to a fine of not more than \$2,000 or imprisonment not to exceed 6 months, or both, and shall reimburse the department for the amount of the fee owed and interest calculated at a rate equal to the previous fiscal year's average rate of return on the board of investments' short-term investment pool.

NEW SECTION. Section 5. Solid waste incineration -- additional permit requirements. (1) The owner or operator of a facility that proposes to incinerate more than 70 tons of

1 solid waste in any day shall apply to the department,
2 pursuant to 75-2-211, for a permit authorizing the
3 incineration and consequent emissions.

4 (2) The department may not issue a permit to a
5 facility described in subsection (1) until:

6 (a) the owner or operator has provided to the
7 department's satisfaction:

8 (i) a characterization of emissions and ambient
9 concentrations of air pollutants, including hazardous air
10 pollutants, from any existing incineration at the facility;
11 and

12 (ii) an estimate of emissions and ambient
13 concentrations of air pollutants, including hazardous air
14 pollutants, from the incineration of solid waste as proposed
15 in the permit application; and

16 (b) the department has reached a determination that
17 the projected emissions and ambient concentrations will
18 constitute a negligible risk to the public health, safety,
19 and welfare and to the environment.

20 (3) The department shall require the application of
21 air pollution control equipment, engineering, or procedures
22 as necessary to satisfy the determination required under
23 subsection (2)(b). The equipment, engineering, or procedures
24 must provide particulate and gaseous emission reductions
25 equivalent to or more stringent than those achieved through

1 the best available control technology, in addition to any
2 other controls necessary to satisfy the determination
3 required under subsection (2)(b).

4 **Section 6.** Section 75-10-104, MCA, is amended to read:

5 "75-10-104. Duties of department. The department
6 shall:

7 (1) prepare a state solid waste management and
8 resource recovery plan for submission to the board;

9 (2) prepare rules necessary for the implementation of
10 this part for submission to the board, including but not
11 limited to rules:

12 (a) governing the submission of plans for a solid
13 waste management system;--rules;

14 (b) governing procedures to be followed in applying
15 for and making loans;--and-rules;

16 (c) governing agreements between a local government
17 and the department for grants or loans under this part;

18 (d) establishing, for the purpose of determining the
19 solid waste management fee to which a facility is subject
20 under [section 1], methods for determining or estimating the
21 amount of solid waste incinerated or disposed of at a
22 facility;

23 (e) providing procedures for the quarterly collection
24 of the solid waste management fee provided for in [section
25 1]; and

1 (f) providing guidelines for recommendations to the
 2 board concerning the application of intraregional fees
 3 instead of interregional fees for certain incineration or
 4 disposal of solid waste, as provided for in [section 1(2)];

5 (3) provide financial assistance to local governments
 6 for front-end planning activities for a proposed solid waste
 7 management system which is compatible with the state plan
 8 whenever such financial assistance is available;

9 (4) provide technical assistance to persons within the
 10 state for planning, designing, constructing, financing, and
 11 operating a solid waste management system in order to insure
 12 that the system conforms to the state plan;

13 (5) provide front-end organizational loans for the
 14 implementation of an approved solid waste management system
 15 whenever funds for such loans are available;

16 (6) enforce and administer the provisions of this
 17 part;

18 (7) administer loans made by the state under the
 19 provisions of this part; and

20 (8) approve plans for a proposed solid waste
 21 management system submitted by a local government."

22 **Section 7.** Section 75-10-105, MCA, is amended to read:

23 **"75-10-105. Powers of department.** The department may:

24 (1) accept loans and grants from the federal
 25 government and other sources to carry out the provisions of

1 this part;

2 (2) make loans to a local government for the planning,
 3 design, and implementation of a solid waste management
 4 system; and

5 (3) make grants for a local government for planning or
 6 implementation of a solid waste management system; and

7 (4) collect the solid waste management fee provided
 8 for in [section 1]."

9 **NEW SECTION. Section 8.** Extension of authority. Any
 10 existing authority to make rules on the subject of the
 11 provisions of [this act] is extended to the provisions of
 12 [this act].

13 **NEW SECTION. Section 9.** Codification instruction. (1)
 14 [Sections 1 through 4] are intended to be codified as an
 15 integral part of Title 75, chapter 10, part 1, and the
 16 provisions of Title 75, chapter 10, part 1, apply to
 17 [sections 1 through 4].

18 (2) [Section 5] is intended to be codified as an
 19 integral part of Title 75, chapter 2, part 2, and the
 20 provisions of Title 75, chapter 2, part 2, apply to [section
 21 5].

22 **NEW SECTION. Section 10.** Severability. If a part of
 23 [this act] is invalid, all valid parts that are severable
 24 from the invalid part remain in effect. If a part of [this
 25 act] is invalid in one or more of its applications, the part

LC 0419/01

1 remains in effect in all valid applications that are
2 severable from the invalid applications.

3 NEW SECTION. Section 11. Effective dates. (1)
4 [Sections 1 through 4 and 6 through 10] are effective July
5 1, 1989.

6 (2) [Section 5 and this section] are effective on
7 passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB752, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An Act establishing a solid waste management fee for the incineration or disposal of solid waste; establishing a solid waste management account; establishing solid waste management regions; providing penalties for failure to pay the solid waste management fee; providing additional air quality permit requirements for certain solid waste incinerators; amending Sections 75-10-104 and 75-10-105, MCA; and providing effective dates."

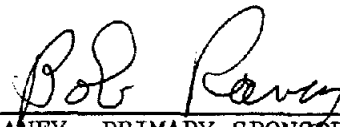
ASSUMPTIONS:

1. Few landfills have scales for weighing solid waste. Tonnage figures are derived from population served by each landfill. Amounts of solid waste/person/day are taken from the 1976 state solid waste planning document and from national figures available from various publications.
2. "Group II" waste, principally municipal solid waste, will be generated at the rate of approximately 3.5 lbs/day/person in Montana. Group II waste must be disposed in "Class II" landfill sites.
3. "Group III" waste, principally construction and demolition debris, wood wastes, vehicle tires and other inert materials, will be generated at the rate of 1.5 lbs/day/person in Montana. Group III solid waste may be disposed of in either "Class II" or "Class III" landfill sites.
4. Sixty-seven Class II landfills will dispose of more than 1000 tons/solid waste/year, based upon the population served. These facilities will pay \$64,330 in license fees to the solid waste account, assuming all are assessed at the least expensive rate, which is most probable. Due to the inability to segregate "Group II" waste amounts and "Group III" waste amounts, for purposes of this note all waste is counted at the higher rate of 10 cents/ton/person.
5. One Class II municipal waste incinerator has a capacity to dispose of 72 tons/solid waste/day. At that rate, the incinerator will pay \$2,520 per year to the solid waste account.
6. The majority of "Group III" wastes are disposed of in Class II landfills. Some of the remaining Group III material is disposed of on the site it is generated and therefore exempt from licensing and/or fees. There are approximately thirty licensed Class III sites in Montana and numerous unlicensed Class III disposal sites. Most of these remaining Class III facilities will fall below the 1000 ton/day/person size and not pay fees. We assume there will be no fees generated by Class III waste disposal.
7. Approximately four Class II disposal sites are located on private sites and are not open to the public. Most of these are licensed only for the small portion of municipal waste they discard in a larger waste stream such as mining waste, etc. These will either pay a very small fee or be exempt and are not included in this note.



DATE 3/9/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING



DATE 3/9/89

BOB RANEY, PRIMARY SPONSOR

Fiscal Note for HB752, as introduced

HB 752

Fiscal Note Request, HB752 as introduced

Form BD-15

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8. At the current time, there is little importation of solid waste into the state for disposal purposes. There are several proposals to bring out-of-state waste into Montana for disposal, but none of the proposals have yet been implemented. There is a probability that one landfill will begin accepting 175 tons of out-of-state waste in the next year or so. This could generate up to an additional \$65,000 annually for the solid waste account, but this amount is not included in this estimate due to the uncertainty of the operator's interests. Any other out-of-state importation would similarly increase the solid waste account.
9. The earmarked account would enable DHES to add 1.5 FTE to the solid waste management program, one full-time environmental specialist and one half-time clerical position.

FISCAL IMPACT:

	<u>FY90</u>			<u>FY91</u>		
	Current	Proposed		Current	Proposed	
	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
<u>Revenue:</u>	\$ -0-	\$66,850	\$66,850	\$ -0-	\$66,850	\$66,850
<u>Expenditures:</u>	\$ -0-	\$66,850	\$66,850	\$ -0-	\$66,850	\$66,850
<u>Net Effect:</u>	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-

EFFECT ON COUNTY OR LOCAL REVENUE OR EXPENDITURE:

Disposal facilities are operated by counties, municipalities, refuse disposal districts and private enterprise. Each operator will have to pass on the fee through the assessment for disposal, however it is collected. The assessment amounts to approximately 9 to 10 cents per person served per year. In the Flathead County example, 52,000 people paying .091 cents per year will pay a total of \$4,750 to the account. Site operators, counties, municipalities, refuse districts and private operators will have to add incorporate billing and payment to the state into their current accounting procedures.

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

The fees proposed will only supplement the amount the state of Montana will need to operate a solid waste management program in the future. While federal grants are not anticipated in this fiscal period, the additional \$64,330 generated for the program could be used for matching funds and enable the DHES to increase staffing to more satisfactory levels.

HB 752

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

HOUSE BILL NO. 752

INTRODUCED BY RANEY, COHEN, KADAS, O'KEEFE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A SOLID WASTE MANAGEMENT FEE FOR THE INCINERATION OR DISPOSAL OF SOLID WASTE; TRANSPORTED BETWEEN REGIONS; PROVIDING FOR A WAIVER OF THE FEE WHEN THE INCINERATION OR DISPOSAL IS CONSISTENT WITH SPECIFIED CRITERIA; EXEMPTING EXISTING SOLID WASTE INCINERATION AND DISPOSAL FROM THE FEE; ESTABLISHING A SOLID WASTE MANAGEMENT ACCOUNT; ESTABLISHING SOLID WASTE MANAGEMENT REGIONS; PROVIDING PENALTIES FOR FAILURE TO PAY THE SOLID WASTE MANAGEMENT FEE; PROVIDING A CIVIL PENALTY FOR VIOLATIONS OF SOLID WASTE DISPOSAL LAWS AND RULES; PROVIDING ADDITIONAL AIR QUALITY PERMIT REQUIREMENTS FOR CERTAIN SOLID WASTE INCINERATORS; AMENDING SECTIONS 75-10-104, AND 75-10-105, AND 75-10-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

It is the intent of the legislature that the department of health and environmental sciences adopt rules establishing procedures for the determination and collection of the solid waste management fee provided for in [section 1] AND FOR THE WAIVER OF THE FEE WHEN CONSISTENT WITH THE CRITERIA PROVIDED IN [SECTION 1(2)]. It is the intent of the

legislature that the department be able to use this fee to bolster its solid waste management program in a manner, including the hiring of adequate staff, that will:

(1) protect the public health, welfare, and safety and the environment of Montana;

(2) provide assistance to local governments in meeting the pending federal solid waste management requirements;

(3) develop an effective and coordinated regional approach to solid waste management in Montana; and

(4) ensure a state and local capability to effectively manage the importation of solid waste into Montana for disposal purposes.

It is the intent of the legislature that the board DEPARTMENT of health and environmental sciences have discretion-to-apply-intraregional-fees-to WAIVE THE FEE FOR interregional solid waste incineration or disposal in situations where the incineration or disposal is consistent with state solid waste management goals and results in equivalent or improved protection of the MONTANA'S public health, safety, and welfare and-the, AND environment when compared to the alternative of intraregional incineration or disposal. Fee-reductions-developed-by-the-board--must--apply only--to--the--specific--solid--waste--sources--and--disposal facilities--that--meet--these--criteria--It-is-the-intent-of-the legislature--that--the--department--adopt--rules--providing

~~guidelines--for--recommending--to--the--board--when--such--fee
reductions--should--be--approved: THE INCINERATION OR DISPOSAL
OF SOLID WASTE AT A LICENSED FACILITY IN THE MANNER AND
QUANTITY INCINERATED OR DISPOSED OF BEFORE [THE EFFECTIVE
DATE OF THIS ACT] IS EXEMPT FROM THE SOLID WASTE MANAGEMENT
FEE.~~

It is the intent of the legislature that the department of health and environmental sciences not issue an air quality permit for any large-scale incineration of solid wastes until the department and the public have necessary information to understand the composition and concentrations of the emissions and until the emissions and projected ambient concentrations are known to constitute a negligible risk to the public health, safety, and welfare and to the environment.

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

NEW SECTION. Section 1. Solid waste management fee.

(1) Except as provided in subsection SUBSECTIONS (2) AND (3), any person who owns an incinerator that burns more than 1,000 tons of solid waste a year or a solid waste disposal facility that is licensed pursuant to 75-10-221 and rules adopted under 75-10-221 and that disposes of more than 1,000 tons of solid waste a year shall pay to the department a quarterly fee OF \$1 FOR EACH TON OF SOLID WASTE GENERATED IN

A DIFFERENT REGION AND INCINERATED OR DISPOSED OF AT THE FACILITY, that-is-calculated-based-on-the-classification--of the--disposal--facility,--the--weight--of--the--solid--waste incinerated-or-disposed-of-at-the-facility,--and--the--origin of-the-waste,--as--follows:

{a}--For-an-incinerator-or-for-a-licensed-facility-that is--a--Class-I-or-Class-II-disposal-site-under-rules-adopted pursuant-to-75-10-204,--the-fee-is:

{i}--10-cents-a-ton-for-the-incineration-or-disposal-of waste-generated-within-its-region,--and

{ii}--\$1-a-ton-for-the-incineration-or-disposal-of-waste generated-in-a-different-region;

{b}--For-a--licensed--facility--that--is--a--Class--III disposal--site--authorized--to--accept--only--inert--waste--under rules-adopted-pursuant-to-75-10-204,--the-fee-is:

{i}--5-cents-a-ton-for-the-disposal-of-waste--generated within-its-region,--and

{ii}--50-cents-a-ton-for-the-disposal-of-waste-generated in-a-different-region;

{2}--{a}--For--a--facility--subject--to--subsection--{1}{a}, the-fee-provided-for-in-subsection--{1}{a}{i}--may--apply--to the--incineration--or--disposal--of--waste--generated--in--a different-region-if,--based--on--the--recommendation--of--the department-or-on-evidence-provided-at-hearing,--the-board

{2} THE FEE PROVIDED IN SUBSECTION (1) MUST BE WAIVED

1 IF THE DEPARTMENT finds that the incineration or disposal is
 2 consistent with state solid waste management goals and
 3 results in equivalent or improved protection of the
 4 MONTANA'S public health, safety, and welfare, and the
 5 environment when compared to the alternative of
 6 intraregional incineration or disposal.

7 ~~{b}--For-a-facility-subject-to-subsection--(1){b},--the~~
 8 ~~fee--provided--for--in-subsection--(1){b}(i)--may-apply-to-the~~
 9 ~~disposal-of-waste-generated-in-a-different-region-if,--based~~
 10 ~~on--the--recommendation--of--the--department--or-on-evidence~~
 11 ~~provided-at-hearing,--the-board-finds-that--the--disposal--is~~
 12 ~~consistent--with--state--solid--waste--management--goals-and~~
 13 ~~results-in-equivalent-or-improved-protection-of--the--public~~
 14 ~~health,--safety,--and--welfare--and--the--environment--when~~
 15 ~~compared-to-the-alternative-of-intraregional-disposal.~~

16 (3) THE INCINERATION OR DISPOSAL OF SOLID WASTE AT A
 17 LICENSED FACILITY IN THE MANNER AND QUANTITY INCINERATED OR
 18 DISPOSED OF BEFORE [THE EFFECTIVE DATE OF THIS ACT] IS
 19 EXEMPT FROM THE SOLID WASTE MANAGEMENT FEE.

20 ~~{3}{4}~~ All fees collected must be deposited in the
 21 solid waste management account provided for in [section 2].

22 NEW SECTION. Section 2. Solid waste management
 23 account. (1) There is a solid waste management account in
 24 the state special revenue fund provided for in 17-2-102.

25 (2) There must be deposited in the account:

1 (a) all revenue from the solid waste management fee
 2 provided for in [section 1]; and

3 (b) money received by the department in the form of
 4 legislative appropriations, reimbursements, gifts, federal
 5 funds, or appropriations from any source, intended to be
 6 used for the purposes of the account.

7 (3) The account may be used by the department only for
 8 the administration of part 2, and this part, AND [SECTION
 9 5].

10 NEW SECTION. Section 3. Solid waste disposal regions.

11 (1) There are six solid waste disposal regions, as follows:

12 (a) eastern Montana, consisting of Phillips, Garfield,
 13 Rosebud, and Powder River counties and all Montana counties
 14 east of these counties;

15 (b) northern Montana, consisting of Blaine, Cascade,
 16 Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole
 17 counties;

18 (c) south central Montana, consisting of Bighorn,
 19 Carbon, Fergus, Golden Valley, Judith Basin, Musselshell,
 20 Petroleum, Stillwater, Sweet Grass, Treasure, Wheatland, and
 21 Yellowstone counties;

22 (d) southwestern Montana, consisting of Beaverhead,
 23 Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis
 24 and Clark, Madison, Meagher, Park, Powell, and Silver Bow
 25 counties;

(e) northwest Montana, consisting of Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders counties; and

(f) all areas outside of Montana.

(2) The department shall assist and encourage persons involved in solid waste management to coordinate activities within each region in Montana to provide for the safe, efficient, and effective management of solid waste.

NEW SECTION. Section 4. Penalties for failure to pay fee. A person who owns a solid waste disposal facility subject to a fee under [section 1] and fails to pay the fee in the manner provided by department rule is subject to a fine of not more than \$2,000 or imprisonment not to exceed 6 months, or both, and shall reimburse the department for the amount of the fee owed and interest calculated at a rate equal to the previous fiscal year's average rate of return on the board of investments' short-term investment pool.

NEW SECTION. Section 5. Solid waste incineration -- additional permit requirements. (1) The owner or operator of a facility that proposes to incinerate more than 70 tons of solid waste in any day shall apply to the department, pursuant to 75-2-211, for a permit authorizing the incineration and consequent emissions.

(2) The department may not issue a permit to a facility described in subsection (1) until:

(a) the owner or operator has provided to the department's satisfaction:

(i) a characterization of emissions and ambient concentrations of air pollutants, including hazardous air pollutants, from any existing incineration at the facility; and

(ii) an estimate of emissions and ambient concentrations of air pollutants, including hazardous air pollutants, from the incineration of solid waste as proposed in the permit application; and

(b) the department has reached a determination that the projected emissions and ambient concentrations will constitute a negligible risk to the public health, safety, and welfare and to the environment.

(3) The department shall require the application of air pollution control equipment, engineering, or procedures as necessary to satisfy the determination required under subsection (2)(b). The equipment, engineering, or procedures must provide particulate and gaseous emission reductions equivalent to or more stringent than those achieved through the best available control technology, in addition to any other controls necessary to satisfy the determination required under subsection (2)(b).

(4) THIS SECTION DOES NOT RELIEVE AN OWNER OR OPERATOR OF A FACILITY THAT INCINERATES 70 TONS OR LESS OF SOLID

1 WASTE A DAY FROM THE OBLIGATION TO OBTAIN ANY PERMIT
 2 OTHERWISE REQUIRED UNDER THIS CHAPTER OR RULES IMPLEMENTING
 3 THIS CHAPTER.

4 NEW SECTION. SECTION 6. CIVIL PENALTIES. (1) A PERSON
 5 WHO VIOLATES ANY PROVISION OF THIS PART, A RULE ADOPTED
 6 UNDER THIS PART, OR A LICENSE PROVISION IS SUBJECT TO A
 7 CIVIL PENALTY NOT TO EXCEED \$1,000. EACH DAY OF VIOLATION
 8 CONSTITUTES A SEPARATE VIOLATION.

9 (2) THE DEPARTMENT MAY INSTITUTE AND MAINTAIN IN THE
 10 NAME OF THE STATE ANY ENFORCEMENT PROCEEDINGS UNDER THIS
 11 SECTION. UPON REQUEST OF THE DEPARTMENT, THE ATTORNEY
 12 GENERAL OR THE COUNTY ATTORNEY OF THE COUNTY WHERE THE
 13 VIOLATION OCCURRED SHALL PETITION THE DISTRICT COURT TO
 14 IMPOSE, ASSESS, AND RECOVER THE CIVIL PENALTY.

15 **Section 7.** Section 75-10-104, MCA, is amended to read:

16 **"75-10-104. Duties of department.** The department
 17 shall:

18 (1) prepare a state solid waste management and
 19 resource recovery plan for submission to the board;

20 (2) prepare rules necessary for the implementation of
 21 this part for submission to the board, including but not
 22 limited to rules;

23 (a) governing the submission of plans for a solid
 24 waste management system~~7-rules;~~

25 (b) governing procedures to be followed in applying

1 for and making loans~~7-and-rules;~~

2 (c) governing agreements between a local government
 3 and the department for grants or loans under this part;

4 (d) establishing, for the purpose of determining the
 5 solid waste management fee to which a facility is subject
 6 under [section 1], methods for determining or estimating the
 7 amount of solid waste incinerated or disposed of at a
 8 facility;

9 (e) providing procedures for the quarterly collection
 10 of the solid waste management fee provided for in [section
 11 1]; and

12 (f) providing guidelines for ~~recommendations-to-the~~
 13 ~~board--concerning--the--application--of--intraregional--fees~~
 14 ~~instead--of--interregional~~ A WAIVER OF fees for certain
 15 incineration or disposal of solid waste, as provided for in
 16 [section 1(2)];

17 (3) 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 (4) 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 (5) 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 (6) enforce and administer the provisions of this
4 part;

5 (7) administer loans made by the state under the
6 provisions of this part; and

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

9 **Section 8.** Section 75-10-105, MCA, is amended to read:

10 "75-10-105. Powers of department. The department may:

11 (1) accept loans and grants from the federal
12 government and other sources to carry out the provisions of
13 this part;

14 (2) make loans to a local government for the planning,
15 design, and implementation of a solid waste management
16 system; and

17 (3) make grants for a local government for planning or
18 implementation of a solid waste management system; and

19 (4) collect the solid waste management fee provided
20 for in [section 1]."

21 **SECTION 9.** SECTION 75-10-214, MCA, IS AMENDED TO READ:

22 "75-10-214. Exclusions -- exceptions to exclusions.

23 (1) This part may not be construed to prohibit a person from
24 disposing of his own solid waste generated in Montana upon
25 land owned or leased by that person or covered by easement

1 or permit as long as it does not create a nuisance or public
2 health hazard.

3 (2) The exclusion contained in subsection (1) of this
4 section does not apply to a division of land of 5 acres or
5 less made after July 1, 1977, which falls within the
6 definition of subdivision in Title 76, chapter 4, part 1, or
7 the Montana Subdivision and Platting Act in Title 76,
8 chapter 3."

9 NEW SECTION. **Section 10.** Extension of authority. Any
10 existing authority to make rules on the subject of the
11 provisions of [this act] is extended to the provisions of
12 [this act].

13 NEW SECTION. **Section 11.** Codification instruction.
14 (1) [Sections 1 through 4] are intended to be codified as an
15 integral part of Title 75, chapter 10, part 1, and the
16 provisions of Title 75, chapter 10, part 1, apply to
17 [sections 1 through 4].

18 (2) [Section 5] is intended to be codified as an
19 integral part of Title 75, chapter 2, part 2, and the
20 provisions of Title 75, chapter 2, part 2, apply to [section
21 5].

22 (3) [SECTION 6] IS INTENDED TO BE CODIFIED AS AN
23 INTEGRAL PART OF TITLE 75, CHAPTER 10, PART 2, AND THE
24 PROVISIONS OF TITLE 75, CHAPTER 10, PART 2, APPLY TO
25 [SECTION 6].

1 NEW SECTION. Section 12. Severability. If a part of
2 [this act] is invalid, all valid parts that are severable
3 from the invalid part remain in effect. If a part of [this
4 act] is invalid in one or more of its applications, the part
5 remains in effect in all valid applications that are
6 severable from the invalid applications.

7 NEW SECTION. Section 13. Effective ~~dates:-----{1}~~
8 ~~{Sections--1--through-4-and-6-through-10}--are-effective-July~~
9 ~~17-1989-~~

10 ~~{2}--{Section-5-and-this-section}--are~~ DATE. [THIS ACT]
11 IS effective on passage and approval.

-End-

1 HOUSE BILL NO. 752

2 INTRODUCED BY RANEY, COHEN, KADAS, O'KEEFE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A SOLID
5 WASTE MANAGEMENT FEE FOR THE INCINERATION OR DISPOSAL OF
6 SOLID WASTE; TRANSPORTED BETWEEN REGIONS; PROVIDING FOR A
7 WAIVER OF THE FEE WHEN THE INCINERATION OR DISPOSAL IS
8 CONSISTENT WITH SPECIFIED CRITERIA; EXEMPTING EXISTING SOLID
9 WASTE INCINERATION AND DISPOSAL FROM THE FEE; ESTABLISHING A
10 SOLID WASTE MANAGEMENT ACCOUNT; ESTABLISHING SOLID WASTE
11 MANAGEMENT REGIONS; PROVIDING PENALTIES FOR FAILURE TO PAY
12 THE SOLID WASTE MANAGEMENT FEE; PROVIDING A CIVIL PENALTY
13 FOR VIOLATIONS OF SOLID WASTE DISPOSAL LAWS AND RULES;
14 PROVIDING ADDITIONAL AIR QUALITY PERMIT REQUIREMENTS FOR
15 CERTAIN SOLID WASTE INCINERATORS; AMENDING SECTIONS
16 75-10-104, AND 75-10-105, AND 75-10-214, MCA; AND PROVIDING
17 AN IMMEDIATE EFFECTIVE DATES DATE."

18
19 STATEMENT OF INTENT

20 It is the intent of the legislature that the department
21 of health and environmental sciences adopt rules
22 establishing procedures for the determination and collection
23 of the solid waste management fee provided for in [section
24 1] AND FOR THE WAIVER OF THE FEE WHEN CONSISTENT WITH THE
25 CRITERIA PROVIDED IN [SECTION 1(2)]. It is the intent of the

1 legislature that the department be able to use this fee to
2 bolster its solid waste management program in a manner,
3 including the hiring of adequate staff, that will:

4 (1) protect the public health, welfare, and safety and
5 the environment of Montana;

6 (2) provide assistance to local governments in meeting
7 the pending federal solid waste management requirements;

8 (3) develop an effective and coordinated regional
9 approach to solid waste management in Montana; and

10 (4) ensure a state and local capability to effectively
11 manage the importation of solid waste into Montana for
12 disposal purposes.

13 It is the intent of the legislature that the board
14 DEPARTMENT of health and environmental sciences have
15 discretion-to-apply-intraregional-fees-to WAIVE THE FEE FOR
16 interregional solid waste incineration or disposal in
17 situations where the incineration or disposal is consistent
18 with state solid waste management goals and results in
19 equivalent or improved protection of the MONTANA'S public
20 health, safety, and welfare and-the, AND environment when
21 compared to the alternative of intraregional incineration or
22 disposal. Fee-reductions-developed-by-the-board--must--apply
23 only--to--the--specific--solid--waste--sources--and-disposal
24 facilities-that-meet-these-criteria--it-is-the-intent-of-the
25 legislature--that--the--department--adopt--rules--providing

1 guidelines--for--recommending--to--the--board--when--such--fee
2 reductions--should--be--approved: THE INCINERATION OR DISPOSAL
3 OF SOLID WASTE AT A LICENSED FACILITY IN THE MANNER AND
4 QUANTITY INCINERATED OR DISPOSED OF BEFORE [THE EFFECTIVE
5 DATE OF THIS ACT] IS EXEMPT FROM THE SOLID WASTE MANAGEMENT
6 FEE.

7 It is the intent of the legislature that the department
8 of health and environmental sciences not issue an air
9 quality permit for any large-scale incineration of solid
10 wastes until the department and the public have necessary
11 information to understand the composition and concentrations
12 of the emissions and until the emissions and projected
13 ambient concentrations are known to constitute a negligible
14 risk to the public health, safety, and welfare and to the
15 environment.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 NEW SECTION. Section 1. Solid waste management fee.
19 (1) Except as provided in subsection SUBSECTIONS (2) AND
20 (3), any person who owns an incinerator that burns more than
21 1,000 tons of solid waste a year or a solid waste disposal
22 facility that is licensed pursuant to 75-10-221 and rules
23 adopted under 75-10-221 and that disposes of more than 1,000
24 tons of solid waste a year shall pay to the department a
25 quarterly fee OF \$1 FOR EACH TON OF SOLID WASTE GENERATED IN

1 A DIFFERENT REGION AND INCINERATED OR DISPOSED OF AT THE
2 FACILITY, that-is-calculated-based-on-the-classification--of
3 the--disposal--facility,--the--weight--of--the--solid--waste
4 incinerated-or-disposed-of-at-the-facility,--and--the--origin
5 of-the-waste,--as--follows:

6 (a)--For-an-incinerator-or-for-a-licensed-facility-that
7 is--a--Class-I-or-Class-II-disposal-site-under-rules-adopted
8 pursuant-to-75-10-204,--the-fee-is:

9 (i)--10-cents-a-ton-for-the-incineration-or-disposal-of
10 waste-generated-within-its-region;--and

11 (ii)--\$1-a-ton-for-the-incineration-or-disposal-of-waste
12 generated-in-a-different-region;

13 (b)--For-a--licensed--facility--that--is--a--Class--III
14 disposal--site--authorized--to-accept-only-inert-waste-under
15 rules-adopted-pursuant-to-75-10-204,--the-fee-is:

16 (i)--5-cents-a-ton-for-the-disposal-of-waste--generated
17 within-its-region;--and

18 (ii)--50-cents-a-ton-for-the-disposal-of-waste-generated
19 in-a-different-region;

20 (2)--(a)--For--a--facility--subject--to--subsection--(1)(a),
21 the-fee-provided-for-in-subsection--(1)(a)(i)--may--apply--to
22 the--incineration--or--disposal--of--waste--generated--in--a
23 different-region-if,--based--on--the--recommendation--of--the
24 department-or-on-evidence-provided-at-hearing,--the-board

25 (2) THE FEE PROVIDED IN SUBSECTION (1) MUST BE WAIVED

1 IF THE DEPARTMENT finds that the incineration or disposal is
 2 consistent with state solid waste management goals and
 3 results in equivalent or improved protection of the
 4 MONTANA'S public health, safety, and welfare, and the
 5 environment when compared to the alternative of
 6 intraregional incineration or disposal.

7 ~~{b}--For a facility subject to subsection--(1)(b),--the~~
 8 ~~fee--provided--for--in subsection--(1)(b)(i)--may apply to the~~
 9 ~~disposal of waste generated in a different region if,--based~~
 10 ~~on--the--recommendation--of--the--department--or on evidence~~
 11 ~~provided at hearing, the board finds that--the--disposal--is~~
 12 ~~consistent--with--state--solid--waste--management--goals and~~
 13 ~~results in equivalent or improved protection of--the--public~~
 14 ~~health,--safety,--and--welfare--and--the--environment--when~~
 15 ~~compared to the alternative of intraregional disposal.~~

16 (3) THE INCINERATION OR DISPOSAL OF SOLID WASTE AT A
 17 LICENSED FACILITY IN THE MANNER AND QUANTITY INCINERATED OR
 18 DISPOSED OF BEFORE [THE EFFECTIVE DATE OF THIS ACT] IS
 19 EXEMPT FROM THE SOLID WASTE MANAGEMENT FEE.

20 ~~{3}{4}~~ All fees collected must be deposited in the
 21 solid waste management account provided for in [section 2].

22 NEW SECTION. Section 2. Solid waste management
 23 account. (1) There is a solid waste management account in
 24 the state special revenue fund provided for in 17-2-102.

25 (2) There must be deposited in the account:

1 (a) all revenue from the solid waste management fee
 2 provided for in [section 1]; and

3 (b) money received by the department in the form of
 4 legislative appropriations, reimbursements, gifts, federal
 5 funds, or appropriations from any source, intended to be
 6 used for the purposes of the account.

7 (3) The account may be used by the department only for
 8 the administration of part 2, and this part, AND [SECTION
 9 5].

10 NEW SECTION. Section 3. Solid waste disposal regions.

11 (1) There are six solid waste disposal regions, as follows:

12 (a) eastern Montana, consisting of Phillips, Garfield,
 13 Rosebud, and Powder River counties and all Montana counties
 14 east of these counties;

15 (b) northern Montana, consisting of Blaine, Cascade,
 16 Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole
 17 counties;

18 (c) south central Montana, consisting of Bighorn,
 19 Carbon, Fergus, Golden Valley, Judith Basin, Musselshell,
 20 Petroleum, Stillwater, Sweet Grass, Treasure, Wheatland, and
 21 Yellowstone counties;

22 (d) southwestern Montana, consisting of Beaverhead,
 23 Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis
 24 and Clark, Madison, Meagher, Park, Powell, and Silver Bow
 25 counties;

1 (e) northwest Montana, consisting of Flathead, Lake,
2 Lincoln, Mineral, Missoula, Ravalli, and Sanders counties;
3 and

4 (f) all areas outside of Montana.

5 (2) The department shall assist and encourage persons
6 involved in solid waste management to coordinate activities
7 within each region in Montana to provide for the safe,
8 efficient, and effective management of solid waste.

9 NEW SECTION. Section 4. Penalties for failure to pay
10 fee. A person who owns a solid waste disposal facility
11 subject to a fee under [section 1] and fails to pay the fee
12 in the manner provided by department rule is subject to a
13 fine of not more than \$2,000 or imprisonment not to exceed 6
14 months, or both, and shall reimburse the department for the
15 amount of the fee owed and interest calculated at a rate
16 equal to the previous fiscal year's average rate of return
17 on the board of investments' short-term investment pool.

18 NEW SECTION. Section 5. Solid waste incineration --
19 additional permit requirements. (1) The owner or operator of
20 a facility that proposes to incinerate more than 70 tons of
21 solid waste in any day shall apply to the department,
22 pursuant to 75-2-211, for a permit authorizing the
23 incineration and consequent emissions.

24 (2) The department may not issue a permit to a
25 facility described in subsection (1) until:

1 (a) the owner or operator has provided to the
2 department's satisfaction:

3 (i) a characterization of emissions and ambient
4 concentrations of air pollutants, including hazardous air
5 pollutants, from any existing incineration at the facility;
6 and

7 (ii) an estimate of emissions and ambient
8 concentrations of air pollutants, including hazardous air
9 pollutants, from the incineration of solid waste as proposed
10 in the permit application; and

11 (b) the department has reached a determination that
12 the projected emissions and ambient concentrations will
13 constitute a negligible risk to the public health, safety,
14 and welfare and to the environment.

15 (3) The department shall require the application of
16 air pollution control equipment, engineering, or procedures
17 as necessary to satisfy the determination required under
18 subsection (2)(b). The equipment, engineering, or procedures
19 must provide particulate and gaseous emission reductions
20 equivalent to or more stringent than those achieved through
21 the best available control technology, in addition to any
22 other controls necessary to satisfy the determination
23 required under subsection (2)(b).

24 (4) THIS SECTION DOES NOT RELIEVE AN OWNER OR OPERATOR
25 OF A FACILITY THAT INCINERATES 70 TONS OR LESS OF SOLID

1 WASTE A DAY FROM THE OBLIGATION TO OBTAIN ANY PERMIT
 2 OTHERWISE REQUIRED UNDER THIS CHAPTER OR RULES IMPLEMENTING
 3 THIS CHAPTER.

4 NEW SECTION. SECTION 6. CIVIL PENALTIES. (1) A PERSON
 5 WHO VIOLATES ANY PROVISION OF THIS PART, A RULE ADOPTED
 6 UNDER THIS PART, OR A LICENSE PROVISION IS SUBJECT TO A
 7 CIVIL PENALTY NOT TO EXCEED \$1,000. EACH DAY OF VIOLATION
 8 CONSTITUTES A SEPARATE VIOLATION.

9 (2) THE DEPARTMENT MAY INSTITUTE AND MAINTAIN IN THE
 10 NAME OF THE STATE ANY ENFORCEMENT PROCEEDINGS UNDER THIS
 11 SECTION. UPON REQUEST OF THE DEPARTMENT, THE ATTORNEY
 12 GENERAL OR THE COUNTY ATTORNEY OF THE COUNTY WHERE THE
 13 VIOLATION OCCURRED SHALL PETITION THE DISTRICT COURT TO
 14 IMPOSE, ASSESS, AND RECOVER THE CIVIL PENALTY.

15 **Section 7.** Section 75-10-104, MCA, is amended to read:

16 **"75-10-104. Duties of department.** The department
 17 shall:

18 (1) prepare a state solid waste management and
 19 resource recovery plan for submission to the board;

20 (2) prepare rules necessary for the implementation of
 21 this part for submission to the board, including but not
 22 limited to rules:

23 (a) governing the submission of plans for a solid
 24 waste management system; ~~rules;~~

25 (b) governing procedures to be followed in applying

1 for and making loans; ~~and rules;~~

2 (c) governing agreements between a local government
 3 and the department for grants or loans under this part;

4 (d) establishing, for the purpose of determining the
 5 solid waste management fee to which a facility is subject
 6 under [section 1], methods for determining or estimating the
 7 amount of solid waste incinerated or disposed of at a
 8 facility;

9 (e) providing procedures for the quarterly collection
 10 of the solid waste management fee provided for in [section
 11 1]; and

12 (f) providing guidelines for ~~recommendations to the~~
 13 ~~board concerning the application of intraregional fees~~
 14 ~~instead of interregional~~ A WAIVER OF fees for certain
 15 incineration or disposal of solid waste, as provided for in
 16 [section 1(2)];

17 (3) 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 (4) 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 (5) 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 (6) enforce and administer the provisions of this
4 part;

5 (7) administer loans made by the state under the
6 provisions of this part; and

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

9 **Section 8.** Section 75-10-105, MCA, is amended to read:

10 "75-10-105. Powers of department. The department may:

11 (1) accept loans and grants from the federal
12 government and other sources to carry out the provisions of
13 this part;

14 (2) make loans to a local government for the planning,
15 design, and implementation of a solid waste management
16 system; and

17 (3) make grants for a local government for planning or
18 implementation of a solid waste management system; and

19 (4) collect the solid waste management fee provided
20 for in [section 1]."

21 **SECTION 9. SECTION 75-10-214, MCA, IS AMENDED TO READ:**

22 "75-10-214. Exclusions -- exceptions to exclusions.

23 (1) This part may not be construed to prohibit a person from
24 disposing of his own solid waste generated in Montana upon
25 land owned or leased by that person or covered by easement

1 or permit as long as it does not create a nuisance or public
2 health hazard.

3 (2) The exclusion contained in subsection (1) of this
4 section does not apply to a division of land of 5 acres or
5 less made after July 1, 1977, which falls within the
6 definition of subdivision in Title 76, chapter 4, part 1, or
7 the Montana Subdivision and Platting Act in Title 76,
8 chapter 3."

9 **NEW SECTION. Section 10.** Extension of authority. Any
10 existing authority to make rules on the subject of the
11 provisions of [this act] is extended to the provisions of
12 [this act].

13 **NEW SECTION. Section 11.** Codification instruction.
14 (1) [Sections 1 through 4] are intended to be codified as an
15 integral part of Title 75, chapter 10, part 1, and the
16 provisions of Title 75, chapter 10, part 1, apply to
17 [sections 1 through 4].

18 (2) [Section 5] is intended to be codified as an
19 integral part of Title 75, chapter 2, part 2, and the
20 provisions of Title 75, chapter 2, part 2, apply to [section
21 5].

22 (3) [SECTION 6] IS INTENDED TO BE CODIFIED AS AN
23 INTEGRAL PART OF TITLE 75, CHAPTER 10, PART 2, AND THE
24 PROVISIONS OF TITLE 75, CHAPTER 10, PART 2, APPLY TO
25 [SECTION 6].

1 NEW SECTION. **Section 12.** Severability. If a part of
2 [this act] is invalid, all valid parts that are severable
3 from the invalid part remain in effect. If a part of [this
4 act] is invalid in one or more of its applications, the part
5 remains in effect in all valid applications that are
6 severable from the invalid applications.

7 NEW SECTION. **Section 13.** Effective dates;-----{1}
8 {Sections--1--through-4-and-6-through-10}-are-effective-July
9 17-1989.

10 {2}--{Section-5-and-this-section}-are DATE. [THIS ACT]
11 IS effective on passage and approval.

-End-

SENATE STANDING COMMITTEE REPORT

April 11, 1989

SENATE COMMITTEE ON NATURAL RESOURCES, HB 752

April 11, 1989

page 2 of 2

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 752 (third reading copy -- blue), respectfully report that HB 752 be amended and as so amended be concurred in:

Sponsor: Raney (Story)

1. Title, line 12.

Following: "FEE;"

Insert: "REQUIRING LOCAL APPROVAL FOR INCINERATION OR DISPOSAL OF SOLID WASTE GENERATED OUTSIDE THE REGION; ESTABLISHING A MORATORIUM ON TRANSPORT OF SOLID WASTE INTO MONTANA;"

2. Page 9.

Following: line 3

Insert: "NEW SECTION. Section 6. Local approval required for incineration or disposal of solid waste generated outside the region. (1) An owner or operator of a solid waste management facility who proposes to incinerate or dispose of solid waste generated outside the solid waste disposal region in which the facility is located shall, before receiving the waste, apply for and receive approval from the local government or governments having jurisdiction over the facility.

(2) The local government or governments may approve the incineration or disposal of solid waste from outside the region, if the local government or governments find that incineration or disposal of the solid waste is consistent with local and state solid waste management goals and results in equivalent or improved protection of public health, safety, welfare, and the environment within the jurisdiction.

NEW SECTION. Section 7. Moratorium on certain interstate transport of solid waste. The state of Montana recognizes the importance of providing for disposal or incineration of solid waste in a manner that protects Montana's public health, safety, welfare, and environment. Although the state of Montana also recognizes that, under appropriate conditions, the transportation of out-of-state solid waste into Montana may not conflict with this goal, it is imperative that the state undertake a legislative study of solid waste regulation and management, further develop regional and statewide solid waste management goals and plans, and adopt rules implementing [this act] before allowing solid waste importation beyond current levels.

(2) Except as provided in subsection (3), a person may not transport solid waste into Montana until October 1, 1991.

(3) A person who transported solid waste into Montana before [the effective date of this act] may continue to transport solid waste into Montana subject to the limitation that the amount he transports into Montana during any calendar year does not significantly exceed the amount he transported into Montana during calendar year 1988."

Renumber: subsequent sections

3. Page 12, line 22.

Strike: "SECTION"

Insert: "Sections"

Following: "6"

Insert: "through 8"

Strike: "IS"

Insert: "are"

4. Page 12, line 25.

Strike: "SECTION"

Insert: "sections"

Following: "6"

Insert: "through 8"

AND AS AMENDED BE CONCURRED IN

Signed: 

Thomas F. Keating, Chairman

continued

scrhb752.411

SENATE
HB 752

HOUSE BILL NO. 752

INTRODUCED BY RANEY, COHEN, KADAS, O'KEEFE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A SOLID WASTE MANAGEMENT FEE FOR THE INCINERATION OR DISPOSAL OF SOLID WASTE; TRANSPORTED BETWEEN REGIONS; PROVIDING FOR A WAIVER OF THE FEE WHEN THE INCINERATION OR DISPOSAL IS CONSISTENT WITH SPECIFIED CRITERIA; EXEMPTING EXISTING SOLID WASTE INCINERATION AND DISPOSAL FROM THE FEE; ESTABLISHING A SOLID WASTE MANAGEMENT ACCOUNT; ESTABLISHING SOLID WASTE MANAGEMENT REGIONS; PROVIDING PENALTIES FOR FAILURE TO PAY THE SOLID WASTE MANAGEMENT FEE; REQUIRING LOCAL APPROVAL FOR INCINERATION OR DISPOSAL OF SOLID WASTE GENERATED OUTSIDE THE REGION; ESTABLISHING A MORATORIUM ON TRANSPORT OF SOLID WASTE INTO MONTANA; PROVIDING A CIVIL PENALTY FOR VIOLATIONS OF SOLID WASTE DISPOSAL LAWS AND RULES; PROVIDING ADDITIONAL AIR QUALITY PERMIT REQUIREMENTS FOR CERTAIN SOLID WASTE INCINERATORS; AMENDING SECTIONS 75-10-104, AND 75-10-105, AND 75-10-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATES DATE."

STATEMENT OF INTENT

It is the intent of the legislature that the department of health and environmental sciences adopt rules establishing procedures for the determination and collection

of the solid waste management fee provided for in [section 1] AND FOR THE WAIVER OF THE FEE WHEN CONSISTENT WITH THE CRITERIA PROVIDED IN [SECTION 1(2)]. It is the intent of the legislature that the department be able to use this fee to bolster its solid waste management program in a manner, including the hiring of adequate staff, that will:

(1) protect the public health, welfare, and safety and the environment of Montana;

(2) provide assistance to local governments in meeting the pending federal solid waste management requirements;

(3) develop an effective and coordinated regional approach to solid waste management in Montana; and

(4) ensure a state and local capability to effectively manage the importation of solid waste into Montana for disposal purposes.

It is the intent of the legislature that the board DEPARTMENT of health and environmental sciences have discretion-to-apply-intraregional-fees-to WAIVE THE FEE FOR interregional solid waste incineration or disposal in situations where the incineration or disposal is consistent with state solid waste management goals and results in equivalent or improved protection of the MONTANA'S public health, safety, and welfare and-the, AND environment when compared to the alternative of intraregional incineration or disposal. Fee-reductions-developed-by-the-board--must--apply

only--to--the--specific--solid--waste--sources--and--disposal
 facilities--that--meet--these--criteria--It--is--the--intent--of--the
 legislature--that--the--department--adopt--rules--providing
 guidelines--for--recommending--to--the--board--when--such--fee
 reductions--should--be--approved: THE INCINERATION OR DISPOSAL
OF SOLID WASTE AT A LICENSED FACILITY IN THE MANNER AND
QUANTITY INCINERATED OR DISPOSED OF BEFORE [THE EFFECTIVE
DATE OF THIS ACT] IS EXEMPT FROM THE SOLID WASTE MANAGEMENT
FEE.

It is the intent of the legislature that the department
 of health and environmental sciences not issue an air
 quality permit for any large-scale incineration of solid
 wastes until the department and the public have necessary
 information to understand the composition and concentrations
 of the emissions and until the emissions and projected
 ambient concentrations are known to constitute a negligible
 risk to the public health, safety, and welfare and to the
 environment.

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

NEW SECTION. Section 1. Solid waste management fee.

(1) Except as provided in subsection SUBSECTIONS (2) AND
(3), any person who owns an incinerator that burns more than
 1,000 tons of solid waste a year or a solid waste disposal
 facility that is licensed pursuant to 75-10-221 and rules

adopted under 75-10-221 and that disposes of more than 1,000
 tons of solid waste a year shall pay to the department a
 quarterly fee OF \$1 FOR EACH TON OF SOLID WASTE GENERATED IN
A DIFFERENT REGION AND INCINERATED OR DISPOSED OF AT THE
FACILITY. that-is-calculated-based-on-the-classification-of
 the--disposal--facility,--the--weight--of--the--solid--waste
 incinerated-or-disposed-of-at-the-facility,--and--the--origin
 of-the-waste,--as--follows:

(a)--For-an-incinerator-or-for-a-licensed-facility-that
 is--a--Class-I-or-Class-II-disposal-site-under-rules-adopted
 pursuant-to-75-10-204,--the-fee-is:

(i)--10-cents-a-ton-for-the-incineration-or-disposal-of
 waste-generated-within-its-region;--and

(ii)--\$1-a-ton-for-the-incineration-or-disposal-of-waste
 generated-in-a-different-region;

(b)--For-a--licensed--facility--that--is--a--Class--III
 disposal-site--authorized--to--accept--only--inert--waste--under
 rules-adopted-pursuant-to-75-10-204,--the-fee-is:

(i)--5-cents-a-ton-for-the-disposal-of-waste--generated
 within-its-region;--and

(ii)--50-cents-a-ton-for-the-disposal-of-waste-generated
 in-a-different-region;

(2)--(a)--For--a--facility--subject--to--subsection--(1)(a),
 the-fee-provided-for-in-subsection--(1)(a)(i)--may--apply--to
 the--incineration--or--disposal--of--waste--generated--in--a

~~different region if, based on the recommendation of the department or on evidence provided at hearing, the board~~

(2) THE FEE PROVIDED IN SUBSECTION (1) MUST BE WAIVED IF THE DEPARTMENT finds that the incineration or disposal is consistent with state solid waste management goals and results in equivalent or improved protection of the MONTANA'S public health, safety, and welfare, and the environment when compared to the alternative of intraregional incineration or disposal.

~~(b) For a facility subject to subsection (1)(b), the fee provided for in subsection (1)(b)(i) may apply to the disposal of waste generated in a different region if, based on the recommendation of the department or on evidence provided at hearing, the board finds that the disposal is consistent with state solid waste management goals and results in equivalent or improved protection of the public health, safety, and welfare and the environment when compared to the alternative of intraregional disposal.~~

(3) THE INCINERATION OR DISPOSAL OF SOLID WASTE AT A LICENSED FACILITY IN THE MANNER AND QUANTITY INCINERATED OR DISPOSED OF BEFORE [THE EFFECTIVE DATE OF THIS ACT] IS EXEMPT FROM THE SOLID WASTE MANAGEMENT FEE.

~~(3)(4) All fees collected must be deposited in the solid waste management account provided for in [section 2].~~

NEW SECTION. Section 2. Solid waste management

account. (1) There is a solid waste management account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) all revenue from the solid waste management fee provided for in [section 1]; and

(b) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source, intended to be used for the purposes of the account.

(3) The account may be used by the department only for the administration of part 2, and this part, AND [SECTION 5].

NEW SECTION. Section 3. Solid waste disposal regions.

(1) There are six solid waste disposal regions, as follows:

(a) eastern Montana, consisting of Phillips, Garfield, Rosebud, and Powder River counties and all Montana counties east of these counties;

(b) northern Montana, consisting of Blaine, Cascade, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole counties;

(c) south central Montana, consisting of Bighorn, Carbon, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Stillwater, Sweet Grass, Treasure, Wheatland, and Yellowstone counties;

(d) southwestern Montana, consisting of Beaverhead,

1 Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis
2 and Clark, Madison, Meagher, Park, Powell, and Silver Bow
3 counties;

4 (e) northwest Montana, consisting of Flathead, Lake,
5 Lincoln, Mineral, Missoula, Ravalli, and Sanders counties;
6 and

7 (f) all areas outside of Montana.

8 (2) The department shall assist and encourage persons
9 involved in solid waste management to coordinate activities
10 within each region in Montana to provide for the safe,
11 efficient, and effective management of solid waste.

12 NEW SECTION. Section 4. Penalties for failure to pay
13 fee. A person who owns a solid waste disposal facility
14 subject to a fee under [section 1] and fails to pay the fee
15 in the manner provided by department rule is subject to a
16 fine of not more than \$2,000 or imprisonment not to exceed 6
17 months, or both, and shall reimburse the department for the
18 amount of the fee owed and interest calculated at a rate
19 equal to the previous fiscal year's average rate of return
20 on the board of investments' short-term investment pool.

21 NEW SECTION. Section 5. Solid waste incineration --
22 additional permit requirements. (1) The owner or operator of
23 a facility that proposes to incinerate more than 70 tons of
24 solid waste in any day shall apply to the department,
25 pursuant to 75-2-211, for a permit authorizing the

1 incineration and consequent emissions.

2 (2) The department may not issue a permit to a
3 facility described in subsection (1) until:

4 (a) the owner or operator has provided to the
5 department's satisfaction:

6 (i) a characterization of emissions and ambient
7 concentrations of air pollutants, including hazardous air
8 pollutants, from any existing incineration at the facility;
9 and

10 (ii) an estimate of emissions and ambient
11 concentrations of air pollutants, including hazardous air
12 pollutants, from the incineration of solid waste as proposed
13 in the permit application; and

14 (b) the department has reached a determination that
15 the projected emissions and ambient concentrations will
16 constitute a negligible risk to the public health, safety,
17 and welfare and to the environment.

18 (3) The department shall require the application of
19 air pollution control equipment, engineering, or procedures
20 as necessary to satisfy the determination required under
21 subsection (2)(b). The equipment, engineering, or procedures
22 must provide particulate and gaseous emission reductions
23 equivalent to or more stringent than those achieved through
24 the best available control technology, in addition to any
25 other controls necessary to satisfy the determination

1 required under subsection (2)(b).

2 (4) THIS SECTION DOES NOT RELIEVE AN OWNER OR OPERATOR
 3 OF A FACILITY THAT INCINERATES 70 TONS OR LESS OF SOLID
 4 WASTE A DAY FROM THE OBLIGATION TO OBTAIN ANY PERMIT
 5 OTHERWISE REQUIRED UNDER THIS CHAPTER OR RULES IMPLEMENTING
 6 THIS CHAPTER.

7 NEW SECTION. SECTION 6. LOCAL APPROVAL REQUIRED FOR
 8 INCINERATION OR DISPOSAL OF SOLID WASTE GENERATED OUTSIDE
 9 THE REGION. (1) AN OWNER OR OPERATOR OF A SOLID WASTE
 10 MANAGEMENT FACILITY WHO PROPOSES TO INCINERATE OR DISPOSE OF
 11 SOLID WASTE GENERATED OUTSIDE THE SOLID WASTE DISPOSAL
 12 REGION IN WHICH THE FACILITY IS LOCATED SHALL, BEFORE
 13 RECEIVING THE WASTE, APPLY FOR AND RECEIVE APPROVAL FROM THE
 14 LOCAL GOVERNMENT OR GOVERNMENTS HAVING JURISDICTION OVER THE
 15 FACILITY.

16 (2) THE LOCAL GOVERNMENT OR GOVERNMENTS MAY APPROVE
 17 THE INCINERATION OR DISPOSAL OF SOLID WASTE FROM OUTSIDE THE
 18 REGION, IF THE LOCAL GOVERNMENT OR GOVERNMENTS FIND THAT
 19 INCINERATION OR DISPOSAL OF THE SOLID WASTE IS CONSISTENT
 20 WITH LOCAL AND STATE SOLID WASTE MANAGEMENT GOALS AND
 21 RESULTS IN EQUIVALENT OR IMPROVED PROTECTION OF PUBLIC
 22 HEALTH, SAFETY, WELFARE, AND THE ENVIRONMENT WITHIN THE
 23 JURISDICTION.

24 NEW SECTION. SECTION 7. MORATORIUM ON CERTAIN
 25 INTERSTATE TRANSPORT OF SOLID WASTE. (1) THE STATE OF

1 MONTANA RECOGNIZES THE IMPORTANCE OF PROVIDING FOR DISPOSAL
 2 OR INCINERATION OF SOLID WASTE IN A MANNER THAT PROTECTS
 3 MONTANA'S PUBLIC HEALTH, SAFETY, WELFARE, AND ENVIRONMENT.
 4 ALTHOUGH THE STATE OF MONTANA ALSO RECOGNIZES THAT, UNDER
 5 APPROPRIATE CONDITIONS, THE TRANSPORTATION OF OUT-OF-STATE
 6 SOLID WASTE INTO MONTANA MAY NOT CONFLICT WITH THIS GOAL, IT
 7 IS IMPERATIVE THAT THE STATE UNDERTAKE A LEGISLATIVE STUDY
 8 OF SOLID WASTE REGULATION AND MANAGEMENT, FURTHER DEVELOP
 9 REGIONAL AND STATEWIDE SOLID WASTE MANAGEMENT GOALS AND
 10 PLANS, AND ADOPT RULES IMPLEMENTING [THIS ACT] BEFORE
 11 ALLOWING SOLID WASTE IMPORTATION BEYOND CURRENT LEVELS.

12 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), A PERSON MAY
 13 NOT TRANSPORT SOLID WASTE INTO MONTANA UNTIL OCTOBER 1,
 14 1991.

15 (3) A PERSON WHO TRANSPORTED SOLID WASTE INTO MONTANA
 16 BEFORE [THE EFFECTIVE DATE OF THIS ACT] MAY CONTINUE TO
 17 TRANSPORT SOLID WASTE INTO MONTANA SUBJECT TO THE LIMITATION
 18 THAT THE AMOUNT HE TRANSPORTS INTO MONTANA DURING ANY
 19 CALENDAR YEAR DOES NOT SIGNIFICANTLY EXCEED THE AMOUNT HE
 20 TRANSPORTED INTO MONTANA DURING CALENDAR YEAR 1988.

21 NEW SECTION. SECTION 8. CIVIL PENALTIES. (1) A PERSON
 22 WHO VIOLATES ANY PROVISION OF THIS PART, A RULE ADOPTED
 23 UNDER THIS PART, OR A LICENSE PROVISION IS SUBJECT TO A
 24 CIVIL PENALTY NOT TO EXCEED \$1,000. EACH DAY OF VIOLATION
 25 CONSTITUTES A SEPARATE VIOLATION.

(2) THE DEPARTMENT MAY INSTITUTE AND MAINTAIN IN THE NAME OF THE STATE ANY ENFORCEMENT PROCEEDINGS UNDER THIS SECTION. UPON REQUEST OF THE DEPARTMENT, THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY OF THE COUNTY WHERE THE VIOLATION OCCURRED SHALL PETITION THE DISTRICT COURT TO IMPOSE, ASSESS, AND RECOVER THE CIVIL PENALTY.

Section 9. Section 75-10-104, MCA, is amended to read:

"75-10-104. Duties of department. The department shall:

(1) prepare a state solid waste management and resource recovery plan for submission to the board;

(2) prepare rules necessary for the implementation of this part for submission to the board, including but not limited to rules:

(a) governing the submission of plans for a solid waste management system; rules;

(b) governing procedures to be followed in applying for and making loans; and rules;

(c) governing agreements between a local government and the department for grants or loans under this part;

(d) establishing, for the purpose of determining the solid waste management fee to which a facility is subject under [section 1], methods for determining or estimating the amount of solid waste incinerated or disposed of at a facility;

(e) providing procedures for the quarterly collection of the solid waste management fee provided for in [section 1]; and

(f) providing guidelines for recommendations--to--the board--concerning--the--application--of--intraregional--fees instead-of--interregional; A WAIVER OF fees for certain incineration or disposal of solid waste, as provided for in [section 1(2)];

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

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

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

(6) enforce and administer the provisions of this part;

(7) administer loans made by the state under the provisions of this part; and

(8) approve plans for a proposed solid waste management system submitted by a local government."

1 **Section 10.** Section 75-10-105, MCA, is amended to
2 read:

3 "75-10-105. Powers of department. The department may:
4 (1) accept loans and grants from the federal
5 government and other sources to carry out the provisions of
6 this part;

7 (2) make loans to a local government for the planning,
8 design, and implementation of a solid waste management
9 system; and

10 (3) make grants for a local government for planning or
11 implementation of a solid waste management system; and

12 (4) collect the solid waste management fee provided
13 for in [section 1]."

14 **SECTION 11.** SECTION 75-10-214, MCA, IS AMENDED TO
15 READ:

16 "75-10-214. Exclusions -- exceptions to exclusions.
17 (1) This part may not be construed to prohibit a person from
18 disposing of his own solid waste generated in Montana upon
19 land owned or leased by that person or covered by easement
20 or permit as long as it does not create a nuisance or public
21 health hazard.

22 (2) The exclusion contained in subsection (1) of this
23 section does not apply to a division of land of 5 acres or
24 less made after July 1, 1977, which falls within the
25 definition of subdivision in Title 76, chapter 4, part 1, or

1 the Montana Subdivision and Platting Act in Title 76,
2 chapter 3."

3 **NEW SECTION. Section 12.** Extension of authority. Any
4 existing authority to make rules on the subject of the
5 provisions of [this act] is extended to the provisions of
6 [this act].

7 **NEW SECTION. Section 13.** Codification instruction.
8 (1) [Sections 1 through 4] are intended to be codified as an
9 integral part of Title 75, chapter 10, part 1, and the
10 provisions of Title 75, chapter 10, part 1, apply to
11 [sections 1 through 4].

12 (2) [Section 5] is intended to be codified as an
13 integral part of Title 75, chapter 2, part 2, and the
14 provisions of Title 75, chapter 2, part 2, apply to [section
15 5].

16 (3) [SECTION SECTIONS 6 THROUGH 8] IS ARE INTENDED TO
17 BE CODIFIED AS AN INTEGRAL PART OF TITLE 75, CHAPTER 10,
18 PART 2, AND THE PROVISIONS OF TITLE 75, CHAPTER 10, PART 2,
19 APPLY TO [SECTION SECTIONS 6 THROUGH 8].

20 **NEW SECTION. Section 14.** severability. If a part of
21 [this act] is invalid, all valid parts that are severable
22 from the invalid part remain in effect. If a part of [this
23 act] is invalid in one or more of its applications, the part
24 remains in effect in all valid applications that are
25 severable from the invalid applications.

HB 0752/03

1 NEW SECTION. Section 15. Effective dates.-----{1}
2 {Sections-1-through-4-and-6-through-10}-are--effective--July
3 17-1989-
4 {2}--{Section--5-and-this-section}-are DATE. {THIS ACT}
5 IS effective on passage and approval.

-End-

Mr. President and Mr. Speaker:

We, your Free Conference Committee on House Bill 752 met and considered:

House Bill 752 (reference bill- salmon).

We recommend that House Bill 752 (reference copy -- salmon) be amended as follows:

1. Title, line 15.

Following: "PENALTY"

Insert: "AND ADMINISTRATIVE ENFORCEMENT"

2. Page 3, line 9.

Following: "FEE"

Insert: "and from the requirement for local government approval under [section 6]"

3. Page 3, line 12.

Strike: "large-scale incineration"

Insert: "new commercial incinerator"

4. Page 3, line 13.

Strike: "wastes"

Insert: "waste and not authorize any existing incinerator to change the amount, form, kind, or content of the material it incinerates or to incinerate any material that would change the nature, character, or composition of the emissions"

5. Page 3, line 18.

Following: "environment."

Insert: "For a permitted solid waste incinerator, the department shall consider an increase in the amount of medical waste incinerated as sufficient to trigger the additional permit and review requirements provided in [section 5], including consideration of emissions of hydrochloric acid, compounds deriving from plastic incineration, and other hazardous air pollutants."

6. Page 7, line 22 through line 1, page 8.

Following: "requirements." on line 22

Strike: subsection (1) in its entirety

Insert: "(1) A person may not operate a solid waste incinerator of any of the following categories until the department has issued an air quality permit pursuant to this chapter, including the conditions provided in this section:

(a) a new commercial solid waste incinerator; or

(b) a permitted solid waste incinerator that would incinerate solid waste in an amount, form, kind, or content different from its permitted operation or that would incinerate any material that changes the nature, character, or composition of its emissions."

7. Page 8, line 13.

Following: "application"

Strike: "; and"

Insert: "or modification;

(b) the public has had an opportunity to review and comment on the permit application or modification; and"

8. Page 8, line 14.

Strike: "(b)"

Insert: "(c)"

9. Page 8, line 21.

Strike: "(b)"

Insert: "(c)"

10. Page 9, line 1.

Strike: "(b)"

Insert: "(c)"

11. Page 9, lines 3 and 4.

Strike: "FACILITY" on line 3 through "DAY" on line 4

Insert: "solid waste incinerator that is not included under subsection (1)"

12. Page 9, line 9.

Strike: "AN"

Insert: "Except as provided in subsection (3), an"

13. Page 9.

Following: line 23

Insert: "(3) Local approval under this section is not required for the incineration or disposal of solid

ADOPT

REJECT

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HB 752

April 18, 1989
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waste at a solid waste management facility in the manner and amount incinerated or disposed of before [the effective date of this act].

14. Page 10, line 9.

Following: "GOALS"

Strike: "AND"

Insert: " , "

15. Page 10, line 10.

Following: "PLANS,"

Insert: "and regulations,"

Following: "IMPLEMENTING"

Strike: "[THIS ACT]"

Insert: "the solid waste management fee"

16. Page 10, line 19.

Following: "YEAR"

Insert: "of the moratorium"

17. Page 10.

Following: line 20

Insert: "NEW SECTION. Section 8. Administrative enforcement. (1) When the department believes that a violation of part 1 or this part, a violation of a rule adopted under part 1 or this part, or a violation of a permit provision has occurred, it may serve written notice of the violation on the alleged violator or his agent. The notice must specify the provision of law, rule, or permit alleged to be violated and the facts alleged to constitute a violation and may include an order to take necessary corrective action within a reasonable period of time stated in the order. The order becomes final unless, within 30 days after the notice is served, the person named requests in writing a hearing before the board. On receipt of the request, the board shall schedule a hearing. Service by mail is complete on the date of mailing.

(2) If, after a hearing held under subsection (1), the board finds that a violation has occurred, it shall either affirm or modify the department's order. An order issued by the department or by the board may prescribe the date by which the violation must cease and may prescribe time limits for particular action. If, after hearing, the board finds no violation has occurred, it shall rescind the department's order.

(3) Instead of issuing an order pursuant to subsection (1), the department may either:

(a) require the alleged violator to appear before

April 18, 1989
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the board for a hearing at a time and place specified in the notice and answer the charges; or

(b) initiate action under part 1 or this part.

(4) This section does not prevent the board or department from making efforts to obtain voluntary compliance through warning, conference, or any other appropriate means."

Renumber: subsequent sections

18. Page 14, line 16.

Strike: "8"

Insert: "3"

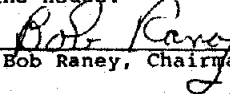
19. Page 14, line 19.

Strike: "8"

Insert: "3"

And that this Free Conference Committee Report be adopted.

For the House:


Rep. Bob Raney, Chairman


Rep. McDonough


Rep. Hannah

For the Senate:


Sen. Pete Story, Chairman


Sen. Jenkins


Sen. Weeding

1 HOUSE BILL NO. 752

2 INTRODUCED BY RANEY, COHEN, KADAS, O'KEEFE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A SOLID
5 WASTE MANAGEMENT FEE FOR THE INCINERATION OR DISPOSAL OF
6 SOLID WASTE; TRANSPORTED BETWEEN REGIONS; PROVIDING FOR A
7 WAIVER OF THE FEE WHEN THE INCINERATION OR DISPOSAL IS
8 CONSISTENT WITH SPECIFIED CRITERIA; EXEMPTING EXISTING SOLID
9 WASTE INCINERATION AND DISPOSAL FROM THE FEE; ESTABLISHING A
10 SOLID WASTE MANAGEMENT ACCOUNT; ESTABLISHING SOLID WASTE
11 MANAGEMENT REGIONS; PROVIDING PENALTIES FOR FAILURE TO PAY
12 THE SOLID WASTE MANAGEMENT FEE; REQUIRING LOCAL APPROVAL FOR
13 INCINERATION OR DISPOSAL OF SOLID WASTE GENERATED OUTSIDE
14 THE REGION; ESTABLISHING A MORATORIUM ON TRANSPORT OF SOLID
15 WASTE INTO MONTANA; PROVIDING A CIVIL PENALTY AND
16 ADMINISTRATIVE ENFORCEMENT FOR VIOLATIONS OF SOLID WASTE
17 DISPOSAL LAWS AND RULES; PROVIDING ADDITIONAL AIR QUALITY
18 PERMIT REQUIREMENTS FOR CERTAIN SOLID WASTE INCINERATORS;
19 AMENDING SECTIONS 75-10-104, AND 75-10-105, AND 75-10-214,
20 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATES DATE."

22 STATEMENT OF INTENT

23 It is the intent of the legislature that the department
24 of health and environmental sciences adopt rules
25 establishing procedures for the determination and collection

1 of the solid waste management fee provided for in (section
2 1) AND FOR THE WAIVER OF THE FEE WHEN CONSISTENT WITH THE
3 CRITERIA PROVIDED IN [SECTION 1(2)]. It is the intent of the
4 legislature that the department be able to use this fee to
5 bolster its solid waste management program in a manner,
6 including the hiring of adequate staff, that will:

7 (1) protect the public health, welfare, and safety and
8 the environment of Montana;

9 (2) provide assistance to local governments in meeting
10 the pending federal solid waste management requirements;

11 (3) develop an effective and coordinated regional
12 approach to solid waste management in Montana; and

13 (4) ensure a state and local capability to effectively
14 manage the importation of solid waste into Montana for
15 disposal purposes.

16 It is the intent of the legislature that the board
17 DEPARTMENT of health and environmental sciences have
18 discretion-to-apply-intraregional-fees-to WAIVE THE FEE FOR
19 interregional solid waste incineration or disposal in
20 situations where the incineration or disposal is consistent
21 with state solid waste management goals and results in
22 equivalent or improved protection of the MONTANA'S public
23 health, safety, and welfare and-the, AND environment when
24 compared to the alternative of intraregional incineration or
25 disposal. Fee-reductions-developed-by-the-board--must--apply



1 ~~only--to--the--specific--solid--waste--sources--and--disposal~~
 2 ~~facilities--that--meet--these--criteria--it--is--the--intent--of--the~~
 3 ~~legislature--that--the--department--adopt--rules---providing~~
 4 ~~guidelines--for--recommending--to--the--board--when--such--fee~~
 5 ~~reductions--should--be--approved:~~ THE INCINERATION OR DISPOSAL
 6 OF SOLID WASTE AT A LICENSED FACILITY IN THE MANNER AND
 7 QUANTITY INCINERATED OR DISPOSED OF BEFORE [THE EFFECTIVE
 8 DATE OF THIS ACT] IS EXEMPT FROM THE SOLID WASTE MANAGEMENT
 9 FEE AND FROM THE REQUIREMENT FOR LOCAL GOVERNMENT APPROVAL
 10 UNDER [SECTION 6].

11 It is the intent of the legislature that the department
 12 of health and environmental sciences not issue an air
 13 quality permit for any ~~large-scale---incineration~~ NEW
 14 COMMERCIAL INCINERATOR of solid wastes WASTE AND NOT
 15 AUTHORIZE ANY EXISTING INCINERATOR TO CHANGE THE AMOUNT,
 16 FORM, KIND, OR CONTENT OF THE MATERIAL IT INCINERATES OR TO
 17 INCINERATE ANY MATERIAL THAT WOULD CHANGE THE NATURE,
 18 CHARACTER, OR COMPOSITION OF THE EMISSIONS until the
 19 department and the public have necessary information to
 20 understand the composition and concentrations of the
 21 emissions and until the emissions and projected ambient
 22 concentrations are known to constitute a negligible risk to
 23 the public health, safety, and welfare and to the
 24 environment. FOR A PERMITTED SOLID WASTE INCINERATOR, THE
 25 DEPARTMENT SHALL CONSIDER AN INCREASE IN THE AMOUNT OF

1 MEDICAL WASTE INCINERATED AS SUFFICIENT TO TRIGGER THE
 2 ADDITIONAL PERMIT AND REVIEW REQUIREMENTS PROVIDED IN
 3 [SECTION 5], INCLUDING CONSIDERATION OF EMISSIONS OF
 4 HYDROCHLORIC ACID, COMPOUNDS DERIVING FROM PLASTIC
 5 INCINERATION, AND OTHER HAZARDOUS AIR POLLUTANTS.

6
 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 NEW SECTION. Section 1. Solid waste management fee.
 9 (1) Except as provided in subsection SUBSECTIONS (2) AND
 10 (3), any person who owns an incinerator that burns more than
 11 1,000 tons of solid waste a year or a solid waste disposal
 12 facility that is licensed pursuant to 75-10-221 and rules
 13 adopted under 75-10-221 and that disposes of more than 1,000
 14 tons of solid waste a year shall pay to the department a
 15 quarterly fee OF \$1 FOR EACH TON OF SOLID WASTE GENERATED IN
 16 A DIFFERENT REGION AND INCINERATED OR DISPOSED OF AT THE
 17 FACILITY. that-is-calculated-based-on-the-classification-of
 18 the--disposal--facility,--the--weight--of--the--solid--waste
 19 incinerated--or--disposed-of-at-the-facility,--and-the-origin
 20 of-the-waste,--as-follows:

21 (a)--For-an-incinerator-or-for-a-licensed-facility-that
 22 is-a-Class-I-or-Class-II-disposal-site-under--rules--adopted
 23 pursuant-to-75-10-204,--the-fee-is:

24 (i)--10-cents-a-ton-for-the-incineration-or-disposal-of
 25 waste-generated-within-its-region,--and

1 ~~{ii}-\$1-a-ton-for-the-incineration-or-disposal-of-waste~~
 2 ~~generated-in-a-different-region;~~
 3 ~~{b}-For-a-licensed-facility-that-is-a-Class-III~~
 4 ~~disposal-site-authorized-to-accept-only-inert-waste-under~~
 5 ~~rules-adopted-pursuant-to-75-10-204,-the-fee-is:~~
 6 ~~{i}-5-cents-a-ton-for-the-disposal-of-waste-generated~~
 7 ~~within-its-region;and~~
 8 ~~{ii}-50-cents-a-ton-for-the-disposal-of-waste-generated~~
 9 ~~in-a-different-region;~~
 10 ~~{2}--(a)-For-a-facility-subject-to-subsection-(1)(a),~~
 11 ~~the-fee-provided-for-in-subsection-(1)(a){i}-may-apply-to~~
 12 ~~the-incineration-or-disposal-of-waste-generated-in-a~~
 13 ~~different-region-if-based-on-the-recommendation-of-the~~
 14 ~~department-or-on-evidence-provided-at-hearing,-the-board~~
 15 (2) THE FEE PROVIDED IN SUBSECTION (1) MUST BE WAIVED
 16 IF THE DEPARTMENT finds that the incineration or disposal is
 17 consistent with state solid waste management goals and
 18 results in equivalent or improved protection of the
 19 MONTANA'S public health, safety, and welfare, and the
 20 environment when compared to the alternative of
 21 intraregional incineration or disposal.
 22 ~~{b}-For-a-facility-subject-to-subsection-(1)(b),-the~~
 23 ~~fee-provided-for-in-subsection-(1)(b){i}-may-apply-to-the~~
 24 ~~disposal-of-waste-generated-in-a-different-region-if-based~~
 25 ~~on-the-recommendation-of-the-department-or-on-evidence~~

1 ~~provided-at-hearing,-the-board-finds-that-the-disposal-is~~
 2 ~~consistent-with-state-solid-waste-management-goals-and~~
 3 ~~results-in-equivalent-or-improved-protection-of-the-public~~
 4 ~~health,-safety,-and-welfare-and-the-environment-when~~
 5 ~~compared-to-the-alternative-of-intraregional-disposal;~~
 6 (3) THE INCINERATION OR DISPOSAL OF SOLID WASTE AT A
 7 LICENSED FACILITY IN THE MANNER AND QUANTITY INCINERATED OR
 8 DISPOSED OF BEFORE [THE EFFECTIVE DATE OF THIS ACT] IS
 9 EXEMPT FROM THE SOLID WASTE MANAGEMENT FEE.
 10 ~~{3}{4}~~ All fees collected must be deposited in the
 11 solid waste management account provided for in [section 2].
 12 NEW SECTION. Section 2. Solid waste management
 13 account. (1) There is a solid waste management account in
 14 the state special revenue fund provided for in 17-2-102.
 15 (2) There must be deposited in the account:
 16 (a) all revenue from the solid waste management fee
 17 provided for in [section 1]; and
 18 (b) money received by the department in the form of
 19 legislative appropriations, reimbursements, gifts, federal
 20 funds, or appropriations from any source, intended to be
 21 used for the purposes of the account.
 22 (3) The account may be used by the department only for
 23 the administration of part 2, and this part, AND [SECTION
 24 5].
 25 NEW SECTION. Section 3. Solid waste disposal regions.

(1) There are six solid waste disposal regions, as follows:

(a) eastern Montana, consisting of Phillips, Garfield, Rosebud, and Powder River counties and all Montana counties east of these counties;

(b) northern Montana, consisting of Blaine, Cascade, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole counties;

(c) south central Montana, consisting of Bighorn, Carbon, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Stillwater, Sweet Grass, Treasure, Wheatland, and Yellowstone counties;

(d) southwestern Montana, consisting of Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Meagher, Park, Powell, and Silver Bow counties;

(e) northwest Montana, consisting of Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders counties; and

(f) all areas outside of Montana.

(2) The department shall assist and encourage persons involved in solid waste management to coordinate activities within each region in Montana to provide for the safe, efficient, and effective management of solid waste.

NEW SECTION. Section 4. Penalties for failure to pay fee. A person who owns a solid waste disposal facility

subject to a fee under [section 1] and fails to pay the fee in the manner provided by department rule is subject to a fine of not more than \$2,000 or imprisonment not to exceed 6 months, or both, and shall reimburse the department for the amount of the fee owed and interest calculated at a rate equal to the previous fiscal year's average rate of return on the board of investments' short-term investment pool.

NEW SECTION. Section 5. Solid waste incineration -- additional permit requirements. ~~{1} The owner or operator of a facility that proposes to incinerate more than 70 tons of solid waste in any day shall apply to the department, pursuant to 75-2-211, for a permit authorizing the incineration and consequent emissions. (1) A PERSON MAY NOT OPERATE A SOLID WASTE INCINERATOR OF ANY OF THE FOLLOWING CATEGORIES UNTIL THE DEPARTMENT HAS ISSUED AN AIR QUALITY PERMIT PURSUANT TO THIS CHAPTER, INCLUDING THE CONDITIONS PROVIDED IN THIS SECTION:~~

~~(A) A NEW COMMERCIAL SOLID WASTE INCINERATOR; OR~~

~~(B) A PERMITTED SOLID WASTE INCINERATOR THAT WOULD INCINERATE SOLID WASTE IN AN AMOUNT, FORM, KIND, OR CONTENT DIFFERENT FROM ITS PERMITTED OPERATION OR THAT WOULD INCINERATE ANY MATERIAL THAT CHANGES THE NATURE, CHARACTER, OR COMPOSITION OF ITS EMISSIONS.~~

(2) The department may not issue a permit to a facility described in subsection (1) until:

(a) the owner or operator has provided to the department's satisfaction:

(i) a characterization of emissions and ambient concentrations of air pollutants, including hazardous air pollutants, from any existing incineration at the facility; and

(ii) an estimate of emissions and ambient concentrations of air pollutants, including hazardous air pollutants, from the incineration of solid waste as proposed in the permit application; ~~and~~ OR MODIFICATION;

(B) THE PUBLIC HAS HAD AN OPPORTUNITY TO REVIEW AND COMMENT ON THE PERMIT APPLICATION OR MODIFICATION; AND

~~(b)(C)~~ the department has reached a determination that the projected emissions and ambient concentrations will constitute a negligible risk to the public health, safety, and welfare and to the environment.

(3) The department shall require the application of air pollution control equipment, engineering, or procedures as necessary to satisfy the determination required under subsection (2)~~(b)(C)~~. The equipment, engineering, or procedures must provide particulate and gaseous emission reductions equivalent to or more stringent than those achieved through the best available control technology, in addition to any other controls necessary to satisfy the determination required under subsection (2)~~(b)(C)~~.

(4) THIS SECTION DOES NOT RELIEVE AN OWNER OR OPERATOR OF A FACILITY THAT INCINERATES 75 TONS OR LESS OF SOLID WASTE--A--DAY SOLID WASTE INCINERATOR THAT IS NOT INCLUDED UNDER SUBSECTION (1) FROM THE OBLIGATION TO OBTAIN ANY PERMIT OTHERWISE REQUIRED UNDER THIS CHAPTER OR RULES IMPLEMENTING THIS CHAPTER.

NEW SECTION. SECTION 6. LOCAL APPROVAL REQUIRED FOR INCINERATION OR DISPOSAL OF SOLID WASTE GENERATED OUTSIDE THE REGION. (1) AN EXCEPT AS PROVIDED IN SUBSECTION (3), AN OWNER OR OPERATOR OF A SOLID WASTE MANAGEMENT FACILITY WHO PROPOSES TO INCINERATE OR DISPOSE OF SOLID WASTE GENERATED OUTSIDE THE SOLID WASTE DISPOSAL REGION IN WHICH THE FACILITY IS LOCATED SHALL, BEFORE RECEIVING THE WASTE, APPLY FOR AND RECEIVE APPROVAL FROM THE LOCAL GOVERNMENT OR GOVERNMENTS HAVING JURISDICTION OVER THE FACILITY.

(2) THE LOCAL GOVERNMENT OR GOVERNMENTS MAY APPROVE THE INCINERATION OR DISPOSAL OF SOLID WASTE FROM OUTSIDE THE REGION, IF THE LOCAL GOVERNMENT OR GOVERNMENTS FIND THAT INCINERATION OR DISPOSAL OF THE SOLID WASTE IS CONSISTENT WITH LOCAL AND STATE SOLID WASTE MANAGEMENT GOALS AND RESULTS IN EQUIVALENT OR IMPROVED PROTECTION OF PUBLIC HEALTH, SAFETY, WELFARE, AND THE ENVIRONMENT WITHIN THE JURISDICTION.

(3) LOCAL APPROVAL UNDER THIS SECTION IS NOT REQUIRED FOR THE INCINERATION OR DISPOSAL OF SOLID WASTE AT A SOLID

1 WASTE MANAGEMENT FACILITY IN THE MANNER AND AMOUNT
 2 INCINERATED OR DISPOSED OF BEFORE [THE EFFECTIVE DATE OF
 3 THIS ACT].

4 NEW SECTION. SECTION 7. MORATORIUM ON CERTAIN
 5 INTERSTATE TRANSPORT OF SOLID WASTE. (1) THE STATE OF
 6 MONTANA RECOGNIZES THE IMPORTANCE OF PROVIDING FOR DISPOSAL
 7 OR INCINERATION OF SOLID WASTE IN A MANNER THAT PROTECTS
 8 MONTANA'S PUBLIC HEALTH, SAFETY, WELFARE, AND ENVIRONMENT.
 9 ALTHOUGH THE STATE OF MONTANA ALSO RECOGNIZES THAT, UNDER
 10 APPROPRIATE CONDITIONS, THE TRANSPORTATION OF OUT-OF-STATE
 11 SOLID WASTE INTO MONTANA MAY NOT CONFLICT WITH THIS GOAL, IT
 12 IS IMPERATIVE THAT THE STATE UNDERTAKE A LEGISLATIVE STUDY
 13 OF SOLID WASTE REGULATION AND MANAGEMENT, FURTHER DEVELOP
 14 REGIONAL AND STATEWIDE SOLID WASTE MANAGEMENT GOALS AND,
 15 PLANS, AND REGULATIONS, AND ADOPT RULES IMPLEMENTING {THIS
 16 ACT} THE SOLID WASTE MANAGEMENT FEE BEFORE ALLOWING SOLID
 17 WASTE IMPORTATION BEYOND CURRENT LEVELS.

18 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), A PERSON MAY
 19 NOT TRANSPORT SOLID WASTE INTO MONTANA UNTIL OCTOBER 1,
 20 1991.

21 (3) A PERSON WHO TRANSPORTED SOLID WASTE INTO MONTANA
 22 BEFORE [THE EFFECTIVE DATE OF THIS ACT] MAY CONTINUE TO
 23 TRANSPORT SOLID WASTE INTO MONTANA SUBJECT TO THE LIMITATION
 24 THAT THE AMOUNT HE TRANSPORTS INTO MONTANA DURING ANY
 25 CALENDAR YEAR OF THE MORATORIUM DOES NOT SIGNIFICANTLY

1 EXCEED THE AMOUNT HE TRANSPORTED INTO MONTANA DURING
 2 CALENDAR YEAR 1988.

3 NEW SECTION. SECTION 8. ADMINISTRATIVE ENFORCEMENT.

4 (1) WHEN THE DEPARTMENT BELIEVES THAT A VIOLATION OF PART 1
 5 OR THIS PART, A VIOLATION OF A RULE ADOPTED UNDER PART 1 OR
 6 THIS PART, OR A VIOLATION OF A PERMIT PROVISION HAS
 7 OCCURRED, IT MAY SERVE WRITTEN NOTICE OF THE VIOLATION ON
 8 THE ALLEGED VIOLATOR OR HIS AGENT. THE NOTICE MUST SPECIFY
 9 THE PROVISION OF LAW, RULE, OR PERMIT ALLEGED TO BE VIOLATED
 10 AND THE FACTS ALLEGED TO CONSTITUTE A VIOLATION AND MAY
 11 INCLUDE AN ORDER TO TAKE NECESSARY CORRECTIVE ACTION WITHIN
 12 A REASONABLE PERIOD OF TIME STATED IN THE ORDER. THE ORDER
 13 BECOMES FINAL UNLESS, WITHIN 30 DAYS AFTER THE NOTICE IS
 14 SERVED, THE PERSON NAMED REQUESTS IN WRITING A HEARING
 15 BEFORE THE BOARD. ON RECEIPT OF THE REQUEST, THE BOARD SHALL
 16 SCHEDULE A HEARING. SERVICE BY MAIL IS COMPLETE ON THE DATE
 17 OF MAILING.

18 (2) IF, AFTER A HEARING HELD UNDER SUBSECTION (1), THE
 19 BOARD FINDS THAT A VIOLATION HAS OCCURRED, IT SHALL EITHER
 20 AFFIRM OR MODIFY THE DEPARTMENT'S ORDER. AN ORDER ISSUED BY
 21 THE DEPARTMENT OR BY THE BOARD MAY PRESCRIBE THE DATE BY
 22 WHICH THE VIOLATION MUST CEASE AND MAY PRESCRIBE TIME LIMITS
 23 FOR PARTICULAR ACTION. IF, AFTER HEARING, THE BOARD FINDS NO
 24 VIOLATION HAS OCCURRED, IT SHALL RESCIND THE DEPARTMENT'S
 25 ORDER.

1 (3) INSTEAD OF ISSUING AN ORDER PURSUANT TO SUBSECTION
2 (1), THE DEPARTMENT MAY EITHER:

3 (A) REQUIRE THE ALLEGED VIOLATOR TO APPEAR BEFORE THE
4 BOARD FOR A HEARING AT A TIME AND PLACE SPECIFIED IN THE
5 NOTICE AND ANSWER THE CHARGES; OR

6 (B) INITIATE ACTION UNDER PART 1 OR THIS PART.

7 (4) THIS SECTION DOES NOT PREVENT THE BOARD OR
8 DEPARTMENT FROM MAKING EFFORTS TO OBTAIN VOLUNTARY
9 COMPLIANCE THROUGH WARNING, CONFERENCE, OR ANY OTHER
10 APPROPRIATE MEANS.

11 NEW SECTION. **SECTION 9.** CIVIL PENALTIES. (1) A PERSON
12 WHO VIOLATES ANY PROVISION OF THIS PART, A RULE ADOPTED
13 UNDER THIS PART, OR A LICENSE PROVISION IS SUBJECT TO A
14 CIVIL PENALTY NOT TO EXCEED \$1,000. EACH DAY OF VIOLATION
15 CONSTITUTES A SEPARATE VIOLATION.

16 (2) THE DEPARTMENT MAY INSTITUTE AND MAINTAIN IN THE
17 NAME OF THE STATE ANY ENFORCEMENT PROCEEDINGS UNDER THIS
18 SECTION. UPON REQUEST OF THE DEPARTMENT, THE ATTORNEY
19 GENERAL OR THE COUNTY ATTORNEY OF THE COUNTY WHERE THE
20 VIOLATION OCCURRED SHALL PETITION THE DISTRICT COURT TO
21 IMPOSE, ASSESS, AND RECOVER THE CIVIL PENALTY.

22 **Section 10.** Section 75-10-104, MCA, is amended to
23 read:

24 "75-10-104. Duties of department. The department
25 shall:

1 (1) prepare a state solid waste management and
2 resource recovery plan for submission to the board;

3 (2) prepare rules necessary for the implementation of
4 this part for submission to the board, including but not
5 limited to rules;

6 (a) governing the submission of plans for a solid
7 waste management system;--rules;

8 (b) governing procedures to be followed in applying
9 for and making loans;--and--rules;

10 (c) governing agreements between a local government
11 and the department for grants or loans under this part;

12 (d) establishing, for the purpose of determining the
13 solid waste management fee to which a facility is subject
14 under [section 1], methods for determining or estimating the
15 amount of solid waste incinerated or disposed of at a
16 facility;

17 (e) providing procedures for the quarterly collection
18 of the solid waste management fee provided for in [section
19 1]; and

20 (f) providing guidelines for ~~recommendations-to-the~~
21 ~~board--concerning--the--application--of--intraregional--fees~~
22 ~~instead--of--interregional~~ A WAIVER OF fees for certain
23 incineration or disposal of solid waste, as provided for in
24 [section 1(2)];

25 (3) provide financial assistance to local governments

1 for front-end planning activities for a proposed solid waste
2 management system which is compatible with the state plan
3 whenever such financial assistance is available;

4 (4) provide technical assistance to persons within the
5 state for planning, designing, constructing, financing, and
6 operating a solid waste management system in order to insure
7 that the system conforms to the state plan;

8 (5) provide front-end organizational loans for the
9 implementation of an approved solid waste management system
10 whenever funds for such loans are available;

11 (6) enforce and administer the provisions of this
12 part;

13 (7) administer loans made by the state under the
14 provisions of this part; and

15 (8) approve plans for a proposed solid waste
16 management system submitted by a local government."

17 **Section 11.** Section 75-10-105, MCA, is amended to
18 read:

19 "75-10-105. Powers of department. The department may:

20 (1) accept loans and grants from the federal
21 government and other sources to carry out the provisions of
22 this part;

23 (2) make loans to a local government for the planning,
24 design, and implementation of a solid waste management
25 system; and

1 (3) make grants for a local government for planning or
2 implementation of a solid waste management system; and
3 (4) collect the solid waste management fee provided
4 for in [section 1]."

5 **SECTION 12.** SECTION 75-10-214, MCA, IS AMENDED TO
6 READ:

7 "75-10-214. Exclusions -- exceptions to exclusions.
8 (1) This part may not be construed to prohibit a person from
9 disposing of his own solid waste generated in Montana upon
10 land owned or leased by that person or covered by easement
11 or permit as long as it does not create a nuisance or public
12 health hazard.

13 (2) The exclusion contained in subsection (1) of this
14 section does not apply to a division of land of 5 acres or
15 less made after July 1, 1977, which falls within the
16 definition of subdivision in Title 76, chapter 4, part 1, or
17 the Montana Subdivision and Platting Act in Title 76,
18 chapter 3."

19 **NEW SECTION. Section 13.** Extension of authority. Any
20 existing authority to make rules on the subject of the
21 provisions of [this act] is extended to the provisions of
22 [this act].

23 **NEW SECTION. Section 14.** Codification instruction.
24 (1) [Sections 1 through 4] are intended to be codified as an
25 integral part of Title 75, chapter 10, part 1, and the

1 provisions of Title 75, chapter 10, part 1, apply to
2 [sections 1 through 4].

3 (2) [Section 5] is intended to be codified as an
4 integral part of Title 75, chapter 2, part 2, and the
5 provisions of Title 75, chapter 2, part 2, apply to [section
6 5].

7 (3) [SECTION SECTIONS 6 THROUGH 8 9] IS ARE INTENDED
8 TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 75, CHAPTER 10,
9 PART 2, AND THE PROVISIONS OF TITLE 75, CHAPTER 10, PART 2,
10 APPLY TO [SECTION SECTIONS 6 THROUGH 8 9].

11 NEW SECTION. Section 15. Severability. If a part of
12 [this act] is invalid, all valid parts that are severable
13 from the invalid part remain in effect. If a part of [this
14 act] is invalid in one or more of its applications, the part
15 remains in effect in all valid applications that are
16 severable from the invalid applications.

17 NEW SECTION. Section 16. Effective dates:-----{1}
18 {Sections--1--through-4-and-6-through-10}-are-effective-July
19 17-1989-

20 {2}--{Section-5-and-this-section}-are DATE. [THIS ACT]
21 IS effective on passage and approval.

-End-