

SENATE BILL NO. 67

INTRODUCED BY YELLOWTAIL
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

IN THE SENATE

JANUARY 2, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
JANUARY 4, 1993	FIRST READING.
JANUARY 14, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	PRINTING REPORT.
JANUARY 15, 1993	SECOND READING, DO PASS.
JANUARY 16, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 32; NOES, 17.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 18, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
JANUARY 25, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
JANUARY 27, 1993	SECOND READING, CONCURRED IN.
JANUARY 29, 1993	THIRD READING, CONCURRED IN. AYES, 83; NOES, 13.
	RETURNED TO SENATE.

IN THE SENATE

FEBRUARY 1, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
FEBRUARY 5, 1993	REPORTED CORRECTLY ENROLLED.

SIGNED BY PRESIDENT.

IN THE HOUSE

FEBRUARY 9, 1993

SIGNED BY SPEAKER.

IN THE SENATE

FEBRUARY 9, 1993

DELIVERED TO GOVERNOR.

FEBRUARY 12, 1993

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

FEBRUARY 15, 1993

SECOND READING, GOVERNOR'S
RECOMMENDED AMENDMENTS
CONCURRED IN.

FEBRUARY 16, 1993

THIRD READING, GOVERNOR'S
RECOMMENDED AMENDMENTS
CONCURRED IN.
AYES, 49; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 8, 1993

SECOND READING, GOVERNOR'S
RECOMMENDED AMENDMENTS
CONCURRED IN.

MARCH 10, 1993

THIRD READING, GOVERNOR'S
RECOMMENDED AMENDMENTS
CONCURRED IN.
AYES, 92; NOES, 7.

RETURNED TO SENATE.

IN THE SENATE

MARCH 12, 1993

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 67

INTRODUCED BY YELLOWTAIL

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATED TO THE POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND TO THE DISPOSITION OF FEES FOR SOLID WASTE MANAGEMENT; AMENDING SECTIONS 75-10-104, 75-10-105, 75-10-112, 75-10-116, AND 75-10-117; REPEALING SECTION 75-10-218, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is desirable for this bill in order to coordinate certain provisions of existing law with Chapter 398, Laws of 1991. Chapter 398 provided a delayed effective date, and when its provisions become effective on July 1, 1993, certain provisions of law will be amended. The purpose of this bill is to reinstate certain provisions of law that will be deleted when Chapter 398 becomes effective.

It is the intent of the legislature that [sections 1, 2, 4, and 5] of this bill maintain the existing authority of the department of health and environmental sciences rather than add new authority.

It is also the purpose of this bill to repeal a section of The Montana Solid Waste Management Act that was not

included in Chapter 398. Chapter 398 repealed 75-10-110, effective July 1, 1993. [Section 6] of this bill repeals 75-10-218, a section of The Montana Solid Waste Management Act that is subordinate to 75-10-110.

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

Section 1. Section 75-10-104, MCA, is amended to read:

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

(1) prepare a state solid waste management and resource recovery plan as required by 75-10-807 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;

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

(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 75-10-115, methods for determining or estimating the amount of solid waste incinerated or disposed of at a

1 facility;

2 (e) providing procedures for the quarterly collection

3 of the solid waste management fee provided for in 75-10-115;

4 and

5 (f) providing guidelines for integrated waste

6 management;

7 (3) provide financial assistance to local governments

8 for front-end planning activities for a proposed solid waste

9 management system which is compatible with the state plan

10 whenever financial assistance is available;

11 (4) provide technical assistance to persons within the

12 state for planning, designing, constructing, financing, and

13 operating:

14 (a) a solid waste management system in order to ensure

15 that the system conforms to the state plan;

16 (b) integrated waste management programs; and

17 (c) collection, disposal, reduction, and educational

18 programs for household hazardous waste and conditionally

19 exempt small quantities of hazardous waste as defined in

20 Rule 16.44.402, Administrative Rules of Montana;

21 (5) provide front-end organizational loans for the

22 implementation of an approved solid waste management system

23 whenever funds for loans are available;

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

25 (7) administer loans made by the state under the

1 provisions of this part;

2 (8) approve plans for a proposed solid waste management

3 system submitted by a local government; and

4 (9) serve as a clearinghouse for information on waste

5 reduction and reuse, recycling technology and markets,

6 composting, and household hazardous waste disposal,

7 including chemical compatibility.

8 75-10-104. (Effective July 1, 1993) Duties of

9 department. The department shall:

10 (1) prepare a state solid waste management and resource

11 recovery plan as required by 75-10-807 for submission to the

12 board;

13 (2) prepare rules necessary for the implementation of

14 this part for submission to the board, including but not

15 limited to rules:

16 (a) governing the submission of plans for a solid waste

17 management system;

18 (b) governing procedures to be followed in applying for

19 and making loans;

20 (c) governing agreements between a local government and

21 the department for grants or loans under this part;

22 (d) establishing, for the purpose of determining the

23 solid waste management fee to which a facility is subject

24 under 75-10-115 or 75-10-118, methods for determining or

25 estimating the amount of solid waste incinerated or disposed

1 of at a facility;

2 (e) providing procedures for the quarterly collection

3 of the solid waste management fee fees provided for in

4 75-10-115 and 75-10-118; and

5 (f) providing guidelines for integrated waste

6 management;

7 (3) provide financial assistance to local governments

8 for front-end planning activities for a proposed solid waste

9 management system which that is compatible with the state

10 plan whenever financial assistance is available;

11 (4) provide technical assistance to persons within the

12 state for planning, designing, constructing, financing, and

13 operating:

14 (a) a solid waste management system in order to ensure

15 that the system conforms to the state plan;

16 (b) integrated waste management programs; and

17 (c) collection, disposal, reduction, and educational

18 programs for household hazardous waste and conditionally

19 exempt small quantities of hazardous waste as defined in

20 Rule 16.44.402, Administrative Rules of Montana;

21 (5) provide front-end organizational loans for the

22 implementation of an approved solid waste management system

23 whenever funds for loans are available;

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

25 (7) administer loans made by the state under the

1 provisions of this part;

2 (8) approve plans for a proposed solid waste management

3 system submitted by a local government; and

4 (9) serve as a clearinghouse for information on waste

5 reduction and reuse, recycling technology and markets,

6 composting, and household hazardous waste disposal,

7 including chemical compatibility."

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

9 "75-10-105. (Temporary) Powers of department. The

10 department may:

11 (1) accept loans and grants from the federal government

12 and other sources to carry out the provisions of this part;

13 (2) make loans to a local government for the planning,

14 design, and implementation of a solid waste management

15 system;

16 (3) make grants for a local government for planning or

17 implementation of a solid waste management system; and

18 (4) collect the solid waste management fee provided for

19 in 75-10-115.

20 75-10-105. (Effective July 1, 1993) Powers of

21 department. The department may:

22 (1) accept loans and grants from the federal government

23 and other sources to carry out the provisions of this part;

24 (2) make loans to a local government for the planning,

25 design, and implementation of a solid waste management

1 system;

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

4 (4) collect the solid waste management fee fees
5 provided for in 75-10-115 and 75-10-118."

6 **Section 3.** Section 75-10-112, MCA, is amended to read:

7 "75-10-112. Powers and duties of local government. A
8 local government may:

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

13 (2) upon adoption of the state plan by the board, pass
14 an ordinance or resolution to exempt the local jurisdiction
15 from complying with the state plan and subsequent rules
16 implementing the state plan. The ordinance or resolution
17 must include a means to provide solid waste disposal to the
18 citizens of the jurisdiction as required in part 2 of this
19 chapter.

20 (3) employ appropriate personnel to carry out the
21 provisions of this part;

22 (4) purchase, rent, or execute leasing agreements for
23 equipment and material necessary for the implementation of a
24 solid waste management system;

25 (5) cooperate with and enter into agreements with any

1 persons in order to implement an effective solid waste
2 management system;

3 (6) receive gifts, grants, or donations or acquire by
4 gift, deed, or purchase land necessary for the
5 implementation of any provision of this part;

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

9 (8) apply for and utilize state, federal, or other
10 available money for developing or operating a solid waste
11 management system;

12 (9) borrow from any lending agency funds available for
13 assistance in planning a solid waste management system;

14 (10) finance a solid waste management system through the
15 assessment of a tax as authorized by state law;

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

23 (12) procure insurance against any loss in connection
24 with property, assets, or activities;

25 (13) mortgage or otherwise encumber all or a portion of

1 a solid waste management system when the local government
 2 finds that the action is necessary to implement the purposes
 3 of this part, as long as the action is consistent with the
 4 loan requirements set forth in this part and rules adopted
 5 to implement this part;

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

11 (15) finance, design, construct, own, and operate a
 12 solid waste management system or contract for any or all of
 13 the aforementioned powers authorized under this part;

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

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

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

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

22 (c) marketing energy products or byproducts resulting
 23 from processing or utilization of solid waste;

24 (18) finance an areawide solid waste management system
 25 through the use of any of the sources of revenue available

1 to the implementation entity for public works projects, by
 2 the use of revenue bonds issued by the city or county, or by
 3 fees levied by a ~~refuse--disposal~~ solid waste management
 4 district, whichever is appropriate;

5 (19) enter into interlocal agreements in order to
 6 achieve and implement the powers enumerated in this part."

7 **Section 4.** Section 75-10-116, MCA, is amended to read:

8 "75-10-116. (Temporary) Penalties for failure to pay
 9 fee. A person who owns a solid waste disposal facility
 10 subject to a fee under 75-10-115 and fails to pay the fee in
 11 the manner provided by department rule is subject to a fine
 12 of not more than \$2,000 or imprisonment not to exceed 6
 13 months, or both, and shall reimburse the department for the
 14 amount of the fee owed and interest calculated at a rate
 15 equal to the previous fiscal year's average rate of return
 16 on the board of investments' short-term investment pool.

17 75-10-116. (Effective July 1, 1993) Penalties for
 18 failure to pay fee. A person who owns a solid waste disposal
 19 facility subject to a fee under 75-10-115 or 75-10-118 and
 20 fails to pay the fee in the manner provided by department
 21 rule is subject to a fine of not more than \$2,000 or
 22 imprisonment not to exceed 6 months, or both, and shall
 23 reimburse the department for the amount of the fee owed and
 24 interest calculated at a rate equal to the previous fiscal
 25 year's average rate of return on the board of investments'

short-term investment pool."

Section 5. Section 75-10-117, MCA, is amended to read:

***75-10-117. (Temporary) 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 75-10-115; 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, this part, and 75-2-215.

75-10-117. (Effective July 1, 1993) 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 fees provided for in 75-10-115 and 75-10-118; and

(b) fees, taxes, fines, and penalties as required under 75-10-910;

(c) fees collected under the provisions of 75-10-1006; and

~~(b)(d)~~ 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, this part, and 75-2-215."

NEW SECTION. Section 6. Repealer. Section 75-10-218, MCA, is repealed.

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 1993.

-End-

APPROVED BY COMM. ON
NATURAL RESOURCES

SENATE BILL NO. 67

INTRODUCED BY YELLOWTAIL

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS
RELATED TO THE POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES AND TO THE DISPOSITION OF FEES
FOR SOLID WASTE MANAGEMENT; AMENDING SECTIONS 75-10-104,
75-10-105, 75-10-112, 75-10-116, AND 75-10-117; REPEALING
SECTION 75-10-218, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is desirable for this bill in
order to coordinate certain provisions of existing law with
Chapter 398, Laws of 1991. Chapter 398 provided a delayed
effective date, and when its provisions become effective on
July 1, 1993, certain provisions of law will be amended. The
purpose of this bill is to reinstate certain provisions of
law that will be deleted when Chapter 398 becomes effective.

It is the intent of the legislature that [sections 1, 2,
4, and 5] of this bill maintain the existing authority of
the department of health and environmental sciences rather
than add new authority.

It is also the purpose of this bill to repeal a section
of The Montana Solid Waste Management Act that was not

included in Chapter 398. Chapter 398 repealed 75-10-110,
effective July 1, 1993. [Section 6] of this bill repeals
75-10-218, a section of The Montana Solid Waste Management
Act that is subordinate to 75-10-110.

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

Section 1. Section 75-10-104, MCA, is amended to read:

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

(1) prepare a state solid waste management and resource
recovery plan as required by 75-10-807 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;

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

(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 75-10-115, methods for determining or estimating the
amount of solid waste incinerated or disposed of at a

1 facility;

2 (e) providing procedures for the quarterly collection
3 of the solid waste management fee provided for in 75-10-115;
4 and

5 (f) providing guidelines for integrated waste
6 management;

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

11 (4) provide technical assistance to persons within the
12 state for planning, designing, constructing, financing, and
13 operating:

14 (a) a solid waste management system in order to ensure
15 that the system conforms to the state plan;

16 (b) integrated waste management programs; and

17 (c) collection, disposal, reduction, and educational
18 programs for household hazardous waste and conditionally
19 exempt small quantities of hazardous waste as defined in
20 Rule 16.44.402, Administrative Rules of Montana;

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

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

25 (7) administer loans made by the state under the

1 provisions of this part;

2 (8) approve plans for a proposed solid waste management
3 system submitted by a local government; and

4 (9) serve as a clearinghouse for information on waste
5 reduction and reuse, recycling technology and markets,
6 composting, and household hazardous waste disposal,
7 including chemical compatibility.

8 75-10-104. (Effective July 1, 1993) Duties of
9 department. The department shall:

10 (1) prepare a state solid waste management and resource
11 recovery plan as required by 75-10-807 for submission to the
12 board;

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

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

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

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

22 (d) establishing, for the purpose of determining the
23 solid waste management fee to which a facility is subject
24 under 75-10-115 or 75-10-118, methods for determining or
25 estimating the amount of solid waste incinerated or disposed

1 of at a facility;

2 (e) providing procedures for the quarterly collection
3 of the solid waste management fee fees provided for in
4 75-10-115 and 75-10-118; and

5 (f) providing guidelines for integrated waste
6 management;

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

11 (4) provide technical assistance to persons within the
12 state for planning, designing, constructing, financing, and
13 operating;

14 (a) a solid waste management system in order to ensure
15 that the system conforms to the state plan;

16 (b) integrated waste management programs; and

17 (c) collection, disposal, reduction, and educational
18 programs for household hazardous waste and conditionally
19 exempt small quantities of hazardous waste as defined in
20 Rule 16.44.402, Administrative Rules of Montana;

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

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

25 (7) administer loans made by the state under the

1 provisions of this part;

2 (8) approve plans for a proposed solid waste management
3 system submitted by a local government; and

4 (9) serve as a clearinghouse for information on waste
5 reduction and reuse, recycling technology and markets,
6 composting, and household hazardous waste disposal,
7 including chemical compatibility."

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

9 **"75-10-105. (Temporary) Powers of department.** The
10 department may:

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

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

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

18 (4) collect the solid waste management fee provided for
19 in 75-10-115.

20 **75-10-105. (Effective July 1, 1993) Powers of**
21 **department.** The department may:

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

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

1 system;

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

4 (4) collect the solid waste management fee fees
5 provided for in 75-10-115 and 75-10-118."

6 **Section 3.** Section 75-10-112, MCA, is amended to read:

7 "75-10-112. Powers and duties of local government. A
8 local government may:

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

13 (2) upon adoption of the state plan by the board, pass
14 an ordinance or resolution to exempt the local jurisdiction
15 from complying with the state plan and subsequent rules
16 implementing the state plan. The ordinance or resolution
17 must include a means to provide solid waste disposal to the
18 citizens of the jurisdiction as required in part 2 of this
19 chapter.

20 (3) employ appropriate personnel to carry out the
21 provisions of this part;

22 (4) purchase, rent, or execute leasing agreements for
23 equipment and material necessary for the implementation of a
24 solid waste management system;

25 (5) cooperate with and enter into agreements with any

1 persons in order to implement an effective solid waste
2 management system;

3 (6) receive gifts, grants, or donations or acquire by
4 gift, deed, or purchase land necessary for the
5 implementation of any provision of this part;

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

9 (8) apply for and utilize state, federal, or other
10 available money for developing or operating a solid waste
11 management system;

12 (9) borrow from any lending agency funds available for
13 assistance in planning a solid waste management system;

14 (10) finance a solid waste management system through the
15 assessment of a tax as authorized by state law;

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

23 (12) procure insurance against any loss in connection
24 with property, assets, or activities;

25 (13) mortgage or otherwise encumber all or a portion of

a solid waste management system when the local government finds that the action is necessary to implement the purposes of this part, as long as the action is consistent with the loan requirements set forth in this part and rules adopted to implement this part;

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

(15) finance, design, construct, own, and operate a solid waste management system or contract for any or all of the aforementioned powers authorized under this part;

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

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

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

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

(c) marketing energy products or byproducts resulting from processing or utilization of solid waste;

(18) finance an areawide solid waste management system through the use of any of the sources of revenue available

to the implementation entity for public works projects, by the use of revenue bonds issued by the city or county, or by fees levied by a ~~refuse--disposal~~ solid waste management district, whichever is appropriate;

(19) enter into interlocal agreements in order to achieve and implement the powers enumerated in this part."

Section 4. Section 75-10-116, MCA, is amended to read:

"75-10-116. (Temporary) Penalties for failure to pay fee. A person who owns a solid waste disposal facility subject to a fee under 75-10-115 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.

75-10-116. (Effective July 1, 1993) Penalties for failure to pay fee. A person who owns a solid waste disposal facility subject to a fee under 75-10-115 or 75-10-118 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."

Section 5. Section 75-10-117, MCA, is amended to read:

"75-10-117. (Temporary) 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 75-10-115; 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, this part, and 75-2-215.

75-10-117. (Effective July 1, 1993) 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 fees provided for in 75-10-115 and 75-10-118; and

(b) fees, taxes, fines, and penalties as required under 75-10-910;

(c) fees collected under the provisions of 75-10-1006;
and

(b)(d) 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, this part, and 75-2-215."

NEW SECTION. Section 6. Repealer. Section 75-10-218, MCA, is repealed.

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 1993.

-End-

1 SENATE BILL NO. 67

2 INTRODUCED BY YELLOWTAIL

3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS
6 RELATED TO THE POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH
7 AND ENVIRONMENTAL SCIENCES AND TO THE DISPOSITION OF FEES
8 FOR SOLID WASTE MANAGEMENT; AMENDING SECTIONS 75-10-104,
9 75-10-105, 75-10-112, 75-10-116, AND 75-10-117; REPEALING
10 SECTION 75-10-218, MCA; AND PROVIDING AN EFFECTIVE DATE."

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12 STATEMENT OF INTENT

13 A statement of intent is desirable for this bill in
14 order to coordinate certain provisions of existing law with
15 Chapter 398, Laws of 1991. Chapter 398 provided a delayed
16 effective date, and when its provisions become effective on
17 July 1, 1993, certain provisions of law will be amended. The
18 purpose of this bill is to reinstate certain provisions of
19 law that will be deleted when Chapter 398 becomes effective.

20 It is the intent of the legislature that [sections 1, 2,
21 4, and 5] of this bill maintain the existing authority of
22 the department of health and environmental sciences rather
23 than add new authority.

24 It is also the purpose of this bill to repeal a section
25 of The Montana Solid Waste Management Act that was not

1 included in Chapter 398. Chapter 398 repealed 75-10-110,
2 effective July 1, 1993. [Section 6] of this bill repeals
3 75-10-218, a section of The Montana Solid Waste Management
4 Act that is subordinate to 75-10-110.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 Section 1. Section 75-10-104, MCA, is amended to read:

8 "75-10-104. (Temporary) Duties of department. The
9 department shall:10 (1) prepare a state solid waste management and resource
11 recovery plan as required by 75-10-807 for submission to the
12 board;13 (2) prepare rules necessary for the implementation of
14 this part for submission to the board, including but not
15 limited to rules:16 (a) governing the submission of plans for a solid waste
17 management system;18 (b) governing procedures to be followed in applying for
19 and making loans;20 (c) governing agreements between a local government and
21 the department for grants or loans under this part;22 (d) establishing, for the purpose of determining the
23 solid waste management fee to which a facility is subject
24 under 75-10-115, methods for determining or estimating the
25 amount of solid waste incinerated or disposed of at a

1 facility;

2 (e) providing procedures for the quarterly collection
3 of the solid waste management fee provided for in 75-10-115;
4 and

5 (f) providing guidelines for integrated waste
6 management;

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

11 (4) provide technical assistance to persons within the
12 state for planning, designing, constructing, financing, and
13 operating:

14 (a) a solid waste management system in order to ensure
15 that the system conforms to the state plan;

16 (b) integrated waste management programs; and

17 (c) collection, disposal, reduction, and educational
18 programs for household hazardous waste and conditionally
19 exempt small quantities of hazardous waste as defined in
20 Rule 16.44.402, Administrative Rules of Montana;

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

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

25 (7) administer loans made by the state under the

1 provisions of this part;

2 (8) approve plans for a proposed solid waste management
3 system submitted by a local government; and

4 (9) serve as a clearinghouse for information on waste
5 reduction and reuse, recycling technology and markets,
6 composting, and household hazardous waste disposal,
7 including chemical compatibility.

8 75-10-104. (Effective July 1, 1993) Duties of
9 department. The department shall:

10 (1) prepare a state solid waste management and resource
11 recovery plan as required by 75-10-807 for submission to the
12 board;

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

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

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

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

22 (d) establishing, for the purpose of determining the
23 solid waste management fee to which a facility is subject
24 under 75-10-115 or 75-10-118, methods for determining or
25 estimating the amount of solid waste incinerated or disposed

1 of at a facility;

2 (e) providing procedures for the quarterly collection
3 of the solid waste management fee fees provided for in
4 75-10-115 and 75-10-118; and

5 (f) providing guidelines for integrated waste
6 management;

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

11 (4) provide technical assistance to persons within the
12 state for planning, designing, constructing, financing, and
13 operating;

14 (a) a solid waste management system in order to ensure
15 that the system conforms to the state plan;

16 (b) integrated waste management programs; and

17 (c) collection, disposal, reduction, and educational
18 programs for household hazardous waste and conditionally
19 exempt small quantities of hazardous waste as defined in
20 Rule 16.44.402, Administrative Rules of Montana;

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

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

25 (7) administer loans made by the state under the

1 provisions of this part;

2 (8) approve plans for a proposed solid waste management
3 system submitted by a local government; and

4 (9) serve as a clearinghouse for information on waste
5 reduction and reuse, recycling technology and markets,
6 composting, and household hazardous waste disposal,
7 including chemical compatibility."

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

9 "75-10-105. (Temporary) Powers of department. The
10 department may:

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

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

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

18 (4) collect the solid waste management fee provided for
19 in 75-10-115.

20 75-10-105. (Effective July 1, 1993) Powers of
21 department. The department may:

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

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

1 system;

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

4 (4) collect the solid waste management fee fees
5 provided for in 75-10-115 and 75-10-118."

6 **Section 3.** Section 75-10-112, MCA, is amended to read:

7 "75-10-112. Powers and duties of local government. A
8 local government may:

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

13 (2) upon adoption of the state plan by the board, pass
14 an ordinance or resolution to exempt the local jurisdiction
15 from complying with the state plan and subsequent rules
16 implementing the state plan. The ordinance or resolution
17 must include a means to provide solid waste disposal to the
18 citizens of the jurisdiction as required in part 2 of this
19 chapter.

20 (3) employ appropriate personnel to carry out the
21 provisions of this part;

22 (4) purchase, rent, or execute leasing agreements for
23 equipment and material necessary for the implementation of a
24 solid waste management system;

25 (5) cooperate with and enter into agreements with any

1 persons in order to implement an effective solid waste
2 management system;

3 (6) receive gifts, grants, or donations or acquire by
4 gift, deed, or purchase land necessary for the
5 implementation of any provision of this part;

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

9 (8) apply for and utilize state, federal, or other
10 available money for developing or operating a solid waste
11 management system;

12 (9) borrow from any lending agency funds available for
13 assistance in planning a solid waste management system;

14 (10) finance a solid waste management system through the
15 assessment of a tax as authorized by state law;

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

23 (12) procure insurance against any loss in connection
24 with property, assets, or activities;

25 (13) mortgage or otherwise encumber all or a portion of

1 a solid waste management system when the local government
 2 finds that the action is necessary to implement the purposes
 3 of this part, as long as the action is consistent with the
 4 loan requirements set forth in this part and rules adopted
 5 to implement this part;

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

11 (15) finance, design, construct, own, and operate a
 12 solid waste management system or contract for any or all of
 13 the aforementioned powers authorized under this part;

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

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

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

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

22 (c) marketing energy products or byproducts resulting
 23 from processing or utilization of solid waste;

24 (18) finance an areawide solid waste management system
 25 through the use of any of the sources of revenue available

1 to the implementation entity for public works projects, by
 2 the use of revenue bonds issued by the city or county, or by
 3 fees levied by a ~~refuse--disposal~~ solid waste management
 4 district, whichever is appropriate;

5 (19) enter into interlocal agreements in order to
 6 achieve and implement the powers enumerated in this part."

7 **Section 4.** Section 75-10-116, MCA, is amended to read:

8 "75-10-116. (Temporary) Penalties for failure to pay
 9 fee. A person who owns a solid waste disposal facility
 10 subject to a fee under 75-10-115 and fails to pay the fee in
 11 the manner provided by department rule is subject to a fine
 12 of not more than \$2,000 or imprisonment not to exceed 6
 13 months, or both, and shall reimburse the department for the
 14 amount of the fee owed and interest calculated at a rate
 15 equal to the previous fiscal year's average rate of return
 16 on the board of investments' short-term investment pool.

17 75-10-116. (Effective July 1, 1993) Penalties for
 18 failure to pay fee. A person who owns a solid waste disposal
 19 facility subject to a fee under 75-10-115 or 75-10-118 and
 20 fails to pay the fee in the manner provided by department
 21 rule is subject to a fine of not more than \$2,000 or
 22 imprisonment not to exceed 6 months, or both, and shall
 23 reimburse the department for the amount of the fee owed and
 24 interest calculated at a rate equal to the previous fiscal
 25 year's average rate of return on the board of investments'

1 short-term investment pool."

2 **Section 5.** Section 75-10-117, MCA, is amended to read:

3 "75-10-117. (Temporary) Solid waste management account.

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

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

7 (a) all revenue from the solid waste management fee
8 provided for in 75-10-115; and

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

13 (3) The account may be used by the department only for
14 the administration of part 2, this part, and 75-2-215.

15 ~~75-10-117. (Effective July 1, 1993) Solid waste~~
16 ~~management account. (1) There is a solid waste management~~
17 ~~account in the state special revenue fund provided for in~~
18 ~~17-2-102.~~

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

20 (a) all revenue from the solid waste management fee
21 ~~fees provided for in 75-10-115 and 75-10-118; and~~

22 ~~(b) fees, taxes, fines, and penalties as required under~~
23 ~~75-10-910;~~

24 ~~(c) fees collected under the provisions of 75-10-1006;~~
25 ~~and~~

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

5 (3) The account may be used by the department only for
6 the administration of part 2, this part, and 75-2-215."

7 NEW SECTION. Section 6. Repealer. Section 75-10-218,
8 MCA, is repealed.

9 NEW SECTION. Section 7. Effective date. [This act] is
10 effective July 1, 1993.

-End-

1 SENATE BILL NO. 67

2 INTRODUCED BY YELLOWTAIL

3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS
6 RELATED TO THE POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH
7 AND ENVIRONMENTAL SCIENCES AND TO THE DISPOSITION OF FEES
8 FOR SOLID WASTE MANAGEMENT; AMENDING SECTIONS 75-10-104,
9 75-10-105, 75-10-112, 75-10-116, AND 75-10-117; REPEALING
10 SECTION 75-10-218, MCA; AND PROVIDING AN EFFECTIVE DATE."

11
12 STATEMENT OF INTENT

13 A statement of intent is desirable for this bill in
14 order to coordinate certain provisions of existing law with
15 Chapter 398, Laws of 1991. Chapter 398 provided a delayed
16 effective date, and when its provisions become effective on
17 July 1, 1993, certain provisions of law will be amended. The
18 purpose of this bill is to reinstate certain provisions of
19 law that will be deleted when Chapter 398 becomes effective.

20 It is the intent of the legislature that [sections 1, 2,
21 4, and 5] of this bill maintain the existing authority of
22 the department of health and environmental sciences rather
23 than add new authority.

24 It is also the purpose of this bill to repeal a section
25 of The Montana Solid Waste Management Act that was not

1 included in Chapter 398. Chapter 398 repealed 75-10-110,
2 effective July 1, 1993. [Section 6] of this bill repeals
3 75-10-218, a section of The Montana Solid Waste Management
4 Act that is subordinate to 75-10-110.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 Section 1. Section 75-10-104, MCA, is amended to read:

8 "75-10-104. (Temporary) Duties of department. The
9 department shall:

10 (1) prepare a state solid waste management and resource
11 recovery plan as required by 75-10-807 for submission to the
12 board;

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

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

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

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

22 (d) establishing, for the purpose of determining the
23 solid waste management fee to which a facility is subject
24 under 75-10-115, methods for determining or estimating the
25 amount of solid waste incinerated or disposed of at a



1 facility;

2 (e) providing procedures for the quarterly collection

3 of the solid waste management fee provided for in 75-10-115;

4 and

5 (f) providing guidelines for integrated waste

6 management;

7 (3) provide financial assistance to local governments

8 for front-end planning activities for a proposed solid waste

9 management system which is compatible with the state plan

10 whenever financial assistance is available;

11 (4) provide technical assistance to persons within the

12 state for planning, designing, constructing, financing, and

13 operating:

14 (a) a solid waste management system in order to ensure

15 that the system conforms to the state plan;

16 (b) integrated waste management programs; and

17 (c) collection, disposal, reduction, and educational

18 programs for household hazardous waste and conditionally

19 exempt small quantities of hazardous waste as defined in

20 Rule 16.44.402, Administrative Rules of Montana;

21 (5) provide front-end organizational loans for the

22 implementation of an approved solid waste management system

23 whenever funds for loans are available;

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

25 (7) administer loans made by the state under the

1 provisions of this part;

2 (8) approve plans for a proposed solid waste management

3 system submitted by a local government; and

4 (9) serve as a clearinghouse for information on waste

5 reduction and reuse, recycling technology and markets,

6 composting, and household hazardous waste disposal,

7 including chemical compatibility.

8 75-10-104. (Effective July 1, 1993) Duties of

9 department. The department shall:

10 (1) prepare a state solid waste management and resource

11 recovery plan as required by 75-10-807 for submission to the

12 board;

13 (2) prepare rules necessary for the implementation of

14 this part for submission to the board, including but not

15 limited to rules:

16 (a) governing the submission of plans for a solid waste

17 management system;

18 (b) governing procedures to be followed in applying for

19 and making loans;

20 (c) governing agreements between a local government and

21 the department for grants or loans under this part;

22 (d) establishing, for the purpose of determining the

23 solid waste management fee to which a facility is subject

24 under 75-10-115 or 75-10-118, methods for determining or

25 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 fees provided for in 75-10-115 and 75-10-118; and

(f) providing guidelines for integrated waste management;

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

(4) provide technical assistance to persons within the state for planning, designing, constructing, financing, and operating:

(a) a solid waste management system in order to ensure that the system conforms to the state plan;

(b) integrated waste management programs; and

(c) collection, disposal, reduction, and educational programs for household hazardous waste and conditionally exempt small quantities of hazardous waste as defined in Rule 16.44.402, Administrative Rules of Montana;

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

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

(9) serve as a clearinghouse for information on waste reduction and reuse, recycling technology and markets, composting, and household hazardous waste disposal, including chemical compatibility."

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

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

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

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

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

(4) collect the solid waste management fee provided for in 75-10-115.

75-10-105. (Effective July 1, 1993) Powers of department. The department may:

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

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

1 system;

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

4 (4) collect the solid waste management fee fees
5 provided for in 75-10-115 and 75-10-118."

6 **Section 3.** Section 75-10-112, MCA, is amended to read:

7 "75-10-112. Powers and duties of local government. A
8 local government may:

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

13 (2) upon adoption of the state plan by the board, pass
14 an ordinance or resolution to exempt the local jurisdiction
15 from complying with the state plan and subsequent rules
16 implementing the state plan. The ordinance or resolution
17 must include a means to provide solid waste disposal to the
18 citizens of the jurisdiction as required in part 2 of this
19 chapter.

20 (3) employ appropriate personnel to carry out the
21 provisions of this part;

22 (4) purchase, rent, or execute leasing agreements for
23 equipment and material necessary for the implementation of a
24 solid waste management system;

25 (5) cooperate with and enter into agreements with any

1 persons in order to implement an effective solid waste
2 management system;

3 (6) receive gifts, grants, or donations or acquire by
4 gift, deed, or purchase land necessary for the
5 implementation of any provision of this part;

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

9 (8) apply for and utilize state, federal, or other
10 available money for developing or operating a solid waste
11 management system;

12 (9) borrow from any lending agency funds available for
13 assistance in planning a solid waste management system;

14 (10) finance a solid waste management system through the
15 assessment of a tax as authorized by state law;

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

23 (12) procure insurance against any loss in connection
24 with property, assets, or activities;

25 (13) mortgage or otherwise encumber all or a portion of

1 a solid waste management system when the local government
 2 finds that the action is necessary to implement the purposes
 3 of this part, as long as the action is consistent with the
 4 loan requirements set forth in this part and rules adopted
 5 to implement this part;

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

11 (15) finance, design, construct, own, and operate a
 12 solid waste management system or contract for any or all of
 13 the mentioned powers authorized under this part;

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

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

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

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

22 (c) marketing energy products or byproducts resulting
 23 from processing or utilization of solid waste;

24 (18) finance an areawide solid waste management system
 25 through the use of any of the sources of revenue available

1 to the implementation entity for public works projects, by
 2 the use of revenue bonds issued by the city or county, or by
 3 fees levied by a ~~refuse--disposal~~ solid waste management
 4 district, whichever is appropriate;

5 (19) enter into interlocal agreements in order to
 6 achieve and implement the powers enumerated in this part."

7 **Section 4.** Section 75-10-116, MCA, is amended to read:

8 **"75-10-116. (Temporary) Penalties for failure to pay**
 9 **fee.** A person who owns a solid waste disposal facility
 10 subject to a fee under 75-10-115 and fails to pay the fee in
 11 the manner provided by department rule is subject to a fine
 12 of not more than \$2,000 or imprisonment not to exceed 6
 13 months, or both, and shall reimburse the department for the
 14 amount of the fee owed and interest calculated at a rate
 15 equal to the previous fiscal year's average rate of return
 16 on the board of investments' short-term investment pool.

17 **75-10-116. (Effective July 1, 1993) Penalties for**
 18 **failure to pay fee.** A person who owns a solid waste disposal
 19 facility subject to a fee under 75-10-115 or 75-10-118 and
 20 fails to pay the fee in the manner provided by department
 21 rule is subject to a fine of not more than \$2,000 or
 22 imprisonment not to exceed 6 months, or both, and shall
 23 reimburse the department for the amount of the fee owed and
 24 interest calculated at a rate equal to the previous fiscal
 25 year's average rate of return on the board of investments'

short-term investment pool."

Section 5. Section 75-10-117, MCA, is amended to read:

"75-10-117. (Temporary) 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 75-10-115; 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, this part, and 75-2-215.

75-10-117. (Effective July 1, 1993) 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 fees provided for in 75-10-115 and 75-10-118; and

(b) fees, taxes, fines, and penalties as required under 75-10-910;

(c) fees collected under the provisions of 75-10-1006; and

(b)(d) 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, this part, and 75-2-215."

NEW SECTION. Section 6. Repealer. Section 75-10-218, MCA, is repealed.

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 1993.

-End-

GOVERNOR'S AMENDMENTS TO
SENATE BILL 67
(REFERENCE COPY)
February 12, 1993

1. Page 11, lines 3, 4, 6, 12, 13, 16, 17, and 19.
Page 12, lines 4 and 5.
Strike: "account"
Insert: "accounts"
2. Page 11, lines 4 and 16.
Following: "There"
Strike: "is a"
Insert: "are"
3. Page 11, lines 4 and 17.
Following: "the"
Strike: "state"
4. Page 11, lines 5 and 17.
Following: "fund"
Insert: "type"

Gov. SB 67
Amend.

1 SENATE BILL NO. 67

2 INTRODUCED BY YELLOWTAIL

3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS
6 RELATED TO THE POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH
7 AND ENVIRONMENTAL SCIENCES AND TO THE DISPOSITION OF FEES
8 FOR SOLID WASTE MANAGEMENT; AMENDING SECTIONS 75-10-104,
9 75-10-105, 75-10-112, 75-10-116, AND 75-10-117; REPEALING
10 SECTION 75-10-218, MCA; AND PROVIDING AN EFFECTIVE DATE."
11

12 STATEMENT OF INTENT

13 A statement of intent is desirable for this bill in
14 order to coordinate certain provisions of existing law with
15 Chapter 398, Laws of 1991. Chapter 398 provided a delayed
16 effective date, and when its provisions become effective on
17 July 1, 1993, certain provisions of law will be amended. The
18 purpose of this bill is to reinstate certain provisions of
19 law that will be deleted when Chapter 398 becomes effective.

20 It is the intent of the legislature that [sections 1, 2,
21 4, and 5] of this bill maintain the existing authority of
22 the department of health and environmental sciences rather
23 than add new authority.

24 It is also the purpose of this bill to repeal a section
25 of The Montana Solid Waste Management Act that was not

1 included in Chapter 398. Chapter 398 repealed 75-10-110,
2 effective July 1, 1993. [Section 6] of this bill repeals
3 75-10-218, a section of The Montana Solid Waste Management
4 Act that is subordinate to 75-10-110.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 **Section 1.** Section 75-10-104, MCA, is amended to read:

8 "75-10-104. (Temporary) Duties of department. The
9 department shall:

10 (1) prepare a state solid waste management and resource
11 recovery plan as required by 75-10-807 for submission to the
12 board;

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

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

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

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

22 (d) establishing, for the purpose of determining the
23 solid waste management fee to which a facility is subject
24 under 75-10-115, methods for determining or estimating the
25 amount of solid waste incinerated or disposed of at a

1 facility;

2 (e) providing procedures for the quarterly collection
3 of the solid waste management fee provided for in 75-10-115;
4 and

5 (f) providing guidelines for integrated waste
6 management;

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

11 (4) provide technical assistance to persons within the
12 state for planning, designing, constructing, financing, and
13 operating:

14 (a) a solid waste management system in order to ensure
15 that the system conforms to the state plan;

16 (b) integrated waste management programs; and

17 (c) collection, disposal, reduction, and educational
18 programs for household hazardous waste and conditionally
19 exempt small quantities of hazardous waste as defined in
20 Rule 16.44.402, Administrative Rules of Montana;

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

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

25 (7) administer loans made by the state under the

1 provisions of this part;

2 (8) approve plans for a proposed solid waste management
3 system submitted by a local government; and

4 (9) serve as a clearinghouse for information on waste
5 reduction and reuse, recycling technology and markets,
6 composting, and household hazardous waste disposal,
7 including chemical compatibility.

8 75-10-104. (Effective July 1, 1993) Duties of
9 department. The department shall:

10 (1) prepare a state solid waste management and resource
11 recovery plan as required by 75-10-807 for submission to the
12 board;

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

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

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

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

22 (d) establishing, for the purpose of determining the
23 solid waste management fee to which a facility is subject
24 under 75-10-115 or 75-10-118, methods for determining or
25 estimating the amount of solid waste incinerated or disposed

1 of at a facility;

2 (e) providing procedures for the quarterly collection
3 of the solid waste management fee fees provided for in
4 75-10-115 and 75-10-118; and

5 (f) providing guidelines for integrated waste
6 management;

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

11 (4) provide technical assistance to persons within the
12 state for planning, designing, constructing, financing, and
13 operating:

14 (a) a solid waste management system in order to ensure
15 that the system conforms to the state plan;

16 (b) integrated waste management programs; and

17 (c) collection, disposal, reduction, and educational
18 programs for household hazardous waste and conditionally
19 exempt small quantities of hazardous waste as defined in
20 Rule 16.44.402, Administrative Rules of Montana;

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

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

25 (7) administer loans made by the state under the

1 provisions of this part;

2 (8) approve plans for a proposed solid waste management
3 system submitted by a local government; and

4 (9) serve as a clearinghouse for information on waste
5 reduction and reuse, recycling technology and markets,
6 composting, and household hazardous waste disposal,
7 including chemical compatibility."

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

9 **"75-10-105. (Temporary) Powers of department.** The
10 department may:

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

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

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

18 (4) collect the solid waste management fee provided for
19 in 75-10-115.

20 **75-10-105. (Effective July 1, 1993) Powers of**
21 **department.** The department may:

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

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

1 system;

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

4 (4) collect the solid waste management ~~fee~~ fees
5 provided for in 75-10-115 and 75-10-118."

6 **Section 3.** Section 75-10-112, MCA, is amended to read:

7 **"75-10-112. Powers and duties of local government.** A
8 local government may:

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

13 (2) upon adoption of the state plan by the board, pass
14 an ordinance or resolution to exempt the local jurisdiction
15 from complying with the state plan and subsequent rules
16 implementing the state plan. The ordinance or resolution
17 must include a means to provide solid waste disposal to the
18 citizens of the jurisdiction as required in part 2 of this
19 chapter.

20 (3) employ appropriate personnel to carry out the
21 provisions of this part;

22 (4) purchase, rent, or execute leasing agreements for
23 equipment and material necessary for the implementation of a
24 solid waste management system;

25 (5) cooperate with and enter into agreements with any

1 persons in order to implement an effective solid waste
2 management system;

3 (6) receive gifts, grants, or donations or acquire by
4 gift, deed, or purchase land necessary for the
5 implementation of any provision of this part;

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

9 (8) apply for and utilize state, federal, or other
10 available money for developing or operating a solid waste
11 management system;

12 (9) borrow from any lending agency funds available for
13 assistance in planning a solid waste management system;

14 (10) finance a solid waste management system through the
15 assessment of a tax as authorized by state law;

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

23 (12) procure insurance against any loss in connection
24 with property, assets, or activities;

25 (13) mortgage or otherwise encumber all or a portion of

a solid waste management system when the local government finds that the action is necessary to implement the purposes of this part, as long as the action is consistent with the loan requirements set forth in this part and rules adopted to implement this part;

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

(15) finance, design, construct, own, and operate a solid waste management system or contract for any or all of the aforementioned powers authorized under this part;

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

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

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

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

(c) marketing energy products or byproducts resulting from processing or utilization of solid waste;

(18) finance an areawide solid waste management system through the use of any of the sources of revenue available

to the implementation entity for public works projects, by the use of revenue bonds issued by the city or county, or by fees levied by a ~~refuse--disposal~~ solid waste management district, whichever is appropriate;

(19) enter into interlocal agreements in order to achieve and implement the powers enumerated in this part."

Section 4. Section 75-10-116, MCA, is amended to read:

"75-10-116. (Temporary) Penalties for failure to pay fee. A person who owns a solid waste disposal facility subject to a fee under 75-10-115 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.

75-10-116. (Effective July 1, 1993) Penalties for failure to pay fee. A person who owns a solid waste disposal facility subject to a fee under 75-10-115 or 75-10-118 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'

1 short-term investment pool."

2 **Section 5.** Section 75-10-117, MCA, is amended to read:

3 "75-10-117. (Temporary) Solid waste management account
4 ACCOUNTS. (1) There ~~is-a~~ ARE solid waste management account
5 ACCOUNTS in the state special revenue fund TYPE provided for
6 in 17-2-102.

7 (2) There must be deposited in the account ACCOUNTS:

8 (a) all revenue from the solid waste management fee
9 provided for in 75-10-115; and

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

14 (3) The account ACCOUNTS may be used by the department
15 only for the administration of part 2, this part, and
16 75-2-215.

17 75-10-117. (Effective July 1, 1993) Solid waste
18 management account ACCOUNTS. (1) There ~~is-a~~ ARE solid waste
19 management account ACCOUNTS in the state special revenue
20 fund TYPE provided for in 17-2-102.

21 (2) There must be deposited in the account ACCOUNTS:

22 (a) all revenue from the solid waste management fee
23 fees provided for in 75-10-115 and 75-10-118; and

24 (b) fees, taxes, fines, and penalties as required under
25 75-10-910;

1 (c) fees collected under the provisions of 75-10-1006;
2 and

3 (b)(d) 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 ACCOUNTS.

7 (3) The account ACCOUNTS may be used by the department
8 only for the administration of part 2, this part, and
9 75-2-215."

10 NEW SECTION. **Section 6.** Repealer. Section 75-10-218,
11 MCA, is repealed.

12 NEW SECTION. **Section 7.** Effective date. [This act] is
13 effective July 1, 1993.

-End-