

HOUSE BILL 57

Introduced by Cohen

7/13	Introduced
7/13	Referred to Taxation
7/13	First Reading
7/13	Fiscal Note Requested
7/15	Hearing
7/15	Fiscal Note Received
7/15	Fiscal Note Printed
	Died in Committee

1 submit request an assessment review by submitting his
 2 objection in writing to the department's--agent department,
 3 on forms provided by the department for that purpose, on or
 4 before the first Monday in June or 15 days after receiving
 5 the notice of classification and appraisal from the
 6 department, whichever is later. The review must be conducted
 7 informally and is not subject to the contested case
 8 procedures of the Montana Administrative Procedure Act. In
 9 an-objection-to-the-appraisal-of-the-property As part of the
 10 review, the department may consider the actual selling price
 11 of the property, independent appraisals of the property, and
 12 other relevant information presented by the taxpayer as
 13 evidence--of in support of the taxpayer's opinion as to the
 14 market value of the property. The department shall give
 15 reasonable notice to the taxpayer of the time and place of
 16 hearing-and-hear-any-testimony-or-other--evidence--that--the
 17 taxpayer--may--desire-to-produce-at-that-time-and-afford-the
 18 opportunity-to-other-interested-persons-to-produce--evidence
 19 at--the--hearing the review. After the hearing review, the
 20 department shall determine the true and correct appraisal
 21 and classification of the land or improvements and notify
 22 the taxpayer of its determination. In the notification, the
 23 department must state its reasons for revising the
 24 classification or appraisal. When the proper appraisal and
 25 classification have been determined, the land shall be

1 classified and the improvements appraised in the manner
 2 ordered by the department.

3 (4) Whether a hearing review as provided in subsection
 4 (3) is held or not, the department or its agent may not
 5 adjust an appraisal or classification upon taxpayer's
 6 objection unless:

7 (a) the taxpayer has submitted his objection in
 8 writing; and

9 (b) the department or its agent has stated its reason
 10 in writing for making the adjustment.

11 (5) A taxpayer's written objection to a classification
 12 or appraisal and the department's notification to the
 13 taxpayer of its determination and the reason for that
 14 determination are public records. Each-county-appraiser The
 15 department shall make the records available for inspection
 16 during regular office hours.

17 (6) (a) If any property owner feels aggrieved at by the
 18 final classification and/or the appraisal made by the
 19 department after the review provided for in subsection (3),
 20 he shall have the right to appeal to the county tax appeal
 21 board and then to the state tax appeal board, whose findings
 22 shall be final subject to the right of review in the courts.
 23 The property owner may appeal the--base--valuation--and--the
 24 classification--determination to the county tax appeal board
 25 only those objections to the classification or appraisal

1 that were the subject of the review provided for in
 2 subsection (3). A county tax appeal board or the state tax
 3 appeal board may consider the actual selling price of the
 4 property, independent appraisals of the property, and other
 5 relevant information presented by the taxpayer as evidence
 6 of the market value of the property only if such evidence
 7 was presented to the department at the review provided for
 8 in subsection (3). If the county tax appeal board or the
 9 state tax appeal board determines that an adjustment should
 10 be made, the department shall adjust the base value of the
 11 property in accordance with the board's order. If any
 12 percentage adjustment required by the sales assessment ratio
 13 study provided in 15-7-111 is applied to the base value, the
 14 valuation of the property for the current year must be the
 15 same as the board's determination of market value and the
 16 property must continue to be assessed in the area designated
 17 by the department.

18 (b) If a property owner feels aggrieved by either the
 19 percentage adjustment or the area designation established by
 20 the department pursuant to 15-7-111, he may, within 60 days
 21 of the date the rules provided for in subsection (7) are
 22 adopted to implement 15-7-111(4)(b), file suit seeking a
 23 declaratory judgment action to review the department's
 24 determination of the percentage adjustment or area
 25 designation.

1 (c) The district court shall consolidate all such
 2 actions brought by property owners into one proceeding. If
 3 the suit encompasses more than one judicial district, the
 4 venue for action is the first judicial district of Lewis and
 5 Clark County.

6 (d) During the pendency of the action, the court may
 7 not restrain or enjoin the department from implementing
 8 either the percentage adjustments or area designations made
 9 by the department, but the court may direct that the
 10 increase in the property owner's tax be paid into the
 11 property tax protest fund of the county in which the
 12 property is located. Upon final judgment, the court may
 13 order all or a portion of the protested tax to be refunded
 14 to the property owner or such other remedy as the court
 15 considers appropriate.

16 (7) The percentage adjustments, stratum, and area
 17 designations must be adopted by administrative rule. An
 18 annual hearing must be held to accept testimony on the
 19 percentage adjustments, stratum, and area designations. The
 20 department shall present its findings and the proposed rules
 21 to the revenue oversight committee.

22 15-7-102. (Effective July 1, 1993) Notice of
 23 classification and appraisal to owners -- appeals. (1) It
 24 shall be the duty of the department of revenue, through its
 25 agent as specified in subsection (2), to cause to be mailed

1 to each owner and purchaser under contract for deed a notice
 2 of the classification of the land owned or being purchased
 3 by him and the appraisal of the improvements on the land
 4 only if one or more of the following changes pertaining to
 5 the land or improvements have been made since the last
 6 notice:

7 (a) change in ownership;

8 (b) change in classification;

9 (c) change in valuation; or

10 (d) addition or subtraction of personal property
 11 affixed to the land.

12 (2) (a) The ~~county--assessor~~ department shall assign
 13 each assessment to the correct owner or purchaser under
 14 contract for deed and mail the notice of classification and
 15 appraisal on a standardized form, adopted by the department,
 16 containing sufficient information in a comprehensible manner
 17 designed to fully inform the taxpayer as to the
 18 classification and appraisal of his property and of changes
 19 over the prior tax year.

20 (b) If the valuation of the property described in
 21 subsection (1) increased from the prior tax year, the notice
 22 must include the following information:

23 (i) the valuation of the property in the prior tax
 24 year; and

25 (ii) a statement showing the amount of taxes that would

1 be due on the property in the current tax year if the
 2 property were subject to the same mill levies imposed in the
 3 prior tax year.

4 (3) If the owner of any land and improvements is
 5 dissatisfied with the appraisal as it reflects the market
 6 value of the property as determined by the department or
 7 with the classification of his land or improvements, he may
 8 submit request an assessment review by submitting his
 9 objection in writing to the department's-agent department,
 10 on forms provided by the department for that purpose, on or
 11 before the first Monday in June or 15 days after receiving
 12 the notice of classification and appraisal from the
 13 department, whichever is later. The review must be conducted
 14 informally and is not subject to the contested case
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 21 market value of the property. The department shall give
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 23 hearing--and--hear--any-testimony-or-other-evidence-that-the
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1 ~~at-the-hearing~~ the review. After the ~~hearing~~ review, the
 2 department shall determine the true and correct appraisal
 3 and classification of the land or improvements and notify
 4 the taxpayer of its determination. In the notification, the
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 6 classification or appraisal. When the proper appraisal and
 7 classification have been determined, the land shall be
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10 (4) Whether a hearing review as provided in subsection
 11 (3) is held or not, the department or its agent may not
 12 adjust an appraisal or classification upon taxpayer's
 13 objection unless:

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 15 writing; and

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24 (6) (a) If any property owner feels aggrieved ~~at~~ by the
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1 department after the review provided for in subsection (3),
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 3 board and then to the state tax appeal board, whose findings
 4 shall be final subject to the right of review in the courts.
 5 The property owner may appeal ~~the-base-valuation-and-the~~
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 7 only those objections to the classification or appraisal
 8 that were the subject of the review provided for in
 9 subsection (3). A county tax appeal board or the state tax
 10 appeal board may consider the actual selling price of the
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 13 of the market value of the property only if such evidence
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 15 in subsection (3). If the county tax appeal board or the
 16 state tax appeal board determines that an adjustment should
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 18 property in accordance with the board's order. If any
 19 percentage adjustment required by the sales assessment ratio
 20 study provided in 15-7-111 is applied to the base value, the
 21 valuation of the property for the current year must be the
 22 same as the board's determination of market value and the
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 17 increase in the property owner's tax be paid into the
 18 property tax protest fund of the county in which the
 19 property is located. Upon final judgment, the court may
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 21 to the property owner or such other remedy as the court
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23 15-7-102. (Effective January 1, 1994) Notice of
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 24 with the classification of his land or improvements, he may
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 20 board and then to the state tax appeal board, whose findings
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 22 The property owner may appeal the--base--valuation--and--the
 23 classification--determination to the county tax appeal board
 24 only those objections to the classification or appraisal
 25 that were the subject of the review provided for in

1 subsection (3). A county tax appeal board or the state tax
 2 appeal board may consider the actual selling price of the
 3 property, independent appraisals of the property, and other
 4 relevant information presented by the taxpayer as evidence
 5 of the market value of the property only if such evidence
 6 was presented to the department at the review provided for
 7 in subsection (3). If the county tax appeal board or the
 8 state tax appeal board determines that an adjustment should
 9 be made, the department shall adjust the base value of the
 10 property in accordance with the board's order."

11 **Section 2.** Section 15-7-111, MCA, is amended to read:

12 "15-7-111. (Temporary) Periodic revaluation of taxable
 13 property -- publication of sales assessment ratio studies --
 14 appeal of revaluations -- public hearing. (1) The department
 15 of revenue shall administer and supervise a program for the
 16 revaluation of all taxable property within the state at
 17 least every 5 years. A comprehensive written reappraisal
 18 plan shall be promulgated by the department. The reappraisal
 19 plan adopted shall provide that all property in each county
 20 shall be revalued at least every 5 years. The department
 21 shall furnish a copy of the plan and all amendments to the
 22 plan to the board of county commissioners in each county.

23 (2) The new values determined during a revaluation
 24 cycle must be provided to the taxpayers at the end of the
 25 revaluation cycle but may not be placed on the tax rolls

1 until 1 year following the completion of the revaluation
 2 cycle.

3 (3) A taxpayer shall appeal the new value in advance of
 4 its placement on the tax rolls by filing requesting an
 5 appeal assessment review pursuant to ~~15-15-102~~ 15-7-102
 6 before the first Monday in June or 15 days after receiving
 7 notice of the new valuation amount, whichever is later, or
 8 be barred from appealing for untimeliness.

9 (4) (a) For the taxable year beginning January 1, 1990,
 10 and for every taxable year thereafter, the department shall
 11 conduct a stratified sales assessment ratio study of all
 12 residential land and improvements, agricultural 1-acre
 13 homesites and improvements, and commercial land and
 14 improvements. Residential improvements include condominiums
 15 but do not include mobile homes or housetrailerers that are
 16 not taxed as an improvement as defined in 15-1-101. The
 17 sales assessment ratio based on property sales finalized and
 18 recorded by no later than November 1 must be used to
 19 determine appraisals for the immediately succeeding tax
 20 year.

21 (b) (i) For tax year 1991, if the result of the
 22 stratified sales assessment ratio study performed pursuant
 23 to subsection (4)(a) on residential property for tax year
 24 1990 shows for any area an assessment level of less than
 25 80%, the department shall perform a reappraisal of the

1 residential property in the area. The reappraisal must be
 2 performed using a computer-assisted mass appraisal system
 3 based on the market approach to value, using comparable
 4 sales of similar property. If insufficient sales are
 5 available for market modeling, the department shall
 6 reappraise the property using the cost approach to value.

7 (ii) For tax year 1992, if the result of the stratified
 8 sales assessment ratio study performed pursuant to
 9 subsection (4)(a) on residential property for tax year 1991
 10 shows for any area an assessment level of less than 80% or a
 11 coefficient of dispersion with respect to the value weighted
 12 mean ratio of more than 20%, rounded to the nearest 0.1%,
 13 and an adjustment multiplier of 1.01 or greater, the
 14 department shall perform a reappraisal of the residential
 15 property in the area. The reappraisal must be performed
 16 using the same criteria provided in subsection (4)(b)(i).

17 (iii) For tax year 1993, if the result of the stratified
 18 sales assessment ratio study performed pursuant to
 19 subsection (4)(a) on residential property for tax year 1992
 20 shows for any area an adjustment multiplier of 1.01 or
 21 greater, the department shall perform a reappraisal of the
 22 residential property in the area. The reappraisal must be
 23 performed using the same criteria provided in subsection
 24 (4)(b)(i).

25 (iv) For those areas subject to reappraisal under the

1 provisions of subsection (4)(b)(i) for tax year 1992, the
 2 department shall compare the stratified sales assessment
 3 ratio study performed in 1991 to the 1991 assessed value to
 4 determine whether the area will be subject to further
 5 appraisal. If that comparison of residential property shows
 6 for the area a coefficient of dispersion with respect to the
 7 value weighted mean ratio of more than 20%, rounded to the
 8 nearest 0.1%, and an adjustment multiplier of 1.01 or
 9 greater, the department shall reappraise the area. The
 10 reappraisal must be performed using the same criteria
 11 provided in subsection (4)(b)(i).

12 (5) The study required in subsection (4) must be based
 13 on:

14 (a) commonly accepted statistical standards and
 15 methodology;

16 (b) a statistically valid sample of sales, using data
 17 from realty transfer certificates filed for up to 3 taxable
 18 years prior to the year the study is made, taking into
 19 account the dates of the included sales in the statistical
 20 analysis; and

21 (c) the assessments and sales for areas of the state
 22 that are economically, demographically, and geographically
 23 similar in order to determine the sales assessment ratios
 24 for a specific area.

25 (6) For purposes of conducting the study required by

1 subsection (4), the department shall partition the state
 2 into as many as 100 areas for residential property and as
 3 many as 20 areas for commercial property. The areas must
 4 contain statistically sufficient numbers of sales and be as
 5 economically and demographically homogeneous as reasonably
 6 practicable.

7 (7) The department shall use the following procedure to
 8 validate sales information:

9 (a) Department staff who did not participate in the
 10 determination of appraised values are required to review the
 11 sales transactions evidenced by a realty transfer
 12 certificate. The review must be conducted to determine
 13 whether each sale used in the study was a valid,
 14 arm's-length transaction. Only valid, arm's-length sales may
 15 be used in the sales assessment ratio study.

16 (b) The sales information entered in the
 17 computer-assisted appraisal system is considered
 18 confidential, as provided in 15-7-308. However, the
 19 department shall annually publish a report containing the
 20 results of all sales assessment ratio studies done in each
 21 of the areas described in subsection (6). The report
 22 containing the results of the study must be made available
 23 to the public by request or by general disclosure.

24 (c) The department shall exclude from the sales
 25 assessment ratio study any parcels in which the improvements

1 have been remodeled, reconstructed, or expanded between the
 2 time of the assessment and the time of the sales.

3 (d) The department shall exclude sales assessment
 4 ratios of less than 50% or greater than 200%.

5 (8) (a) The department shall have equalized property
 6 values throughout the state and may not make further
 7 adjustments to values under this section when the
 8 assessments for each stratum within each area identified in
 9 subsection (6) are rescaled to bring all ratios to within
 10 plus or minus 5% of common value 1 and when the sample size
 11 produces a standard error of less than 5%.

12 (b) Under the method described in subsection (8)(a),
 13 taxable property in each area is considered revalued for
 14 each tax year, based on the results of the sales assessment
 15 ratio study and the adjustments required by that study.

16 (c) Assessments in an area are considered equalized
 17 under subsection (8)(a) if the ratio for the area is within
 18 plus or minus 5% of common value 1.

19 (9) If the results of the stratified sales assessment
 20 ratio study required under this section show an increase in
 21 the percentage adjustment in excess of 10% in an area
 22 designation, the department shall conduct a public hearing
 23 in that area designation to present information showing the
 24 reasons for the increase.

25 15-7-111. (Effective July 1, 1993) Periodic revaluation

1 of taxable property -- public hearing. (1) The department of
 2 revenue shall administer and supervise a program for the
 3 revaluation of all taxable property within the state at
 4 least every 3 years. A comprehensive written reappraisal
 5 plan shall be promulgated by the department. The reappraisal
 6 plan adopted shall provide that all property in each county
 7 shall be revalued at least every 3 years. The department
 8 shall furnish a copy of the plan and all amendments to the
 9 plan to the board of county commissioners in each county.

10 (2) (a) Residential improvements include condominiums
 11 but do not include mobile homes or housetrailerers that are
 12 not taxed as an improvement as defined in 15-1-101.

13 (b) (i) For tax year 1991, if the result of the
 14 stratified sales assessment ratio study performed on
 15 residential property for tax year 1990 shows for any area an
 16 assessment level of less than 80%, the department shall
 17 perform a reappraisal of the residential property in the
 18 area. The reappraisal must be performed using a
 19 computer-assisted mass appraisal system based on the market
 20 approach to value, using comparable sales of similar
 21 property. If insufficient sales are available for market
 22 modeling, the department shall reappraise the property using
 23 the cost approach to value.

24 (ii) For tax year 1992, if the result of the stratified
 25 sales assessment ratio study performed on residential

1 property for tax year 1991 shows for any area an assessment
 2 level of less than 80% or a coefficient of dispersion with
 3 respect to the value weighted mean ratio of more than 20%,
 4 rounded to the nearest 0.1%, and an adjustment multiplier of
 5 1.01 or greater, the department shall perform a reappraisal
 6 of the residential property in the area. The reappraisal
 7 must be performed using the same criteria provided in
 8 subsection (2)(b)(i).

9 (iii) For tax year 1993, if the result of the stratified
 10 sales assessment ratio study performed on residential
 11 property for tax year 1992 shows for any area an adjustment
 12 multiplier of 1.01 or greater, the department shall perform
 13 a reappraisal of the residential property in the area. The
 14 reappraisal must be performed using the same criteria
 15 provided in subsection (2)(b)(i).

16 (iv) For those areas subject to reappraisal under the
 17 provisions of subsection (2)(b)(i) for tax year 1992, the
 18 department shall compare the stratified sales assessment
 19 ratio study performed in 1991 to the 1991 assessed value to
 20 determine whether the area will be subject to further
 21 appraisal. If that comparison of residential property shows
 22 for the area a coefficient of dispersion with respect to the
 23 value weighted mean ratio of more than 20%, rounded to the
 24 nearest 0.1%, and an adjustment multiplier of 1.01 or
 25 greater, the department shall reappraise the area. The

1 reappraisal must be performed using the same criteria
2 provided in subsection (2)(b)(i).

3 (3) If the results of the stratified sales assessment
4 ratio study required under this section show an increase in
5 the percentage adjustment in excess of 10% in an area
6 designation, the department shall conduct a public hearing
7 in that area designation to present information showing the
8 reasons for the increase.

9 15-7-111. (Effective January 1, 1994) Periodic
10 revaluation of taxable property. The department of revenue
11 shall administer and supervise a program for the revaluation
12 of all taxable property within the state at least every 3
13 years. A comprehensive written reappraisal plan shall be
14 promulgated by the department. The reappraisal plan adopted
15 shall provide that all property in each county shall be
16 revalued at least every 3 years. The department shall
17 furnish a copy of the plan and all amendments to the plan to
18 the board of county commissioners in each county."

19 **Section 3.** Section 15-15-102, MCA, is amended to read:

20 "15-15-102. **Application for reduction in valuation.** No
21 reduction may be made in the valuation of property unless
22 either the party-affected taxpayer aggrieved by the result
23 of the department of revenue's review under 15-7-102(3) or
24 his the taxpayer's agent makes and files with the county tax
25 appeal board on-or-before-the-first-Monday--in--June--or--15

1 ~~days---after---receiving--a--notice--of--classification--and~~
2 ~~appraisal--from--the--department--of--revenue--or--its--agent,~~
3 ~~whichever--is--later,~~ a written application for reduction
4 within 15 days after receiving the department's decision.
5 The application shall state the post-office address of the
6 applicant, shall specifically describe the property
7 involved, and shall state the facts upon which it is claimed
8 the reduction should be made."

9 NEW SECTION. Section 4. Coordination instruction. If
10 [LC 96] is passed and approved and if it includes a
11 provision amending section 14, Chapter 680, Laws of 1991,
12 then the amendments that [this act] makes to the first two
13 versions of 15-7-102 are void.

14 NEW SECTION. Section 5. Effective date --
15 applicability. [This act] is effective on passage and
16 approval and applies to objections submitted under
17 15-7-102(3) after December 31, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15


In compliance with a written request, there is hereby submitted a Fiscal Note for HB0057, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying that an objection to a property tax classification or appraisal must first be heard by the Department of Revenue; revising the process by which the department handles an objection; revising the procedure for appeals to the county and state tax appeal boards; and providing an immediate effective date and an applicability date.

FISCAL IMPACT:

The proposal has no impact on Department of Revenue expenditures or revenues.



STEVE YEAKEL, BUDGET DIRECTOR
Office of Budget and Program Planning

7/15/92

DATE



BEN COHEN, PRIMARY SPONSOR

7/15/92

DATE

Fiscal Note for HB0057, as introduced

HB 57

1
2 INTRODUCED BY *House* BILL NO. *58*
3 *Madison B. Broun* *McKee*

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
5 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FROM ISSUING
6 A PERMIT FOR THE INCINERATION OF SOLID WASTES OR HAZARDOUS
7 WASTES OR FOR THE USE OF HAZARDOUS WASTE-DERIVED FUEL; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
9

10 WHEREAS, efforts are underway to locate facilities in
11 Montana that would incinerate solid wastes or hazardous
12 wastes and to locate other facilities that burn hazardous
13 waste-derived fuels; and

14 WHEREAS, the Legislature is concerned that current state
15 law does not provide adequate protection for the human and
16 physical environment, including impacts to public health,
17 safety, and welfare and property values, from the impacts of
18 solid waste or hazardous waste incinerator facilities or
19 other facilities that burn hazardous waste-derived fuels;
20 and

21 WHEREAS, the Legislature desires to fully consider the
22 impacts of solid waste and hazardous waste incinerators or
23 other facilities that burn hazardous waste-derived fuels
24 during the 53rd Regular Session.
25

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

2 NEW SECTION. Section 1. **Moratorium** on solid and
3 hazardous waste incinerator permits. Until October 1, 1993,
4 the department may not issue a permit under 75-2-215 for a
5 solid or hazardous waste incinerator.

6 NEW SECTION. Section 2. **Moratorium** on certain solid
7 waste facility permits. Until October 1, 1993, the
8 department may not issue a license under 75-10-221 for a
9 solid waste facility if the applicant also requires a permit
10 under 75-2-215 for the same facility.

11 NEW SECTION. Section 3. **Moratorium** on certain
12 hazardous waste facility permits. Until October 1, 1993, the
13 department may not issue a permit under 75-10-406 for a
14 boiler or industrial furnace that burns hazardous waste or
15 hazardous waste-derived fuel.

16 NEW SECTION. Section 4. Codification instruction. (1)
17 [Section 1] is intended to be codified as an integral part
18 of Title 75, chapter 2, part 2, and the provisions of Title
19 75, chapter 2, part 2, apply to [section 1].

20 (2) [Section 2] is intended to be codified as an
21 integral part of Title 75, chapter 10, part 2, and the
22 provisions of Title 75, chapter 10, part 2, apply to
23 [section 2].

24 (3) [Section 3] is intended to be codified as an
25 integral part of Title 75, chapter 10, part 4, and the

1 provisions of Title 75, chapter 10, part 4, apply to
2 [section 3].

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

9 NEW SECTION. Section 6. **Effective date.** [This act] is
10 effective on passage and approval.

-End-

APPROVED BY COMM. ON
NATURAL RESOURCES

HOUSE BILL NO. 58

INTRODUCED BY MADISON, BARNHART, O'KEEFE, SOUTHWORTH

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FROM ISSUING A--PERMIT CERTAIN PERMITS FOR THE INCINERATION OF SOLID WASTES OR HAZARDOUS WASTES OR FOR THE USE OF HAZARDOUS WASTE-DERIVED FUEL; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, efforts are underway to locate facilities in Montana that would incinerate solid wastes or hazardous wastes and to locate other facilities that burn hazardous waste-derived fuels; and

WHEREAS, the Legislature is concerned that current state law does not provide adequate protection for the human and physical environment, including impacts to public health, safety, and welfare and property values, from the impacts of solid waste or hazardous waste incinerator facilities or other facilities that burn hazardous waste-derived fuels; and

WHEREAS, the Legislature desires to fully consider the impacts of solid waste and hazardous waste incinerators or other facilities that burn hazardous waste-derived fuels during the 53rd Regular Session.

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

NEW SECTION. Section 1. Moratorium on certain solid and hazardous waste incinerator permits. Until EXCEPT FOR REMEDIAL ACTIONS PURSUANT TO TITLE 75, CHAPTER 10, PART 7, OR CORRECTIVE ACTIONS PURSUANT TO 75-10-405(2)(C) OR 75-10-416, UNTIL October 1, 1993, the department may not issue a permit under TO A SOLID OR HAZARDOUS WASTE INCINERATOR SUBJECT TO THE REQUIREMENTS OF 75-2-215 for-a solid-or-hazardous-waste-incinerator.

NEW SECTION. Section 2. Moratorium on certain solid waste facility permits. Until EXCEPT FOR REMEDIAL ACTIONS PURSUANT TO TITLE 75, CHAPTER 10, PART 7, OR CORRECTIVE ACTIONS PURSUANT TO 75-10-405(2)(C) OR 75-10-416, UNTIL October 1, 1993, the department may not issue a license under 75-10-221 for a solid waste facility if the applicant also-requires-a-permit-under FACILITY IS ALSO SUBJECT TO THE REQUIREMENTS OF 75-2-215 for-the-same-facility.

NEW SECTION. Section 3. Moratorium on certain hazardous waste facility permits. Until October 1, 1993, the department may not issue a permit under 75-10-406 for a boiler or industrial furnace that burns hazardous waste or hazardous waste-derived fuel.

NEW SECTION. Section 4. Codification instruction. (1) [Section 1] is intended to be codified as an integral part

1 of Title 75, chapter 2, part 2, and the provisions of Title
2 75, chapter 2, part 2, apply to [section 1].

3 (2) [Section 2] is intended to be codified as an
4 integral part of Title 75, chapter 10, part 2, and the
5 provisions of Title 75, chapter 10, part 2, apply to
6 [section 2].

7 (3) [Section 3] is intended to be codified as an
8 integral part of Title 75, chapter 10, part 4, and the
9 provisions of Title 75, chapter 10, part 4, apply to
10 [section 3].

11 NEW SECTION. **Section 5. 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 6. Effective date.** [This act] is
18 effective on passage and approval.

-End-

1 HOUSE BILL NO. 58
2 INTRODUCED BY MADISON, BARNHART, O'KEEFE, SOUTHWORTH
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
5 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FROM ISSUING
6 ~~A--PERMIT~~ CERTAIN PERMITS FOR THE INCINERATION OF SOLID
7 WASTES OR HAZARDOUS WASTES OR FOR THE USE OF HAZARDOUS
8 WASTE-DERIVED FUEL; AND PROVIDING AN IMMEDIATE EFFECTIVE
9 DATE."
10

11 WHEREAS, efforts are underway to locate facilities in
12 Montana that would incinerate solid wastes or hazardous
13 wastes and to locate other facilities that burn hazardous
14 waste-derived fuels; and

15 WHEREAS, the Legislature is concerned that current state
16 law does not provide adequate protection for the human and
17 physical environment, including impacts to public health,
18 safety, and welfare and property values, from the impacts of
19 solid waste or hazardous waste incinerator facilities or
20 other facilities that burn hazardous waste-derived fuels;
21 and

22 WHEREAS, the Legislature desires to fully consider the
23 impacts of solid waste and hazardous waste incinerators or
24 other facilities that burn hazardous waste-derived fuels
25 during the 53rd Regular Session.

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
2
3 NEW SECTION. Section 1. Moratorium on certain solid
4 and hazardous waste incinerator permits. (1) ~~Until~~ EXCEPT
5 FOR REMEDIAL ACTIONS PURSUANT TO TITLE 75, CHAPTER 10, PART
6 7, OR CORRECTIVE ACTIONS PURSUANT TO 75-10-405(2)(C) OR
7 75-10-416, UNTIL October 1, 1993, the department may not
8 issue a permit under TO A SOLID OR HAZARDOUS WASTE
9 INCINERATOR SUBJECT TO THE REQUIREMENTS OF 75-2-215 ~~for a~~
10 solid-or-hazardous-waste-incinerator.

11 (2) NOTWITHSTANDING THE PROVISIONS OF (1), THE
12 DEPARTMENT SHALL PROCEED IN A REASONABLE AND TIMELY MANNER
13 IN ADOPTING RULES IMPLEMENTING 75-2-215 AND IN PROCESSING
14 AIR QUALITY PERMIT APPLICATIONS REQUIRED UNDER 75-2-211 FOR
15 SOLID OR HAZARDOUS WASTE INCINERATORS.

16 NEW SECTION. Section 2. Moratorium on certain solid
17 waste facility permits. (1) ~~Until~~ EXCEPT FOR REMEDIAL
18 ACTIONS PURSUANT TO TITLE 75, CHAPTER 10, PART 7, OR
19 CORRECTIVE ACTIONS PURSUANT TO 75-10-405(2)(C) OR 75-10-416,
20 UNTIL October 1, 1993, the department may not issue a
21 license under 75-10-221 for a solid waste facility if the
22 applicant--also--requires--a--permit--under FACILITY IS ALSO
23 SUBJECT TO THE REQUIREMENTS OF 75-2-215 ~~for--the--same~~
24 facility.

25 (2) NOTWITHSTANDING THE PROVISIONS OF (1), THE

1 DEPARTMENT SHALL PROCEED IN A REASONABLE AND TIMELY MANNER
 2 IN PROCESSING SOLID WASTE APPLICATIONS REQUIRED UNDER
 3 75-10-221.

4 NEW SECTION. Section 3. Moratorium on certain
 5 hazardous waste facility permits. (1) Until October 1, 1993,
 6 the department may not issue a permit under 75-10-406 for a
 7 boiler or industrial furnace that burns hazardous waste or
 8 hazardous waste-derived fuel.

9 (2) NOTWITHSTANDING THE PROVISIONS OF (1), THE
 10 DEPARTMENT SHALL PROCEED IN A REASONABLE AND TIMELY MANNER
 11 IN ADOPTING RULES IMPLEMENTING 75-10-406 AND IN PROCESSING
 12 APPLICATIONS REQUIRED UNDER 75-10-406.

13 NEW SECTION. Section 4. Codification instruction. (1)
 14 [Section 1] is intended to be codified as an integral part
 15 of Title 75, chapter 2, part 2, and the provisions of Title
 16 75, chapter 2, part 2, apply to [section 1].

17 (2) [Section 2] is intended to be codified as an
 18 integral part of Title 75, chapter 10, part 2, and the
 19 provisions of Title 75, chapter 10, part 2, apply to
 20 [section 2].

21 (3) [Section 3] is intended to be codified as an
 22 integral part of Title 75, chapter 10, part 4, and the
 23 provisions of Title 75, chapter 10, part 4, apply to
 24 [section 3].

25 NEW SECTION. Section 5. Severability. If a part of

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

6 NEW SECTION. Section 6. Effective date. [This act] is
 7 effective on passage and approval.

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1 HOUSE BILL NO. 58

2 INTRODUCED BY MADISON, BARNHART, O'KEEFE, SOUTHWORTH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
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6 A--PERMIT CERTAIN PERMITS FOR THE INCINERATION OF SOLID
7 WASTES OR HAZARDOUS WASTES OR FOR THE USE OF HAZARDOUS
8 WASTE-DERIVED FUEL; AND PROVIDING AN IMMEDIATE EFFECTIVE
9 DATE."

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11 WHEREAS, efforts are underway to locate facilities in
12 Montana that would incinerate solid wastes or hazardous
13 wastes and to locate other facilities that burn hazardous
14 waste-derived fuels; and

15 WHEREAS, the Legislature is concerned that current state
16 law does not provide adequate protection for the human and
17 physical environment, including impacts to public health,
18 safety, and welfare and property values, from the impacts of
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22 WHEREAS, the Legislature desires to fully consider the
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14 AIR QUALITY PERMIT APPLICATIONS REQUIRED UNDER 75-2-211 FOR
15 SOLID OR HAZARDOUS WASTE INCINERATORS.

16 NEW SECTION. Section 2. Moratorium on certain solid
17 waste facility permits. (1) ~~Until~~ EXCEPT FOR REMEDIAL
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19 CORRECTIVE ACTIONS PURSUANT TO 75-10-405(2)(C) OR 75-10-416,
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21 license under 75-10-221 for a solid waste facility if the
22 applicant--also--requires--a--permit--under FACILITY IS ALSO
23 SUBJECT TO THE REQUIREMENTS OF 75-2-215 for--the--same
24 facility.

25 (2) NOTWITHSTANDING THE PROVISIONS OF (1), THE

1 DEPARTMENT SHALL PROCEED IN A REASONABLE AND TIMELY MANNER
 2 IN PROCESSING SOLID WASTE APPLICATIONS REQUIRED UNDER
 3 75-10-221.

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 5 hazardous waste facility permits. (1) Until October 1, 1993,
 6 the department may not issue a permit under 75-10-406 for a
 7 boiler or industrial furnace that burns hazardous waste or
 8 hazardous waste-derived fuel.

9 (2) NOTWITHSTANDING THE PROVISIONS OF (1), THE
 10 DEPARTMENT SHALL PROCEED IN A REASONABLE AND TIMELY MANNER
 11 IN ADOPTING RULES IMPLEMENTING 75-10-406 AND IN PROCESSING
 12 APPLICATIONS REQUIRED UNDER 75-10-406.

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