

SENATE BILL NO. 111

INTRODUCED BY HALLIGAN, RANEY, SVRCEK,
WANZENRIED, SCHYE, DOLEZAL

IN THE SENATE

JANUARY 16, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON TAXATION.

 FIRST READING.

FEBRUARY 14, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 15, 1991 PRINTING REPORT.

 SECOND READING, DO PASS.

FEBRUARY 16, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 48; NOES, 1.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 16, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON TAXATION.

FEBRUARY 18, 1991 FIRST READING.

APRIL 8, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

APRIL 10, 1991 SECOND READING, CONCURRED IN.

APRIL 11, 1991 THIRD READING, CONCURRED IN.
 AYES, 95; NOES, 1.

 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 17, 1991 RECEIVED FROM HOUSE.

 SECOND READING, AMENDMENTS
 CONCURRED IN.

APRIL 18, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

APRIL 19, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. 111
 2 INTRODUCED BY *William Rovey*
 3 *John Cunningham, LeRoy DeLoach*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING BUSINESS
 5 INVOLVEMENT IN THE RECLAMATION AND RECYCLING OF MATERIALS;
 6 PROVIDING TAX CREDITS FOR INVESTMENTS IN DEPRECIABLE
 7 PROPERTY TO COLLECT, TRANSPORT, OR PROCESS RECLAIMED
 8 MATERIAL OR TO MANUFACTURE A PRODUCT FROM RECLAIMED
 9 MATERIAL; PROVIDING AN ADDITIONAL 5 PERCENT TAX DEDUCTION
 10 FOR BUSINESS-RELATED USE OF RECYCLED MATERIALS; AND
 11 PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

12 STATEMENT OF INTENT

13
 14 A statement of intent is necessary for this bill because
 15 [section 5] grants rulemaking authority to the department of
 16 revenue. This bill allows rulemaking to proceed prior to the
 17 effective date of the act to allow the department ample time
 18 prior to the time the bill goes into effect to hold hearings
 19 and elicit the views of taxpayers, the public, and groups
 20 interested in the reclamation and recycling of materials.

21 The legislature expects the department to adopt rules
 22 that will promote the reclamation of materials that would
 23 normally be discarded, by encouraging the collection,
 24 transportation, processing, and reuse of reclaimed and
 25 recycled materials by businesses.

1 The bill addresses four levels of business involvement
 2 in the reclamation and recycling of materials:

3 (1) Retail businesses are encouraged to purchase
 4 equipment to collect reclaimed material from consumers.

5 (2) Recyclers are encouraged to purchase equipment to
 6 collect reclaimed material from businesses and other
 7 sources, transport the material, and process it.

8 (3) Manufacturers are encouraged to purchase equipment
 9 to manufacture products from reclaimed material.

10 (4) All businesses are offered an additional
 11 business-related tax deduction to use recycled products in
 12 the course of their business.

13 The scope of the business activity to qualify for a tax
 14 credit should be broad. Retail grocery stores and other
 15 businesses should be encouraged to collect reclaimed
 16 material by receiving a tax credit for equipment they
 17 purchase to collect the material, even if they do not
 18 directly receive a business-related profit from the
 19 equipment or collection operation. Recyclers are encouraged
 20 to purchase collection, transportation, and processing
 21 equipment, and manufacturers are encouraged to purchase
 22 equipment to make products from reclaimed material.

23 The rules should be inflexible in allowing dual roles
 24 for equipment--the qualifying equipment should be used
 25 solely for the purposes of this bill. The rules should be

flexible in determining the specifics of what are to be defined as reclaimed materials and recycled materials. The in-state advantages to building industry based upon reclamation and recycling may have local and interstate benefits that far outweigh the cost of a tax credit and additional deduction.

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

NEW SECTION. **Section 1. Definitions.** For the purposes of [sections 1 through 5], unless otherwise required by the context, the following definitions apply:

(1) "Reclaimed material" means material that has useful physical or chemical properties after serving a specific purpose and that would normally be disposed of as solid waste by a consumer, processor, or manufacturer.

(2) "Recycled material" means a substance that is produced from at least 90% reclaimed material.

NEW SECTION. **Section 2. Amount and duration of credit -- how claimed.** (1) An individual, corporation, partnership, or small business corporation, as defined in 15-31-201, may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for investments in depreciable property to collect, transport, or process reclaimed material or to manufacture a product from reclaimed material, if the taxpayer qualifies under [section 3].

(2) Subject to [section 3(2)], a taxpayer qualifying for a credit under [section 3] is entitled to claim a credit in an amount equal to 5% of the cost of the property purchased to collect, transport, or process reclaimed material or to manufacture a product from reclaimed material for the year in which the property was purchased and for a period of 10 consecutive years. If qualifying property was purchased prior to January 1, 1990, but on or after January 1, 1986, a taxpayer is entitled to a credit for tax year 1990, but the 10-year period is considered to have begun in the year in which the qualifying property was purchased.

NEW SECTION. **Section 3. Credit for investment in property used to collect, transport, or process reclaimed material or to manufacture a product from reclaimed material.** (1) The following requirements must be met to be entitled to a tax credit for investment in property to collect, transport, or process reclaimed material or to manufacture a product from reclaimed material:

(a) The investment must be for depreciable property used solely to collect, transport, or process reclaimed material or to manufacture a product from reclaimed material.

(b) (i) The taxpayer claiming a credit must be a person who, as an owner, including a contract purchaser or lessee, or who pursuant to an agreement owns, leases, or has a

1 beneficial interest in a business that collects, transports,
 2 or processes reclaimed material or that manufactures a
 3 product from reclaimed material. For the purposes of this
 4 section, a business qualifies as a business that collects
 5 reclaimed material if it gathers reclaimable material for
 6 later sale, processing, or disposal for another business
 7 that has as its primary business function the collection,
 8 transportation, or processing of reclaimed material or the
 9 manufacture of a product from reclaimed material. The
 10 collection of reclaimed material may be a minor or nonprofit
 11 part of a business otherwise engaged in a retail trade or
 12 other business activity.

13 (ii) The taxpayer may but need not operate or conduct a
 14 business that collects, transports, or processes reclaimed
 15 material or manufactures a product from reclaimed material.
 16 If more than one person has an interest in a business with
 17 qualifying property, they may allocate all or any part of
 18 the investment cost among themselves and their successors or
 19 assigns.

20 (c) The business must be owned or leased during the tax
 21 year by the taxpayer claiming the credit, except as
 22 otherwise provided in subsection (1)(b), and must have been
 23 collecting, transporting, or processing reclaimed material
 24 or manufacturing a product from reclaimed material during
 25 the tax year for which the credit is claimed.

1 (d) The reclaimed material collected, transported,
 2 processed, or used to manufacture a product may not be an
 3 industrial waste generated by the person claiming the tax
 4 credit.

5 (2) A credit under this section may be claimed by a
 6 taxpayer for a business only if the qualifying property was
 7 purchased on or after January 1, 1986, but before July 1,
 8 1996.

9 (3) The credit provided by this section is not in lieu
 10 of any depreciation or amortization deduction for the
 11 investment or other tax incentive to which the taxpayer
 12 otherwise may be entitled under Title 15.

13 (4) Upon sale, exchange, or other disposition of
 14 qualifying property for which the transferor was receiving a
 15 tax credit, the tax credit available to the transferee is
 16 limited to the amount and duration of credit that could have
 17 been claimed by the original purchaser had the property not
 18 been transferred.

19 (5) A tax credit otherwise allowable under this section
 20 that is not used by the taxpayer in a particular year may
 21 not be carried forward to offset a taxpayer's tax liability
 22 for any succeeding tax year.

23 (6) The taxpayer's adjusted basis for determining gain
 24 or loss may not be further decreased by any tax credits
 25 allowed under this section.

1 (7) If the taxpayer is a shareholder of an electing
 2 small business corporation, the credit must be computed
 3 using the shareholder's pro rata share of the corporation's
 4 cost of investing in equipment necessary to collect,
 5 transport, or process reclaimed material or to manufacture a
 6 product from reclaimed material. In all other respects, the
 7 allowance and effect of the tax credit apply to the
 8 corporation as otherwise provided by law.

9 NEW SECTION. Section 4. Deduction for purchase of
 10 recycled material. In addition to all other deductions from
 11 adjusted gross individual income allowed in computing
 12 taxable income under Title 15, chapter 30, or from gross
 13 corporate income allowed in computing net income under Title
 14 15, chapter 31, part 1, a taxpayer may deduct an additional
 15 amount equal to 5% of the taxpayer's expenditures for the
 16 purchase of recycled material that was otherwise deductible
 17 by the taxpayer as business-related expense in Montana.

18 NEW SECTION. Section 5. Department to make rules. The
 19 department of revenue shall prescribe rules necessary to
 20 carry out the purposes of [sections 1 through 5].

21 NEW SECTION. Section 6. Effective date --
 22 applicability -- rulemaking. (1) Except for the purposes of
 23 subsection (2), [this act] is effective December 31, 1991,
 24 and applies to tax years beginning after December 31, 1991.

25 (2) For the purposes of promulgating administrative

1 rules to implement sections [1 through 4], [this act] is
 2 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0111, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act encouraging business involvement in the reclamation and recycling of materials; providing tax credits for investments in depreciable property to collect, transport, or process reclaimed material or to manufacture a product from reclaimed material; providing an additional 5 percent tax deduction for business-related use of recycled materials; and providing effective dates and an applicability date.

FISCAL IMPACT:

Expenditures:

The proposed legislation will require modification to the tax processing system within the Department of Revenue, including \$31,560 for development and \$6,540 for ongoing costs.

Funding:


General Fund (01)	FY '92			FY '93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Personal Services	\$ 0	\$ 28,940	\$ 28,940	\$ 0	\$ 4,600	\$ 4,600
Operating Expenses	0	9,160	9,160	0	1,940	1,940
TOTAL	\$ 0	\$ 38,100	\$ 38,100	\$ 0	\$ 6,540	\$ 6,540

Revenues:

Since there is no history for this new credit and deduction, it is very difficult to estimate the level of revenue loss associated with this legislation. Because of the lag in taxpayer awareness of new credits/deductions, it is likely that the negative revenue impact for FY92 and FY93 will be relatively small.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

As the awareness of taxpayers of the new credit/deduction increases, the negative revenue impact will increase. The operating costs for the new credit/deduction are relatively small per year over the long run.


 ROD SUNDSTED, BUDGET DIRECTOR
 Office of Budget and Program Planning
 DATE 1-22-91


 MIKE HALLIGAN, PRIMARY SPONSOR
 DATE 1/23/91

Fiscal Note for SB0111, as introduced

SB 111

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0111, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act encouraging business involvement in the reclamation and recycling of materials; providing tax credits for investments in depreciable property to collect, transport, or process reclaimable material or to manufacture a product from reclaimed material; providing a limitation to the tax credit; and providing an additional 5 percent tax deduction for business-related use of recycled materials.

ASSUMPTIONS:

1. The proposed legislation will require modification to the tax processing system within the Department of Revenue, including \$31,560 for development and \$6,540 for ongoing costs, with an additional .65 FTE in FY 1992 and .21 FTE thereafter.

FISCAL IMPACT:

	FY '92			FY '93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
F.T.E.	0	0.65	0.65	0	0.21	0.21
Personal Services	0	24,340	24,340	0	4,600	4,600
Operating Expenses	0	7,220	7,220	0	1,940	1,940
Total	0	31,560	31,560	0	6,540	6,540
<u>Funding:</u>						
General Fund	0	31,560	31,560	0	6,540	6,540
General Fund Impact			(31,560)			(6,540)

Revenues:

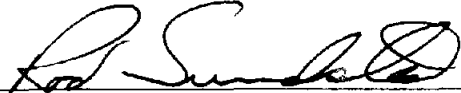
Since there is no history for this new credit and deduction, it is very difficult to estimate the level of revenue loss associated with this legislation. The revenue loss, however, would not occur until FY93, since the legislation is effective for tax years beginning after December 31, 1991. Because of the lag in taxpayer awareness of new credits/deductions, it is likely that the negative revenue impact for FY93 will be relatively small.

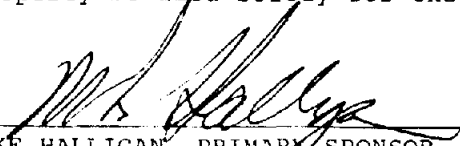
LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

As the awareness of taxpayers of the new credit/deduction increases, the negative revenue impact will increase. The operating costs for the new credit/deduction are relatively small per year over the long run.

TECHNICAL NOTE:

The revised bill modified on line 2 of page 5 the requirement that property be used solely for the purposes of the legislation. A similar line 4 of page 3 was not modified.

 2-21-91
 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 2/21/91
 MIKE HALLIGAN, PRIMARY SPONSOR DATE

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 111

INTRODUCED BY HALLIGAN, RANEY, SVRCEK,
WANZENRIED, SCHYE, DOLEZAL

A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING BUSINESS INVOLVEMENT IN THE RECLAMATION AND RECYCLING OF MATERIALS; PROVIDING TAX CREDITS FOR INVESTMENTS IN DEPRECIABLE PROPERTY TO COLLECT, TRANSPORT, OR PROCESS RECLAIMED RECLAIMABLE MATERIAL OR TO MANUFACTURE A PRODUCT FROM RECLAIMED MATERIAL; PROVIDING A LIMITATION TO THE TAX CREDIT; PROVIDING AN ADDITIONAL 5 PERCENT TAX DEDUCTION FOR BUSINESS-RELATED USE OF RECYCLED MATERIALS; AND PROVIDING EFFECTIVE DATES, AND AN APPLICABILITY DATE, AND A TERMINATION DATE."

STATEMENT OF INTENT

A statement of intent is necessary for this bill because [section 5] grants rulemaking authority to the department of revenue. This bill allows rulemaking to proceed prior to the effective date of the act to allow the department ample time prior to the time the bill goes into effect to hold hearings and elicit the views of taxpayers, the public, and groups interested in the reclamation and recycling of materials.

The legislature expects the department to adopt rules that will promote the reclamation of materials that would

normally be discarded, by encouraging the collection, transportation, processing, and reuse of reclaimed RECLAIMABLE and recycled materials by businesses.

The bill addresses four levels of business involvement in the reclamation and recycling of materials:

(1) Retail businesses are encouraged to purchase equipment to collect reclaimed RECLAIMABLE material from consumers.

(2) Recyclers are encouraged to purchase equipment to collect reclaimed RECLAIMABLE material from businesses and other sources, transport the material, and process it.

(3) Manufacturers are encouraged to purchase equipment to manufacture products from reclaimed material.

(4) All businesses are offered an additional business-related tax deduction to use recycled products in the course of their business.

The scope of the business activity to qualify for a tax credit should be broad. Retail grocery stores and other businesses should be encouraged to collect reclaimed RECLAIMABLE material by receiving a tax credit for equipment they purchase to collect the material, even if they do not directly receive a business-related profit from the equipment or collection operation. Recyclers are encouraged to purchase collection, transportation, and processing equipment, and manufacturers are encouraged to purchase

SECOND READING

1 equipment to make products from reclaimed material.

2 The rules should be inflexible in allowing dual roles
3 for equipment--the qualifying equipment should be used
4 solely for the purposes of this bill. The rules should be
5 flexible in determining the specifics of what are to be
6 defined as reclaimed RECLAIMABLE materials and recycled
7 materials. The in-state advantages to building industry
8 based upon reclamation and recycling may have local and
9 interstate benefits that far outweigh the cost of a tax
10 credit and additional deduction.

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 NEW SECTION. Section 1. Definitions. For the purposes
14 of [sections 1 through 5], unless otherwise required by the
15 context, the following definitions apply:

16 (1) "Reclaimed RECLAIMABLE material" means material
17 that has useful physical or chemical properties after
18 serving a specific purpose and that would normally be
19 disposed of as solid waste, AS DEFINED IN 75-10-203, by a
20 consumer, processor, or manufacturer.

21 (2) "Recycled material" means a substance that is
22 produced from at least 90% reclaimed material.

23 NEW SECTION. Section 2. Amount and duration of credit
24 -- how claimed. (1) An individual, corporation, partnership,
25 or small business corporation, as defined in 15-31-201, may

1 receive a credit against taxes imposed by Title 15, chapter
2 30 or 31, for investments in depreciable property to
3 collect, transport, or process reclaimed RECLAIMABLE
4 material or to manufacture a product from reclaimed
5 material, if the taxpayer qualifies under [section 3].

6 (2) Subject to [section 3(2)], a taxpayer qualifying
7 for a credit under [section 3] is entitled to claim a credit
8 in an amount equal to 5% 25% of the cost of the property
9 purchased to collect, transport, or process reclaimed
10 RECLAIMABLE material or to manufacture a product from
11 reclaimed material for ONLY IN the year in which the
12 property was purchased ~~and-for-a-period-of-10-consecutive~~
13 ~~years.~~ If qualifying property was purchased prior to January
14 1, ~~1990~~ 1992, but on or after January 1, 1986, a taxpayer is
15 entitled to a credit for tax year ~~1990~~ 1992 ~~-but-the-10-year~~
16 ~~period-is-considered-to-have-begun-in-the-year-in-which--the~~
17 ~~qualifying-property-was-purchased.~~

18 NEW SECTION. Section 3. Credit for investment in
19 property used to collect, transport, or process reclaimed
20 RECLAIMABLE material or to manufacture a product from
21 reclaimed material. (1) The following requirements must be
22 met to be entitled to a tax credit for investment in
23 property to collect, transport, or process reclaimed
24 RECLAIMABLE material or to manufacture a product from
25 reclaimed material:

1 (a) The investment must be for depreciable property
 2 used solely PRIMARILY to collect, transport, or process
 3 reclaimed RECLAIMABLE material or to manufacture a product
 4 from reclaimed material.

5 (b) (i) The taxpayer claiming a credit must be a person
 6 who, as an owner, including a contract purchaser or lessee,
 7 or who pursuant to an agreement owns, leases, or has a
 8 beneficial interest in a business that collects, transports,
 9 or processes reclaimed RECLAIMABLE material or that
 10 manufactures a product from reclaimed material. For the
 11 purposes of this section, a business qualifies as a business
 12 that collects reclaimed RECLAIMABLE material if it gathers
 13 reclaimable material for later sale, OR processing, ~~or~~
 14 ~~disposal~~ for another business that has as its primary
 15 business function the collection, transportation, or
 16 processing of reclaimed RECLAIMABLE material or the
 17 manufacture of a product from reclaimed material. The
 18 collection of reclaimed RECLAIMABLE material may be a minor
 19 or nonprofit part of a business otherwise engaged in a
 20 retail trade or other business activity.

21 (ii) The taxpayer may but need not operate or conduct a
 22 business that collects, transports, or processes reclaimed
 23 RECLAIMABLE material or manufactures a product from
 24 reclaimed material. If more than one person has an interest
 25 in a business with qualifying property, they may allocate

1 all or any part of the investment cost among themselves and
 2 their successors or assigns.

3 (c) The business must be owned or leased during the tax
 4 year by the taxpayer claiming the credit, except as
 5 otherwise provided in subsection (1)(b), and must have been
 6 collecting, transporting, or processing reclaimed
 7 RECLAIMABLE material or manufacturing a product from
 8 reclaimed material during the tax year for which the credit
 9 is claimed.

10 (d) The reclaimed material collected, transported,
 11 processed, or used to manufacture a product may not be an
 12 industrial waste generated by the person claiming the tax
 13 credit.

14 (2) A credit under this section may be claimed by a
 15 taxpayer for a business only if the qualifying property was
 16 purchased on or after January 1, 1986, but before July
 17 JANUARY 1, 1996.

18 (3) The credit provided by this section is not in lieu
 19 of any depreciation or amortization deduction for the
 20 investment or other tax incentive to which the taxpayer
 21 otherwise may be entitled under Title 15.

22 ~~(4) Upon sale, exchange, or other disposition of~~
 23 ~~qualifying property for which the transferor was receiving a~~
 24 ~~tax credit, the tax credit available to the transferee is~~
 25 ~~limited to the amount and duration of credit that could have~~

1 ~~been-claimed-by-the-original-purchaser-had-the-property--not~~
 2 ~~been-transferred-~~

3 ~~(5)(4)~~ A tax credit otherwise allowable under this
 4 section that is not used by the taxpayer in a-particular THE
 5 TAXABLE year may not be carried forward to offset a
 6 taxpayer's tax liability for any succeeding tax year.

7 ~~(6)(5)~~ The taxpayer's adjusted basis for determining
 8 gain or loss may not be further decreased by any tax credits
 9 allowed under this section.

10 ~~(7)(6)~~ If the taxpayer is a shareholder of an electing
 11 small business corporation, the credit must be computed
 12 using the shareholder's pro rata share of the corporation's
 13 cost of investing in equipment necessary to collect,
 14 transport, or process reclaimed RECLAIMABLE material or to
 15 manufacture a product from reclaimed material. In all other
 16 respects, the allowance and effect of the tax credit apply
 17 to the corporation as otherwise provided by law.

18 NEW SECTION. SECTION 4. LIMITATION OF CREDIT. NOT
 19 WITHSTANDING THE PROVISIONS OF [SECTIONS 2 AND 3], A TAX
 20 CREDIT MAY NOT BE CLAIMED FOR AN INVESTMENT IN PROPERTY USED
 21 TO PRODUCE ENERGY FROM RECLAIMED MATERIAL.

22 NEW SECTION. Section 5. Deduction for purchase of
 23 recycled material. In addition to all other deductions from
 24 adjusted gross individual income allowed in computing
 25 taxable income under Title 15, chapter 30, or from gross

1 corporate income allowed in computing net income under Title
 2 15, chapter 31, part 1, a taxpayer may deduct an additional
 3 amount equal to 5% of the taxpayer's expenditures for the
 4 purchase of recycled material that was otherwise deductible
 5 by the taxpayer as business-related expense in Montana.

6 NEW SECTION. Section 6. Department to make rules. The
 7 department of revenue shall prescribe rules necessary to
 8 carry out the purposes of [sections 1 through 5 6].

9 NEW SECTION. SECTION 7. REPORTS BY DEPARTMENT OF
 10 REVENUE. THE DEPARTMENT OF REVENUE SHALL REPORT TO THE 53RD
 11 LEGISLATURE AND THE 54TH LEGISLATURE ON THE AMOUNTS OF THE
 12 CREDIT CLAIMED UNDER [SECTIONS 2 AND 3], THE NUMBER AND
 13 TYPES OF BUSINESSES CLAIMING THE CREDIT, AND THE GENERAL
 14 EFFECTIVENESS OF THE CREDIT.

15 NEW SECTION. Section 8. Effective date --
 16 applicability -- rulemaking. (1) Except for the purposes of
 17 subsection (2), [this act] is effective December 31, 1991,
 18 and applies to tax years beginning after December 31, 1991.

19 (2) For the purposes of promulgating administrative
 20 rules to implement [sections 1 through 4 5], [this act] is
 21 effective on passage and approval.

22 NEW SECTION. SECTION 9. TERMINATION. [THIS ACT]
 23 TERMINATES DECEMBER 31, 1995.

-End-

SENATE BILL NO. 111

INTRODUCED BY HALLIGAN, RANEY, SVRCEK,
WANZENRIED, SCHYE, DOLEZAL

A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING BUSINESS INVOLVEMENT IN THE RECLAMATION AND RECYCLING OF MATERIALS; PROVIDING TAX CREDITS FOR INVESTMENTS IN DEPRECIABLE PROPERTY TO COLLECT, TRANSPORT, OR PROCESS RECLAIMED RECLAIMABLE MATERIAL OR TO MANUFACTURE A PRODUCT FROM RECLAIMED MATERIAL; PROVIDING A LIMITATION TO THE TAX CREDIT; PROVIDING AN ADDITIONAL 5 PERCENT TAX DEDUCTION FOR BUSINESS-RELATED USE OF RECYCLED MATERIALS; AND PROVIDING EFFECTIVE DATES, AND AN APPLICABILITY DATE, AND A TERMINATION DATE."

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THIRD READING



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18 NEW SECTION. Section 3. Credit for investment in
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1 (a) The investment must be for depreciable property
2 used solely PRIMARILY to collect, transport, or process
3 reclaimed RECLAIMABLE material or to manufacture a product
4 from reclaimed material.

5 (b) (i) The taxpayer claiming a credit must be a person
6 who, as an owner, including a contract purchaser or lessee,
7 or who pursuant to an agreement owns, leases, or has a
8 beneficial interest in a business that collects, transports,
9 or processes reclaimed RECLAIMABLE material or that
10 manufactures a product from reclaimed material. For the
11 purposes of this section, a business qualifies as a business
12 that collects reclaimed RECLAIMABLE material if it gathers
13 reclaimable material for later sale, OR processing, or
14 disposal for another business that has as its primary
15 business function the collection, transportation, or
16 processing of reclaimed RECLAIMABLE material or the
17 manufacture of a product from reclaimed material. The
18 collection of reclaimed RECLAIMABLE material may be a minor
19 or nonprofit part of a business otherwise engaged in a
20 retail trade or other business activity.

21 (ii) The taxpayer may but need not operate or conduct a
22 business that collects, transports, or processes reclaimed
23 RECLAIMABLE material or manufactures a product from
24 reclaimed material. If more than one person has an interest
25 in a business with qualifying property, they may allocate

1 all or any part of the investment cost among themselves and
2 their successors or assigns.

3 (c) The business must be owned or leased during the tax
4 year by the taxpayer claiming the credit, except as
5 otherwise provided in subsection (1)(b), and must have been
6 collecting, transporting, or processing reclaimed
7 RECLAIMABLE material or manufacturing a product from
8 reclaimed material during the tax year for which the credit
9 is claimed.

10 (d) The reclaimed material collected, transported,
11 processed, or used to manufacture a product may not be an
12 industrial waste generated by the person claiming the tax
13 credit.

14 (2) A credit under this section may be claimed by a
15 taxpayer for a business only if the qualifying property was
16 purchased on or after January 1, 1986, but before July
17 JANUARY 1, 1996.

18 (3) The credit provided by this section is not in lieu
19 of any depreciation or amortization deduction for the
20 investment or other tax incentive to which the taxpayer
21 otherwise may be entitled under Title 15.

22 ~~(4) Upon sale, exchange, or other disposition of~~
23 ~~qualifying property for which the transferor was receiving a~~
24 ~~tax credit, the tax credit available to the transferee is~~
25 ~~limited to the amount and duration of credit that could have~~

1 ~~been-claimed-by-the-original-purchaser-had-the-property--not~~
2 ~~been-transferred:~~

3 ~~{5}{4}~~ A tax credit otherwise allowable under this
4 section that is not used by the taxpayer in a-particular THE
5 TAXABLE year may not be carried forward to offset a
6 taxpayer's tax liability for any succeeding tax year.

7 ~~{6}{5}~~ The taxpayer's adjusted basis for determining
8 gain or loss may not be further decreased by any tax credits
9 allowed under this section.

10 ~~{7}{6}~~ If the taxpayer is a shareholder of an electing
11 small business corporation, the credit must be computed
12 using the shareholder's pro rata share of the corporation's
13 cost of investing in equipment necessary to collect,
14 transport, or process reclaimed RECLAIMABLE material or to
15 manufacture a product from reclaimed material. In all other
16 respects, the allowance and effect of the tax credit apply
17 to the corporation as otherwise provided by law.

18 NEW SECTION. SECTION 4. LIMITATION OF CREDIT. NOT
19 WITHSTANDING THE PROVISIONS OF [SECTIONS 2 AND 3], A TAX
20 CREDIT MAY NOT BE CLAIMED FOR AN INVESTMENT IN PROPERTY USED
21 TO PRODUCE ENERGY FROM RECLAIMED MATERIAL.

22 NEW SECTION. Section 5. Deduction for purchase of
23 recycled material. In addition to all other deductions from
24 adjusted gross individual income allowed in computing
25 taxable income under Title 15, chapter 30, or from gross

1 corporate income allowed in computing net income under Title
2 15, chapter 31, part 1, a taxpayer may deduct an additional
3 amount equal to 5% of the taxpayer's expenditures for the
4 purchase of recycled material that was otherwise deductible
5 by the taxpayer as business-related expense in Montana.

6 NEW SECTION. Section 6. Department to make rules. The
7 department of revenue shall prescribe rules necessary to
8 carry out the purposes of [sections 1 through 5 6].

9 NEW SECTION. SECTION 7. REPORTS BY DEPARTMENT OF
10 REVENUE. THE DEPARTMENT OF REVENUE SHALL REPORT TO THE 53RD
11 LEGISLATURE AND THE 54TH LEGISLATURE ON THE AMOUNTS OF THE
12 CREDIT CLAIMED UNDER [SECTIONS 2 AND 3], THE NUMBER AND
13 TYPES OF BUSINESSES CLAIMING THE CREDIT, AND THE GENERAL
14 EFFECTIVENESS OF THE CREDIT.

15 NEW SECTION. Section 8. Effective date --
16 applicability -- rulemaking. (1) Except for the purposes of
17 subsection (2), [this act] is effective December 31, 1991,
18 and applies to tax years beginning after December 31, 1991.

19 (2) For the purposes of promulgating administrative
20 rules to implement [sections 1 through 4 5], [this act] is
21 effective on passage and approval.

22 NEW SECTION. SECTION 9. TERMINATION. [THIS ACT]
23 TERMINATES DECEMBER 31, 1995.

-End-

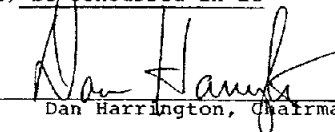
HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Taxation report that Senate Bill 111 (third reading copy -- blue) be concurred in as amended.

Signed: 
Dan Harrington, Chairman

Carried by: Rep. McCaffree

And, that such amendments read:

1. Title, line 8.

Strike: ", TRANSPORT,"

2. Page 2, lines 1 and 2.

Strike: ", transportation,"

3. Page 2, line 11.

Strike: ", transport the material,"

Following: "process"

Strike: "it"

Insert: "the material"

4. Page 2, line 24.

Strike: ", transportation,"

5. Page 3, line 4.

Strike: "solely"

Insert: "primarily"

6. Page 3.

Following: line 15

Insert: "(1) "Collect" means the collection and delivery of reclaimable materials to a recycling or reclaimable materials processing facility."

Renumber: subsequent subsections

7. Page 4, line 3.

Strike: ", transport,"

8. Page 4, line 9.

Strike: ", transport,"

9. Page 4, line 14.

Strike: "1986"

Insert: "1990"

10. Page 4, line 19.

Strike: ", transport,"

11. Page 4, line 23.

Strike: ", transport,"

12. Page 5, line 2.

Strike: ", transport,"

13. Page 5, line 8.

Strike: ", transports,"

14. Page 5, line 15.

Strike: ", transportation,"

15. Page 5, line 22.

Strike: ", transports,"

16. Page 6, line 6.

Strike: ", transporting,"

17. Page 6, line 16.

Strike: "1986"

Insert: "1990"

18. Page 7, lines 13 and 14.

Strike: ", transport,"

1 SENATE BILL NO. 111

2 INTRODUCED BY HALLIGAN, RANEY, SVRCEK,

3 WANZENRIED, SCHYE, DOLEZAL

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING BUSINESS
6 INVOLVEMENT IN THE RECLAMATION AND RECYCLING OF MATERIALS;
7 PROVIDING TAX CREDITS FOR INVESTMENTS IN DEPRECIABLE
8 PROPERTY TO COLLECT, ~~TRANSPORT,~~ OR PROCESS RECLAIMED
9 RECLAIMABLE MATERIAL OR TO MANUFACTURE A PRODUCT FROM
10 RECLAIMED MATERIAL; PROVIDING A LIMITATION TO THE TAX
11 CREDIT; PROVIDING AN ADDITIONAL 5 PERCENT TAX DEDUCTION FOR
12 BUSINESS-RELATED USE OF RECYCLED MATERIALS; AND PROVIDING
13 EFFECTIVE DATES, AND AN APPLICABILITY DATE, AND A
14 TERMINATION DATE."

15

16 STATEMENT OF INTENT

17 A statement of intent is necessary for this bill because
18 [section 5] grants rulemaking authority to the department of
19 revenue. This bill allows rulemaking to proceed prior to the
20 effective date of the act to allow the department ample time
21 prior to the time the bill goes into effect to hold hearings
22 and elicit the views of taxpayers, the public, and groups
23 interested in the reclamation and recycling of materials.

24 The legislature expects the department to adopt rules
25 that will promote the reclamation of materials that would

1 normally be discarded, by encouraging the collection,
2 transportation, processing, and reuse of reclaimed
3 RECLAIMABLE and recycled materials by businesses.

4 The bill addresses four levels of business involvement
5 in the reclamation and recycling of materials:

6 (1) Retail businesses are encouraged to purchase
7 equipment to collect reclaimed RECLAIMABLE material from
8 consumers.

9 (2) Recyclers are encouraged to purchase equipment to
10 collect reclaimed RECLAIMABLE material from businesses and
11 other sources, ~~transport-the-material,~~ and process it THE
12 MATERIAL.

13 (3) Manufacturers are encouraged to purchase equipment
14 to manufacture products from reclaimed material.

15 (4) All businesses are offered an additional
16 business-related tax deduction to use recycled products in
17 the course of their business.

18 The scope of the business activity to qualify for a tax
19 credit should be broad. Retail grocery stores and other
20 businesses should be encouraged to collect reclaimed
21 RECLAIMABLE material by receiving a tax credit for equipment
22 they purchase to collect the material, even if they do not
23 directly receive a business-related profit from the
24 equipment or collection operation. Recyclers are encouraged
25 to purchase collection, ~~transportation,~~ and processing

1 equipment, and manufacturers are encouraged to purchase
2 equipment to make products from reclaimed material.

3 The rules should be inflexible in allowing dual roles
4 for equipment--the qualifying equipment should be used
5 ~~solely~~ PRIMARILY for the purposes of this bill. The rules
6 should be flexible in determining the specifics of what are
7 to be defined as reclaimed RECLAIMABLE materials and
8 recycled materials. The in-state advantages to building
9 industry based upon reclamation and recycling may have local
10 and interstate benefits that far outweigh the cost of a tax
11 credit and additional deduction.

12

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

14 NEW SECTION. Section 1. Definitions. For the purposes
15 of [sections 1 through 5], unless otherwise required by the
16 context, the following definitions apply:

17 {1} "COLLECT" MEANS THE COLLECTION AND DELIVERY OF
18 RECLAIMABLE MATERIALS TO A RECYCLING OR RECLAIMABLE
19 MATERIALS PROCESSING FACILITY.

20 {1}{2} "Reclaimed RECLAIMABLE material" means material
21 that has useful physical or chemical properties after
22 -serving a specific purpose and that would normally be
23 disposed of as solid waste, AS DEFINED IN 75-10-203, by a
24 consumer, processor, or manufacturer.

25 {2}{3} "Recycled material" means a substance that is

1 produced from at least 90% reclaimed material.

2 NEW SECTION. Section 2. Amount and duration of credit
3 -- how claimed. (1) An individual, corporation, partnership,
4 or small business corporation, as defined in 15-31-201, may
5 receive a credit against taxes imposed by Title 15, chapter
6 30 or 31, for investments in depreciable property to
7 collect,---transport, or process reclaimed RECLAIMABLE
8 material or to manufacture a product from reclaimed
9 material, if the taxpayer qualifies under [section 3].

10 (2) Subject to [section 3(2)], a taxpayer qualifying
11 for a credit under [section 3] is entitled to claim a credit
12 in an amount equal to ~~5%~~ 25% of the cost of the property
13 purchased to collect,--transport, or process reclaimed
14 RECLAIMABLE material or to manufacture a product from
15 reclaimed material for ONLY IN the year in which the
16 property was purchased ~~and-for-a-period-of-10-consecutive~~
17 years. If qualifying property was purchased prior to January
18 1, ~~1990~~ 1992, but on or after January 1, ~~1986~~ 1990, a
19 taxpayer is entitled to a credit for tax year ~~1990~~ 1992,--but
20 ~~the--10-year--period-is-considered-to-have-begun-in-the-year~~
21 ~~in-which-the-qualifying-property-was-purchased.~~

22 NEW SECTION. Section 3. Credit for investment in
23 property used to collect,--transport, or process reclaimed
24 RECLAIMABLE material or to manufacture a product from
25 reclaimed material. (1) The following requirements must be

1 met to be entitled to a tax credit for investment in
 2 property to collect,--transport, or process reclaimed
 3 RECLAIMABLE material or to manufacture a product from
 4 reclaimed material:

5 (a) The investment must be for depreciable property
 6 used solely PRIMARILY to collect,--transport, or process
 7 reclaimed RECLAIMABLE material or to manufacture a product
 8 from reclaimed material.

9 (b) (i) The taxpayer claiming a credit must be a person
 10 who, as an owner, including a contract purchaser or lessee,
 11 or who pursuant to an agreement owns, leases, or has a
 12 beneficial interest in a business that collects,--transports,
 13 or processes reclaimed RECLAIMABLE material or that
 14 manufactures a product from reclaimed material. For the
 15 purposes of this section, a business qualifies as a business
 16 that collects reclaimed RECLAIMABLE material if it gathers
 17 reclaimable material for later sale, OR processing,--or
 18 disposal for another business that has as its primary
 19 business function the collection,--transportation, or
 20 processing of reclaimed RECLAIMABLE material or the
 21 manufacture of a product from reclaimed material. The
 22 collection of reclaimed RECLAIMABLE material may be a minor
 23 or nonprofit part of a business otherwise engaged in a
 24 retail trade or other business activity.

25 (ii) The taxpayer may but need not operate or conduct a

1 business that collects,--transports, or processes reclaimed
 2 RECLAIMABLE material or manufactures a product from
 3 reclaimed material. If more than one person has an interest
 4 in a business with qualifying property, they may allocate
 5 all or any part of the investment cost among themselves and
 6 their successors or assigns.

7 (c) The business must be owned or leased during the tax
 8 year by the taxpayer claiming the credit, except as
 9 otherwise provided in subsection (1)(b), and must have been
 10 collecting,--transporting, or processing reclaimed
 11 RECLAIMABLE material or manufacturing a product from
 12 reclaimed material during the tax year for which the credit
 13 is claimed.

14 (d) The reclaimed material collected, transported,
 15 processed, or used to manufacture a product may not be an
 16 industrial waste generated by the person claiming the tax
 17 credit.

18 (2) A credit under this section may be claimed by a
 19 taxpayer for a business only if the qualifying property was
 20 purchased on or after January 1, 1986 1990, but before July
 21 JANUARY 1, 1996.

22 (3) The credit provided by this section is not in lieu
 23 of any depreciation or amortization deduction for the
 24 investment or other tax incentive to which the taxpayer
 25 otherwise may be entitled under Title 15.

~~{4}~~ Upon sale, exchange, or other disposition of qualifying property for which the transferor was receiving a tax credit, the tax credit available to the transferee is limited to the amount and duration of credit that could have been claimed by the original purchaser had the property not been transferred.

~~{5}~~{4} A tax credit otherwise allowable under this section that is not used by the taxpayer in a particular THE TAXABLE year may not be carried forward to offset a taxpayer's tax liability for any succeeding tax year.

~~{6}~~{5} The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax credits allowed under this section.

~~{7}~~{6} If the taxpayer is a shareholder of an electing small business corporation, the credit must be computed using the shareholder's pro rata share of the corporation's cost of investing in equipment necessary to collect, transport, or process reclaimed RECLAIMABLE material or to manufacture a product from reclaimed material. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise provided by law.

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NEW SECTION. Section 5. Deduction for purchase of recycled material. In addition to all other deductions from adjusted gross individual income allowed in computing taxable income under Title 15, chapter 30, or from gross corporate income allowed in computing net income under Title 15, chapter 31, part 1, a taxpayer may deduct an additional amount equal to 5% of the taxpayer's expenditures for the purchase of recycled material that was otherwise deductible by the taxpayer as business-related expense in Montana.

NEW SECTION. Section 6. Department to make rules. The department of revenue shall prescribe rules necessary to carry out the purposes of [sections 1 through 5 6].

NEW SECTION. SECTION 7. REPORTS BY DEPARTMENT OF REVENUE. THE DEPARTMENT OF REVENUE SHALL REPORT TO THE 53RD LEGISLATURE AND THE 54TH LEGISLATURE ON THE AMOUNTS OF THE CREDIT CLAIMED UNDER [SECTIONS 2 AND 3], THE NUMBER AND TYPES OF BUSINESSES CLAIMING THE CREDIT, AND THE GENERAL EFFECTIVENESS OF THE CREDIT.

NEW SECTION. Section 8. Effective date -- applicability -- rulemaking. (1) Except for the purposes of subsection (2), [this act] is effective December 31, 1991, and applies to tax years beginning after December 31, 1991.

(2) For the purposes of promulgating administrative rules to implement [sections 1 through 4 5], [this act] is effective on passage and approval.

SB 0111/03

1 NEW SECTION. SECTION 9. TERMINATION. [THIS ACT]

2 TERMINATES DECEMBER 31, 1995.

-End-