

SENATE BILL NO. 358

Bob Spireich
Treasurer

INTRODUCED BY

Wally *Menzel*

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE INCOME AND CORPORATE TAX CREDIT FOR RECYCLING OF MATERIAL; DELETING THE TERMINATION DATE FOR THE CREDIT; PROVIDING THAT DEPRECIABLE PROPERTY USED FOR THE TREATMENT OF HAZARDOUS WASTES IN SOILS QUALIFIES FOR THE CREDIT; AMENDING SECTIONS 15-32-601 AND 15-32-603, MCA; AND REPEALING SECTION 9, CHAPTER 712, LAWS OF 1991."

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

Section 1. Section 15-32-601, MCA, is amended to read:

"15-32-601. ~~(Temporary)~~ Definitions. For the purposes of this part, unless otherwise required by the context, the following definitions apply:

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

(2) "Postconsumer material" means a product or packaging material that has served its final intended use, that has been discarded by an individual, commercial enterprise, or other entity after having fulfilled its intended application or use, and that is usually thrown away and hauled to landfills. This term does not include wastes generated during production of an end product.

(3) "Process" includes but is not limited to the treatment of hazardous wastes as defined in 75-10-403.

~~(3)~~(4) (a) "Reclaimable material" means:

(i) material that has useful physical or chemical properties after serving a specific purpose and that would normally be disposed of as solid waste, as defined in 75-10-203, by a consumer, processor, or manufacturer; or

(ii) soil that has been contaminated by hazardous wastes to the extent that treatment of those wastes is required as defined in 75-10-403.

(b) Except for claiming a tax credit as provided in 15-32-603(1)(d), material may not be considered reclaimed by the consumer, processor, or manufacturer that generated the material.

1 ~~(4)~~(5) "Recycled material" means a substance that is produced from reclaimed material as provided
2 in 15-32-609. ~~(Terminates December 31, 1995 - sec. 9, Ch. 712, L. 1991.)"~~

3
4 **Section 2.** Section 15-32-603, MCA, is amended to read:

5 **"15-32-603. ~~(Temporary)~~ Credit for investment in property used to collect or process reclaimable**
6 **material or to manufacture a product from reclaimed material.** (1) The following requirements must be met
7 to be entitled to a tax credit for investment in property to collect or process reclaimable material or to
8 manufacture a product from reclaimed material:

9 (a) The investment must be for depreciable property used primarily to collect or process reclaimable
10 material or to manufacture a product from reclaimed material.

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

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

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

27 (d) The reclaimed material collected, processed, or used to manufacture a product may not be an
28 industrial waste generated by the person claiming the tax credit unless:

29 (i) the person generating the waste historically has disposed of the waste onsite or in a licensed
30 landfill; and

1 (ii) standard industrial practice has not generally included the reuse of the waste in the
2 manufacturing process.

3 (2) A credit under this section may be claimed by a taxpayer for a business only if the qualifying
4 property was purchased on or after January 1, 1990, ~~but before January 1, 1996.~~

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

7 (4) A tax credit otherwise allowable under this section that is not used by the taxpayer in the
8 taxable year may not be carried forward to offset a taxpayer's tax liability for any succeeding tax year.

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

11 (6) If the taxpayer is a shareholder of an electing small business corporation, the credit must be
12 computed using the shareholder's pro rata share of the corporation's cost of investing in equipment
13 necessary to collect or process reclaimable material or to manufacture a product from reclaimed material.
14 In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise
15 provided by law. ~~(Terminates December 31, 1995 - sec. 9, Ch. 712, L. 1991.)"~~

16

17 **NEW SECTION. Section 3. Repealer.** Section 9, Chapter 712, Laws of 1991, is repealed.

18

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0358, as introduced

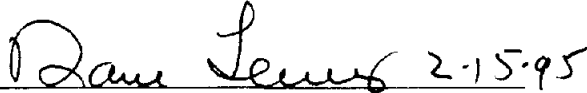
DESCRIPTION OF PROPOSED LEGISLATION:

An act relating to the income and corporate tax credit for recycling of material, deleting the termination date for the credit, and providing that depreciable property used for the treatment of hazardous wastes in soils qualifies for the credit.

ASSUMPTIONS:

1. The current law relating to recycling deductions and credits is scheduled to expire on December 31, 1995; this proposal eliminates the sunset provision of current law.
2. The proposed legislation is effective October 1, 1995, and is assumed to apply to tax years beginning after December 31, 1995 (MDOR).
3. No information is available on the amount of tax deductions taken in the first two years of the current recycling legislation, since this deduction is not a separate line on either the individual income tax form or the corporate license tax form; the amount of these deductions is judged and assumed to be small (MDOR).
4. The amount of tax credits, in contrast to tax deductions, taken by individuals in tax year 1992 (FY93) was \$245,403 and was \$200,396 for tax year 1993 (FY94); the amount of the credit taken by corporations was \$23,207 in FY93 and \$180,586 in FY94 (MDOR).
5. Under current law, the projected FY96 negative revenue impacts of these credits are assumed to be roughly the same as FY94 levels, with the individual income tax FY96 credit projected at \$200,000 and the corporate license tax credit projected as \$180,000 for FY96 (Montana Dept. of Revenue, Tax Expenditure Report, FY 96-97).
6. Under current law, the projected level of individual income tax recycling credits for FY97 (tax year 1996) is zero; the current law projected FY97 corporation license tax recycling credits are approximately \$100,000 (MDOR).
7. For the proposed law (exclusive of the new provision for reclaiming soil contaminated by hazardous wastes), the level of FY97 individual income tax credits would increase to \$200,000; the level for the corporation license tax also would increase to \$200,000 (MDOR).
8. Additional credits taken for reclaiming soil contaminated by hazardous wastes will be 25 percent of credits taken for other recycling/reclaiming purposes; \$50,000 (25% of \$200,000) for the individual income tax for FY97, and \$25,000 (25% of \$100,000) for the corporation license tax for FY97 (MDOR).

(Fiscal Impact - see page 2)


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

MIKE HALLIGAN, PRIMARY SPONSOR DATE
Fiscal Note for SB0358, as introduced

SB 358

FISCAL IMPACT:Expenditures:

There is no impact of this legislation on Department of Revenue expenditures.

<u>Revenues:</u>	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Individual Income Tax	0	(\$250,000)
Corporation License Tax	0	(125,000)
Total	0	(\$375,000)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The full effects of the legislation will not be felt until FY98, with about \$250,000 in individual income tax credits being claimed and a like level for the corporation license tax, for a total negative revenue impact of around \$500,000.

TECHNICAL NOTE:

This legislation does not specify an effective date or to which tax years it would apply. It is assumed in this fiscal note that the proposed legislation would apply to tax years beginning after December 31, 1995, since these are the years not applicable under current law with its sunset provision. It would be clearer if an applicability date were added to the proposed legislation.

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0358, 3rd reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act relating to the income and corporate tax credit for recycling of material, extending the termination date for the credit, and providing that certain depreciable property used for the treatment of hazardous wastes in soils qualifies for the credit.

ASSUMPTIONS:

1. The current law relating to recycling deductions and credits is scheduled to expire on December 31, 1995; this proposal extends the sunset provision to December 31, 1997.
2. The proposed legislation applies to tax years beginning and to depreciable property purchased after December 31, 1995.
3. No information is available on the amount of tax deductions taken in the first two years of the current recycling legislation, since this deduction is not a separate line on either the individual income tax form or the corporate license tax form; the amount of these deductions is judged and assumed to be small (MDOR).
4. The amount of tax credits, in contrast to tax deductions, taken by individuals in tax year 1992 (FY93) was \$245,403 and was \$200,396 for tax year 1993 (FY94); the amount of the credit taken by corporations was \$23,207 in FY93 and \$180,586 in FY94 (MDOR).
5. The Revenue Oversight Committee (ROC) assumed that the sunset provision would not terminate under current law. The projected negative revenue impacts of these credits are assumed to be roughly the same as FY94 levels, with the individual income tax FY96 & FY97 credits projected at \$200,000 and the corporate license tax credit projected as \$180,000 for FY96 and \$200,000 for FY97 (Montana Dept. of Revenue, Tax Expenditure Report, FY 96-97).
6. Investments in two properties of \$500,000 each are made in tax year 1996 (FY97) by corporations reclaiming soil contaminated by hazardous wastes. This results in corporation tax credits of \$200,000 in FY97.


FISCAL IMPACT:

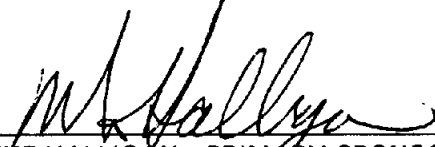
Expenditures:

There is no impact of this legislation on Department of Revenue expenditures.

Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Individual Income Tax	0	0
Corporation License Tax	0	(200,000)
Total	0	(\$200,000)

 4-4-95
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 4/5/95
 MIKE HALLIGAN, PRIMARY SPONSOR DATE
 Fiscal Note for SB0358, 3rd reading

SB 358-#2

1 SENATE BILL NO. 358

2 INTRODUCED BY HALLIGAN, MENAHAN, PIPINICH, TVEIT, HARRINGTON, FUCHS, BERGMAN,

3 DOHERTY, GAGE, DEVLIN, ANDERSON

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE INCOME AND CORPORATE TAX CREDIT FOR
6 RECYCLING OF MATERIAL; ~~DELETING~~ EXTENDING THE TERMINATION DATE FOR THE CREDIT;
7 PROVIDING THAT CERTAIN DEPRECIABLE PROPERTY USED FOR THE TREATMENT OF HAZARDOUS
8 WASTES IN SOILS QUALIFIES FOR THE CREDIT; AMENDING SECTIONS 15-32-601, 15-32-602, AND
9 15-32-603, MCA, AND SECTION 9, CHAPTER 712, LAWS OF 1991; AND ~~REPEALING SECTION 9,~~
10 ~~CHAPTER 712, LAWS OF 1991~~ PROVIDING AN APPLICABILITY DATE."

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

13
14 **Section 1.** Section 15-32-601, MCA, is amended to read:

15 **"15-32-601. ~~(Temporary)~~ (TEMPORARY) Definitions.** For the purposes of this part, unless
16 otherwise required by the context, the following definitions apply:

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

19 (2) "Postconsumer material" means a product or packaging material that has served its final
20 intended use, that has been discarded by an individual, commercial enterprise, or other entity after having
21 fulfilled its intended application or use, and that is usually thrown away and hauled to landfills. This term
22 does not include wastes generated during production of an end product.

23 (3) "Process" includes but is not limited to the treatment of hazardous wastes as defined in
24 75-10-403.

25 ~~(3)(4)~~ (a) "Reclaimable material" means:

26 (i) material that has useful physical or chemical properties after serving a specific purpose and that
27 would normally be disposed of as solid waste, as defined in 75-10-203, by a consumer, processor, or
28 manufacturer; or

29 (ii) soil that has been contaminated by hazardous wastes to the extent that treatment of those
30 wastes is required as defined in 75-10-403.

1 **(b)** Except for claiming a tax credit as provided in 15-32-603(1)(d), material may not be considered
2 reclaimed by the consumer, processor, or manufacturer that generated the material.

3 ~~(4)(5)~~ "Recycled material" means a substance that is produced from reclaimed material as provided
4 in 15-32-609. ~~(Terminates December 31, 1995--sec. 9, Ch. 712, L. 1991.)~~ (TERMINATES DECEMBER 31,
5 1995 1997--SEC. 9, CH. 712, L. 1991.) "

6
7 **SECTION 2. SECTION 15-32-602, MCA, IS AMENDED TO READ:**

8 **"15-32-602. (Temporary) Amount and duration of credit -- how claimed.** (1) An individual,
9 corporation, partnership, or small business corporation, as defined in 15-31-201, may receive a credit
10 against taxes imposed by Title 15, chapter 30 or 31, for investments in depreciable property to collect or
11 process reclaimable material or to manufacture a product from reclaimed material, if the taxpayer qualifies
12 under 15-32-603.

13 (2) Subject to 15-32-603~~(2)~~(3) and subsection (4) of this section, a taxpayer qualifying for a credit
14 under 15-32-603 is entitled to claim a credit ~~in an amount equal to 25% of,~~ as provided in subsection (3),
15 for the cost of the property purchased to collect or process reclaimable material or to manufacture a
16 product from reclaimed material only in the year in which the property was purchased. If qualifying property
17 was purchased prior to January 1, 1992, but on or after January 1, 1990, a taxpayer is entitled to a credit
18 for tax year 1992.

19 (3) The amount of the credit that may be claimed under this section for investments in depreciable
20 property is determined according to the following schedule:

21 (a) 25% of the cost of the property on the first \$250,000 invested;

22 (b) 15% of the cost of the property on the next \$250,000 invested; and

23 (c) 5% of the cost of the property on the next \$500,000 invested.

24 (4) A credit may not be claimed for investments in depreciable property in excess of \$1 million.

25 (Terminates December 31, ~~1995~~ 1997--sec. 9, Ch. 712, L. 1991.)"

26
27 **Section 3. Section 15-32-603, MCA, is amended to read:**

28 **"15-32-603. ~~(Temporary)~~ (TEMPORARY) Credit for investment in property used to collect or**
29 **process reclaimable material or to manufacture a product from reclaimed material.** (1) The following
30 requirements must be met to be entitled to a tax credit for investment in property to collect or process

1 reclaimable material or to manufacture a product from reclaimed material:

2 (a) The investment must be for depreciable property used primarily to collect or process reclaimable
3 material or to manufacture a product from reclaimed material.

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

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

16 (c) The business must be owned or leased during the tax year by the taxpayer claiming the credit,
17 except as otherwise provided in subsection (1)(b), and must have been collecting or processing reclaimable
18 material or manufacturing a product from reclaimed material during the tax year for which the credit is
19 claimed.

20 (d) The reclaimed material collected, processed, or used to manufacture a product may not be an
21 industrial waste generated by the person claiming the tax credit unless:

22 (i) the person generating the waste historically has disposed of the waste onsite or in a licensed
23 landfill; and

24 (ii) standard industrial practice has not generally included the reuse of the waste in the
25 manufacturing process.

26 (2) A CREDIT FOR DEPRECIABLE PROPERTY THAT TREATS SOIL CONTAMINATED BY
27 HAZARDOUS WASTES APPLIES ONLY TO PROPERTY THAT TREATS CONTAMINATED SOIL AND NOT
28 TO AUXILIARY PROPERTY.

29 ~~(2)(3)~~ A credit under this section may be claimed by a taxpayer for a business only if the qualifying
30 property ~~was IS purchased on or after January 1, 1990, but before January 1, 1996~~ BEFORE JANUARY

1 1, 1998.

2 ~~(3)(4)~~ The credit provided by this section is not in lieu of any depreciation or amortization deduction
3 for the investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

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

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

8 ~~(6)(7)~~ If the taxpayer is a shareholder of an electing small business corporation, the credit must be
9 computed using the shareholder's pro rata share of the corporation's cost of investing in equipment
10 necessary to collect or process reclaimable material or to manufacture a product from reclaimed material.
11 In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise
12 provided by law. ~~(Terminates December 31, 1995--sec. 9, Ch. 712, L. 1991.)~~ (TERMINATES DECEMBER
13 31, 1995 1997--SEC. 9, CH. 712, L. 1991.)"

14
15 ~~NEW SECTION. Section 3. Repealer. Section 9, Chapter 712, Laws of 1991, is repealed.~~

16
17 SECTION 4. SECTION 9, CHAPTER 712, LAWS OF 1991, IS AMENDED TO READ:

18 "Section 9. Termination. [This act] terminates December 31, ~~1995~~ 1997."

19
20 NEW SECTION. SECTION 5. APPLICABILITY. [THIS ACT] APPLIES TO TAX YEARS BEGINNING
21 AND TO DEPRECIABLE PROPERTY PURCHASED AFTER DECEMBER 31, 1995.

22 -END-

House BILL NO. 358

Shen

INTRODUCED BY

Cliff Trepel, Brainard

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PROTEST REQUIREMENTS FOR ZONING ADOPTION; AND AMENDING SECTION 76-2-205, MCA."

Shen

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

Section 1. Section 76-2-205, MCA, is amended to read:

"76-2-205. Procedure for adoption of regulations and boundaries. The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district ~~shall~~ must be published once a week for 2 weeks in a newspaper of general circulation within the county. The notice ~~shall~~ must state:

- (a) the boundaries of the proposed district;
- (b) the general character of the proposed zoning regulations;
- (c) the time and place of the public hearing;
- (d) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder.

(2) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.

(3) After the public hearing, the board of county commissioners shall review the proposals of the planning board and shall make ~~such~~ any revisions or amendments ~~as that it may deem~~ determines to be proper.

(4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.

(5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice ~~shall~~ must state:

- 1 (a) the boundaries of the proposed district;
- 2 (b) the general character of the proposed zoning regulations;
- 3 (c) that the proposed zoning regulations are on file for public inspection at the office of the county
4 clerk and recorder;
- 5 (d) that for 30 days after first publication of this notice, the board of county commissioners will
6 receive written protests to the creation of the zoning district or to the zoning regulations from persons
7 owning real property within the district whose names appear on the ~~last-completed~~ last-completed
8 assessment roll of the county.
- 9 (6) Within 30 days after the expiration of the protest period, the board of county commissioners
10 may in its discretion adopt the resolution creating the zoning district ~~and/or~~ or establishing the zoning
11 regulations for the district, ~~but~~ However, if 40% of the freeholders within ~~each~~ the district whose names
12 appear on the ~~last-completed~~ last-completed assessment roll or if freeholders representing 50% of the titled
13 property ownership shall have protested the establishment of the district or adoption of the regulations, the
14 board of county commissioners ~~shall~~ may not adopt the resolution and ~~no~~ a further zoning resolution ~~shall~~
15 may not be proposed for the district for a period of 1 year."

16

-END-

SENATE BILL NO. 358

INTRODUCED BY HALLIGAN, MENAHAN, PIPINICH, TVEIT, HARRINGTON, FUCHS, BERGMAN,
DOHERTY, GAGE, DEVLIN, ANDERSON

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE INCOME AND CORPORATE TAX CREDIT FOR
RECYCLING OF MATERIAL; ~~DELETING~~ EXTENDING THE TERMINATION DATE FOR THE CREDIT;
PROVIDING THAT CERTAIN DEPRECIABLE PROPERTY USED FOR THE TREATMENT OF HAZARDOUS
WASTES IN SOILS QUALIFIES FOR THE CREDIT; AMENDING SECTIONS 15-32-601, 15-32-602, AND
15-32-603, MCA, AND SECTION 9, CHAPTER 712, LAWS OF 1991; AND ~~REPEALING SECTION 9,
CHAPTER 712, LAWS OF 1991~~ PROVIDING AN APPLICABILITY DATE."

STATEMENT OF INTENT

THIS BILL EXTENDS BY 2 YEARS THE TERMINATION DATE FOR THE RECYCLING TAX CREDIT
PROVIDED FOR IN 15-32-602 AND THE RECYCLING TAX DEDUCTION PROVIDED FOR IN 15-32-610. IT
ALSO EXPANDS THE APPLICATION OF THE CREDIT TO INCLUDE INVESTMENTS IN EQUIPMENT USED
TO TREAT SOILS CONTAMINATED BY HAZARDOUS WASTES. IN ORDER TO IMPLEMENT THE TAX
CREDIT FOR CAPITAL INVESTMENTS IN PROPERTY PURCHASED TO COLLECT OR PROCESS RECLAIMED
MATERIAL, INCLUDING SOIL THAT HAS BEEN CONTAMINATED BY HAZARDOUS WASTES, PROVIDED
FOR UNDER 15-32-602, THE DEPARTMENT OF REVENUE SHALL MAKE A DETERMINATION ABOUT THE
EQUIPMENT AND PROCESSES THAT QUALIFY. IT IS THE INTENT OF THE LEGISLATURE THAT THE
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES, UPON REQUEST, ASSIST THE
DEPARTMENT OF REVENUE IN MAKING THAT DETERMINATION.

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

Section 1. Section 15-32-601, MCA, is amended to read:

"15-32-601. ~~(Temporary)~~ **(TEMPORARY)** Definitions. For the purposes of this part, unless
otherwise required by the context, the following definitions apply:

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

1 (2) "Postconsumer material" means a product or packaging material that has served its final
 2 intended use, that has been discarded by an individual, commercial enterprise, or other entity after having
 3 fulfilled its intended application or use, and that is usually thrown away and hauled to landfills. This term
 4 does not include wastes generated during production of an end product.

5 (3) "Process" includes but is not limited to the treatment of hazardous wastes as defined in
 6 75-10-403.

7 ~~(3)(4)~~ (a) "Reclaimable material" means:

8 (i) material that has useful physical or chemical properties after serving a specific purpose and that
 9 would normally be disposed of as solid waste, as defined in 75-10-203, by a consumer, processor, or
 10 manufacturer; or

11 (ii) soil that has been contaminated by hazardous wastes to the extent that treatment of those
 12 wastes is required as defined in 75-10-403.

13 (b) Except for claiming a tax credit as provided in 15-32-603(1)(d), material may not be considered
 14 reclaimed by the consumer, processor, or manufacturer that generated the material.

15 ~~(4)(5)~~ "Recycled material" means a substance that is produced from reclaimed material as provided
 16 in 15-32-609. ~~(Terminates December 31, 1995 -- sec. 9, Ch. 712, L. 1991.)~~ (TERMINATES DECEMBER 31,
 17 1995 1997--SEC. 9, CH. 712, L. 1991.) "

18
 19 **SECTION 2. SECTION 15-32-602, MCA, IS AMENDED TO READ:**

20 **"15-32-602. (Temporary) Amount and duration of credit -- how claimed.** (1) An individual,
 21 corporation, partnership, or small business corporation, as defined in 15-31-201, may receive a credit
 22 against taxes imposed by Title 15, chapter 30 or 31, for investments in depreciable property to collect or
 23 process reclaimable material or to manufacture a product from reclaimed material, if the taxpayer qualifies
 24 under 15-32-603.

25 (2) Subject to 15-32-603~~(2)~~(3) and subsection (4) of this section, a taxpayer qualifying for a credit
 26 under 15-32-603 is entitled to claim a credit ~~in an amount equal to 25% of~~, as provided in subsection (3),
 27 for the cost of the property purchased to collect or process reclaimable material or to manufacture a
 28 product from reclaimed material only in the year in which the property was purchased. If qualifying property
 29 was purchased prior to January 1, 1992, but on or after January 1, 1990, a taxpayer is entitled to a credit
 30 for tax year 1992.

1 (3) The amount of the credit that may be claimed under this section for investments in depreciable
 2 property is determined according to the following schedule:

3 (a) 25% of the cost of the property on the first \$250,000 invested;

4 (b) 15% of the cost of the property on the next \$250,000 invested; and

5 (c) 5% of the cost of the property on the next \$500,000 invested.

6 (4) A credit may not be claimed for investments in depreciable property in excess of \$1 million.

7 (Terminates December 31, ~~1995~~ 1997--sec. 9, Ch. 712, L. 1991.)"

8
 9 **Section 3.** Section 15-32-603, MCA, is amended to read:

10 **"15-32-603. ~~(Temporary)~~ (TEMPORARY) Credit for investment in property used to collect or**
 11 **process reclaimable material or to manufacture a product from reclaimed material. (1) The following**
 12 **requirements must be met to be entitled to a tax credit for investment in property to collect or process**
 13 **reclaimable material or to manufacture a product from reclaimed material:**

14 (a) The investment must be for depreciable property used primarily to collect or process reclaimable
 15 material or to manufacture a product from reclaimed material.

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

24 (ii) The taxpayer may but need not operate or conduct a business that collects or processes
 25 reclaimable material or manufactures a product from reclaimed material. If more than one person has an
 26 interest in a business with qualifying property, they may allocate all or any part of the investment cost
 27 among themselves and their successors or assigns.

28 (c) The business must be owned or leased during the tax year by the taxpayer claiming the credit,
 29 except as otherwise provided in subsection (1)(b), and must have been collecting or processing reclaimable
 30 material or manufacturing a product from reclaimed material during the tax year for which the credit is

1 claimed.

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

4 (i) the person generating the waste historically has disposed of the waste onsite or in a licensed
5 landfill; and

6 (ii) standard industrial practice has not generally included the reuse of the waste in the
7 manufacturing process.

8 (2) A CREDIT FOR DEPRECIABLE PROPERTY THAT TREATS SOIL CONTAMINATED BY
9 HAZARDOUS WASTES APPLIES ONLY TO PROPERTY THAT TREATS CONTAMINATED SOIL AND NOT
10 TO AUXILIARY PROPERTY.

11 ~~(2)(3)~~ A credit under this section may be claimed by a taxpayer for a business only if the qualifying
12 property ~~was IS~~ purchased ~~on or after January 1, 1990, but before January 1, 1996~~ BEFORE JANUARY
13 1, 1998.

14 ~~(3)(4)~~ The credit provided by this section is not in lieu of any depreciation or amortization deduction
15 for the investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

16 ~~(4)(5)~~ A tax credit otherwise allowable under this section that is not used by the taxpayer in the
17 taxable year may not be carried forward to offset a taxpayer's tax liability for any succeeding tax year.

18 ~~(5)(6)~~ The taxpayer's adjusted basis for determining gain or loss may not be further decreased by
19 any tax credits allowed under this section.

20 ~~(6)(7)~~ If the taxpayer is a shareholder of an electing small business corporation, the credit must be
21 computed using the shareholder's pro rata share of the corporation's cost of investing in equipment
22 necessary to collect or process reclaimable material or to manufacture a product from reclaimed material.
23 In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise
24 provided by law. ~~(Terminates December 31, 1995 -- sec. 9, Ch. 712, L. 1991.)~~ (TERMINATES DECEMBER
25 31, 1995 1997--SEC. 9, CH. 712, L. 1991.)"

26

27 ~~NEW SECTION. Section 3. Repealer. Section 9, Chapter 712, Laws of 1991, is repealed.~~

28

29 SECTION 4. SECTION 9, CHAPTER 712, LAWS OF 1991, IS AMENDED TO READ:

30 "Section 9. Termination. [This act] terminates December 31, 1995 1997."

1 NEW SECTION. SECTION 5. APPLICABILITY. [THIS ACT] APPLIES TO TAX YEARS BEGINNING
2 AND TO DEPRECIABLE PROPERTY PURCHASED AFTER DECEMBER 31, 1995.

3 -END-



HOUSE STANDING COMMITTEE REPORT

April 6, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that Senate Bill 358 (third reading copy -- blue) be concurred in as amended.

Signed: _____

Handwritten signature of Chase Hibbard in cursive.

Chase Hibbard, Chair

And, that such amendments read:

Carried by: Rep. Ream

1. Title, line 10.
Following: "DATE"
Insert: "AND A TERMINATION DATE"
2. Page 1, line 13.
Strike: "2"
Insert: "6"
3. Page 2, lines 16 and 17.
Page 4, lines 24 and 25.
Strike: "(TERMINATES" through "1991.)"
4. Page 2, line 27.
Following: "cost of"
Strike: "the"
Insert: "each item of"
5. Page 3, line 7.
Strike: "(Terminates" through "1991.)"
6. Page 4, line 29.
Strike: "1997"
Insert: "2001"

SB 358

Committee Vote:
Yes 16, No 4.

HOUSE
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7. Page 4.

Following: line 30

Insert: "NEW SECTION. Section 5. Termination -- exception. (1)

[Sections 1 through 3] terminate December 31, 1997.

(2) Notwithstanding subsection (1), 15-32-603(3), as numbered by [this act], which reads: "A credit under this section may be claimed by a taxpayer for a business only if the qualifying property is purchased before January 1, 1998.", is deleted in its entirety on December 31, 1997."

Renumber: subsequent section

-END-

SENATE BILL NO. 358

INTRODUCED BY HALLIGAN, MENAHAN, PIPINICH, TVEIT, HARRINGTON, FUCHS, BERGMAN,
DOHERTY, GAGE, DEVLIN, ANDERSON

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE INCOME AND CORPORATE TAX CREDIT FOR
RECYCLING OF MATERIAL; ~~DELETING~~ EXTENDING THE TERMINATION DATE FOR THE CREDIT;
PROVIDING THAT CERTAIN DEPRECIABLE PROPERTY USED FOR THE TREATMENT OF HAZARDOUS
WASTES IN SOILS QUALIFIES FOR THE CREDIT; AMENDING SECTIONS 15-32-601, 15-32-602, AND
15-32-603, MCA, AND SECTION 9, CHAPTER 712, LAWS OF 1991; AND ~~REPEALING SECTION 9,~~
~~CHAPTER 712, LAWS OF 1991~~ PROVIDING AN APPLICABILITY DATE AND A TERMINATION DATE."

STATEMENT OF INTENT

THIS BILL EXTENDS BY 2 6 YEARS THE TERMINATION DATE FOR THE RECYCLING TAX CREDIT
PROVIDED FOR IN 15-32-602 AND THE RECYCLING TAX DEDUCTION PROVIDED FOR IN 15-32-610. IT
ALSO EXPANDS THE APPLICATION OF THE CREDIT TO INCLUDE INVESTMENTS IN EQUIPMENT USED
TO TREAT SOILS CONTAMINATED BY HAZARDOUS WASTES. IN ORDER TO IMPLEMENT THE TAX
CREDIT FOR CAPITAL INVESTMENTS IN PROPERTY PURCHASED TO COLLECT OR PROCESS RECLAIMED
MATERIAL, INCLUDING SOIL THAT HAS BEEN CONTAMINATED BY HAZARDOUS WASTES, PROVIDED
FOR UNDER 15-32-602, THE DEPARTMENT OF REVENUE SHALL MAKE A DETERMINATION ABOUT THE
EQUIPMENT AND PROCESSES THAT QUALIFY. IT IS THE INTENT OF THE LEGISLATURE THAT THE
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES, UPON REQUEST, ASSIST THE
DEPARTMENT OF REVENUE IN MAKING THAT DETERMINATION.

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

Section 1. Section 15-32-601, MCA, is amended to read:

"15-32-601. ~~(Temporary)~~ (TEMPORARY) Definitions. For the purposes of this part, unless
otherwise required by the context, the following definitions apply:

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

1 (2) "Postconsumer material" means a product or packaging material that has served its final
 2 intended use, that has been discarded by an individual, commercial enterprise, or other entity after having
 3 fulfilled its intended application or use, and that is usually thrown away and hauled to landfills. This term
 4 does not include wastes generated during production of an end product.

5 (3) "Process" includes but is not limited to the treatment of hazardous wastes as defined in
 6 75-10-403.

7 ~~(3)~~(4) (a) "Reclaimable material" means:

8 (i) material that has useful physical or chemical properties after serving a specific purpose and that
 9 would normally be disposed of as solid waste, as defined in 75-10-203, by a consumer, processor, or
 10 manufacturer; or

11 (ii) soil that has been contaminated by hazardous wastes to the extent that treatment of those
 12 wastes is required as defined in 75-10-403.

13 (b) Except for claiming a tax credit as provided in 15-32-603(1)(d), material may not be considered
 14 reclaimed by the consumer, processor, or manufacturer that generated the material.

15 ~~(4)~~(5) "Recycled material" means a substance that is produced from reclaimed material as provided
 16 in 15-32-609. ~~(Terminates December 31, 1995 - sec. 9, Ch. 712, L. 1991.) (TERMINATES DECEMBER 31,~~
 17 ~~1995-1997 - SEC. 9, CH. 712, L. 1991.)"~~

18
 19 **SECTION 2. SECTION 15-32-602, MCA, IS AMENDED TO READ:**

20 "15-32-602. (Temporary) Amount and duration of credit -- how claimed. (1) An individual,
 21 corporation, partnership, or small business corporation, as defined in 15-31-201, may receive a credit
 22 against taxes imposed by Title 15, chapter 30 or 31, for investments in depreciable property to collect or
 23 process reclaimable material or to manufacture a product from reclaimed material, if the taxpayer qualifies
 24 under 15-32-603.

25 (2) Subject to 15-32-603~~(2)~~(3) and subsection (4) of this section, a taxpayer qualifying for a credit
 26 under 15-32-603 is entitled to claim a credit ~~in an amount equal to 25% of~~, as provided in subsection (3),
 27 for the cost of the EACH ITEM OF property purchased to collect or process reclaimable material or to
 28 manufacture a product from reclaimed material only in the year in which the property was purchased. If
 29 qualifying property was purchased prior to January 1, 1992, but on or after January 1, 1990, a taxpayer
 30 is entitled to a credit for tax year 1992.

1 (3) The amount of the credit that may be claimed under this section for investments in depreciable
 2 property is determined according to the following schedule:

3 (a) 25% of the cost of the property on the first \$250,000 invested;

4 (b) 15% of the cost of the property on the next \$250,000 invested; and

5 (c) 5% of the cost of the property on the next \$500,000 invested.

6 (4) A credit may not be claimed for investments in depreciable property in excess of \$1 million.

7 ~~(Terminates December 31, 1995 1997 see. 9, Ch. 712, L. 1991.)"~~

8

9 **Section 3.** Section 15-32-603, MCA, is amended to read:

10 **"15-32-603. ~~(Temporary)~~ (TEMPORARY) Credit for investment in property used to collect or**
 11 **process reclaimable material or to manufacture a product from reclaimed material. (1) The following**
 12 **requirements must be met to be entitled to a tax credit for investment in property to collect or process**
 13 **reclaimable material or to manufacture a product from reclaimed material:**

14 (a) The investment must be for depreciable property used primarily to collect or process reclaimable
 15 material or to manufacture a product from reclaimed material.

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

24 (ii) The taxpayer may but need not operate or conduct a business that collects or processes
 25 reclaimable material or manufactures a product from reclaimed material. If more than one person has an
 26 interest in a business with qualifying property, they may allocate all or any part of the investment cost
 27 among themselves and their successors or assigns.

28 (c) The business must be owned or leased during the tax year by the taxpayer claiming the credit,
 29 except as otherwise provided in subsection (1)(b), and must have been collecting or processing reclaimable
 30 material or manufacturing a product from reclaimed material during the tax year for which the credit is

1 claimed.

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

4 (i) the person generating the waste historically has disposed of the waste onsite or in a licensed
5 landfill; and

6 (ii) standard industrial practice has not generally included the reuse of the waste in the
7 manufacturing process.

8 (2) A CREDIT FOR DEPRECIABLE PROPERTY THAT TREATS SOIL CONTAMINATED BY
9 HAZARDOUS WASTES APPLIES ONLY TO PROPERTY THAT TREATS CONTAMINATED SOIL AND NOT
10 TO AUXILIARY PROPERTY.

11 ~~(2)(3)~~ A credit under this section may be claimed by a taxpayer for a business only if the qualifying
12 property was IS purchased ~~on or after January 1, 1990, but before January 1, 1996~~ BEFORE JANUARY
13 1, 1998.

14 ~~(3)(4)~~ The credit provided by this section is not in lieu of any depreciation or amortization deduction
15 for the investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

16 ~~(4)(5)~~ A tax credit otherwise allowable under this section that is not used by the taxpayer in the
17 taxable year may not be carried forward to offset a taxpayer's tax liability for any succeeding tax year.

18 ~~(5)(6)~~ The taxpayer's adjusted basis for determining gain or loss may not be further decreased by
19 any tax credits allowed under this section.

20 ~~(6)(7)~~ If the taxpayer is a shareholder of an electing small business corporation, the credit must be
21 computed using the shareholder's pro rata share of the corporation's cost of investing in equipment
22 necessary to collect or process reclaimable material or to manufacture a product from reclaimed material.
23 In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise
24 provided by law. ~~(Terminates December 31, 1995 - sec. 9, Ch. 712, L. 1991.)~~ (TERMINATES DECEMBER
25 31, 1995-1997 - SEC. 9, CH. 712, L. 1991.)"

26
27 ~~NEW SECTION. Section 3. Repealer. Section 9, Chapter 712, Laws of 1991, is repealed.~~

28
29 SECTION 4. SECTION 9, CHAPTER 712, LAWS OF 1991, IS AMENDED TO READ:

30 "Section 9. Termination. [This act] terminates December 31, 1995-1997 2001."

1 NEW SECTION. SECTION 5. TERMINATION -- EXCEPTION. (1) [SECTIONS 1 THROUGH 3]
2 TERMINATE DECEMBER 31, 1997.

3 (2) NOTWITHSTANDING SUBSECTION (1), 15-32-603(3), AS NUMBERED BY [THIS ACT], WHICH
4 READS: "A CREDIT UNDER THIS SECTION MAY BE CLAIMED BY A TAXPAYER FOR A BUSINESS ONLY
5 IF THE QUALIFYING PROPERTY IS PURCHASED BEFORE JANUARY 1, 1998.", IS DELETED IN ITS
6 ENTIRETY ON DECEMBER 31, 1997.

7
8 NEW SECTION. SECTION 6. APPLICABILITY. [THIS ACT] APPLIES TO TAX YEARS BEGINNING
9 AND TO DEPRECIABLE PROPERTY PURCHASED AFTER DECEMBER 31, 1995.

10

-END-