

HOUSE BILL 884

IN THE HOUSE

February 20, 1979	Introduced and referred to Committee on Taxation.
March 24, 1979	Committee recommend bill, as amended.
March 26, 1979	Printed and placed on members' desks.
March 27, 1979	Second reading, as amended. Considered correctly engrossed. Third reading, passed.

IN THE SENATE

March 27, 1979	Introduced and referred to Committee on Taxation.
April 20, 1979	Died in Committee.

House BILL NO. *884*

INTRODUCED BY *FAGG McBride Miteay Holmes*

Hayes Foster Sheldon Cooney Johnson
NATHAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS" THE
"MONTANA ENERGY CONSERVATION ACT"; PROVIDING TAX INCENTIVES
AND PENALTIES FOR RENEWABLE ENERGY SYSTEMS AND ENERGY
CONSERVATION PRACTICES; AND REPEALING SECTIONS 15-32-101,
15-32-102, 15-32-104 THROUGH 15-32-106, 15-32-108, AND
15-32-201 THROUGH 15-32-203, MCA; PROVIDING AN EFFECTIVE
DATE."

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

Section 1. Legislative findings. The legislature finds
that the state faces problems in the conversion, use, and
conservation of energy. The legislature sees a
responsibility to its citizens to insure adequate supplies
of energy needed to provide jobs and a sound economy. Since
much of our future is dependent upon adequate energy, it is
necessary to enact an energy policy that will:

- (1) provide needed energy to encourage and assist
light and secondary industries to locate in Montana;
- (2) develop a program of tax incentives to encourage
the prevention of energy waste and the development of
alternative energy;
- (3) design programs to eliminate waste, as it is the

major violation of excessive energy use;

(4) develop a program that will use the 2,000 to 2,800
annual hours of Montana sunshine and capitalize on our wind
resources, as well as our geothermal and other natural
sources of energy, to supplement the traditional energy
sources currently being used.

Section 2. Purpose. [This act] is designed to use tax
incentives to encourage less energy loss in structures; to
develop and use solar, wind, and other forms of renewable
energy; and to establish guidelines and a program of energy
conservation in Montana, providing Montanans with a state
rich in energy both for today's and tomorrow's needs.

Section 3. Definitions. As used in [this act] the
following definitions apply:

- (1) "Building" means any improvement, including a
mobile home, used for residential, commercial, industrial,
or agricultural purposes, which is enclosed with walls and a
roof.
- (2) "Department" means the department of
administration established in 2-15-1001.
- (3) "Renewable energy generation system" means any
heating, cooling, or energy producing system that uses at
its source solar, geothermal, wind, or biomass energy or
hydro energy produced by means of a small system impounding
not over 20 acres in surface area or a combination of any of

-2- *HB 884*
INTRODUCED BILL

1 the above systems.

2 (4) "Solar energy system" means an integrated system
3 of components that collectively uses solar energy to heat,
4 cool, or produce electricity and that has a useful life of
5 at least 10 years. A solar energy system may include an
6 active, passive, or hybrid solar energy system. A solar
7 energy system may consist of the following components:

8 (a) glazing--the solar system component that consists
9 of transparent or translucent materials used to transmit
10 solar radiation and to reduce the loss of thermal energy
11 from the building or collector;

12 (b) collector--the solar system component that
13 collects solar radiation and may consist of an insulated box
14 (metal, wood, plastic, or fiberglass) with or without
15 glazing that contains a solar radiation absorption surface
16 and flow passages to carry the transfer medium to be heated;
17 the collector may also be integrated with storage, for
18 example, south-facing glass with masonry, water tanks, or
19 water tubes;

20 (c) distribution or transfer component--the solar
21 system component that circulates the working fluid between
22 the storage and collector in a domestic water heating
23 system; or, in a space conditioning system, transfers
24 thermal energy from collector or storage and collector to
25 the location where it is required;

1 (d) storage component--the solar system component that
2 receives thermal energy and retains it for future use. Types
3 of storage include:

4 (i) chemical--chemical storage used as a phase
5 transformation of the storage material, with the heat
6 storage capability largely dependent upon the material's
7 latent heat of fusion or the energy transferred through
8 chemical reactions;

9 (ii) liquid--liquid storage used to accommodate heat in
10 proportion to its specific heat capacity and temperature
11 increase;

12 (iii) mass materials--concrete, masonry, or other heavy
13 materials used to store thermal energy for heating or
14 cooling;

15 (iv) pebble or rock beds--pebble beds or rock beds
16 used to store thermal energy for heating or cooling;

17 (e) thermal insulation shutters--the solar system
18 component that minimizes heat loss through the collector
19 glazing during periods of little or no solar radiation
20 availability but which does not inhibit solar radiation
21 transmission during periods of significant availability;

22 (f) auxiliary--the solar system component which
23 provides backup energy. Eligibility is determined by:

24 (i) physical connection to the solar system;

25 (ii) provision of less than half of the annual energy

1 supplied by the complete system; and

2 (iii) nonreliance on fossil or radioactive fuels.

3 (5) "Active solar energy system" means an indirect
4 thermal energy system that consists of components thermally
5 isolated from the living space for collection of solar
6 energy and transfer of thermal energy to provide heating,
7 cooling, or both.

8 (6) "Passive solar energy system" means a direct
9 thermal energy system that uses the structure of a building
10 and its operable components to provide heating or cooling
11 during the appropriate times of the year by using the
12 climate resources available at the site.

13 (7) "Hybrid system" means a solar energy system that
14 combines both passive and active components into one system;
15 for example, solar collectors on a roof that provide heat to
16 the direct thermal storage component located inside the
17 insulated shell of the structure.

18 Section 4. Adjustment in taxable value of certain
19 buildings. (1) The department shall adopt rules prescribing
20 heat loss standards for existing and newly constructed
21 buildings. An existing building that is remodeled or a newly
22 constructed building shall be evaluated by the department to
23 determine its designed heat loss. The department shall then
24 compute the degree to which the building evaluated is more
25 or less energy efficient than the established standard. The

1 difference must be expressed as a percentage of the
2 standard.

3 (2) After appraising a newly constructed or remodeled
4 building, the department of revenue shall adjust the taxable
5 value of the building to reflect the level of energy savings
6 or waste inherent in the design of the building in
7 accordance with the following tables:

8 (a) If the heat loss in a building is less than the
9 standard, the following table applies:

10 % energy savings 11 determined by the 12 department	13 % reduction in 14 taxable value	15 Number of years 16 reduced value 17 effective
18 0 - 10 19 more than	20 0	21 N.A.
22 10 - 20 23 more than	24 4	25 10
26 20 - 30 27 more than	28 8	29 10
30 30 - 40 31 more than	32 12	33 15
34 40 - 50 35 more than	36 16	37 15
38 50 39 more than	40 20	41 20

42 (b) If the heat loss in a building is greater than the
43 standard, the following table applies:

HB 884

1 % energy waste	% increase in taxable value	Number of years reduced value effective
4 0 - 10 5 more than	0	N.A.
6 10 - 20 7 more than	4	10
8 20 - 30 9 more than	8	10
10 30 - 40 11 more than	12	15
12 40 - 50 13 more than	16	15
14 50	20	20

15 (3) It is the intent of this section that no credit
 16 under [this act] be allowed for capital investment for
 17 energy conservation or penalties be applied for energy waste
 18 if the construction meets the standards set forth in the
 19 rules established by the department. The rules adopted shall
 20 be based on the best current available information sources,
 21 including the national bureau of standards, the department
 22 of housing and urban development, and any other federal
 23 agencies, professional societies, or credible research
 24 organizations that are involved in the field of heating,
 25 cooling, and ventilating or renewable energy usage.

1 (4) The department shall annually update rules and
 2 standards to conform to the new methods of construction and
 3 the availability of materials that would raise the standards
 4 established by the department.

5 (5) The department shall adopt rules for the
 6 certification of new and remodeled construction eligible for
 7 tax incentives and penalties described under this section.
 8 The department may inspect such construction for application
 9 of the tax incentives and penalties described in subsection
 10 (2).

11 Section 5. Tax credits for renewable energy systems.
 12 (1) There is allowed as a credit against the taxes imposed
 13 in 15-30-103, 15-30-104, and 15-31-101:

14 (a) an amount equal to the lesser of \$5,000 or 75% of
 15 the cost incurred by the taxpayer in installing an approved
 16 renewable energy system in a single-family dwelling that is
 17 the taxpayer's principal dwelling;

18 (b) an amount equal to the lesser of \$100,000 or 5%
 19 of the cost incurred by the taxpayer in installing an
 20 approved renewable energy system in a building other than
 21 that described in (1)(a) above.

22 (2) No renewable energy system may be approved unless
 23 it meets the minimum standards published by the department.

24 Section 6. Required energy conservation measures.
 25 Every renewable energy system installed after July 1, 1979,

1 in order to qualify for an income tax credit, must also
2 include installation of the following energy conservation
3 measures:

4 (1) All accessible walls and ceilings or attic spaces
5 must be insulated to a level of R-19.

6 (2) All windows, doors, and building seams in heated
7 rooms and structures must be weatherstripped and caulked to
8 minimize air infiltration.

9 (3) All existing water heaters that supplement
10 alternate energy systems must be refitted with additional
11 insulation with a thermal resistance value of R-6 or shall
12 include a minimum thermal resistance of the total water
13 heater insulation jacket of R-12.

14 (4) All water basin faucets and shower heads in new
15 construction must be equipped with low-flow devices rated at
16 a maximum of 3 gallons per minute.

17 (5) All windows must be equipped with thermal
18 insulation shutters, storm windows, or double glazing.

19 Section 7. Eligible systems. Renewable energy systems
20 eligible for a tax credit under the provisions of [section
21 5] include but are not limited to:

22 (1) solar energy systems, including:

23 (a) active solar energy systems;

24 (b) passive solar energy systems; and

25 (c) hybrid solar energy systems;

1 (2) wind energy conversion systems that provide energy
2 for heating, cooling, electricity, or mechanical purposes;

3 (3) geothermal energy systems;

4 (4) (a) biomass energy conversion systems, including
5 wood stoves meeting strict efficiency standards and used for
6 auxiliary heat;

7 (b) biomass systems using the decomposition,
8 fermentation, or distillation or any combination of those
9 processes for the production of direct heat or fuel; and

10 (c) woodwaste systems used for the production of
11 electricity;

12 (5) hydro energy systems producing electrical or
13 mechanical energy by means of a small system impounding not
14 over 20 acres in surface area; or

15 (6) any combination of the above systems.

16 Section 8. Department of revenue to establish
17 procedures for claiming tax credits. The department of
18 revenue shall establish procedures and forms for claiming
19 tax credits for renewable energy systems approved by the
20 department.

21 Section 9. Certification of renewable energy systems.

22 (1) The department shall adopt rules and develop procedures
23 and forms for the certification of renewable energy systems.

24 (2) The department must act on an application for
25 certification within 90 days from receipt of a complete

1 application.

2 Section 10. Claims of exemption. (1) A person who
3 wishes to claim tax credit for any proposed renewable energy
4 system other than as provided in [this act] must file a
5 claim of exemption and obtain approval of eligibility in
6 accordance with the provisions of this section. The claimant
7 in all proceedings under this section assumes the burden of
8 proof.

9 (2) A claim may only be made on a form published by
10 the department. The forms shall be revised as necessary to
11 assist claimants in providing the information necessary to
12 substantiate a claim. The claim shall be verified by the
13 claimant, and the claimant is subject to the penalty
14 provided in 45-7-202 for a false claim.

15 (3) The department may adopt rules requiring
16 supporting documentation of the claim. The documentation
17 shall include when relevant:

18 (a) a description of the system, including appropriate
19 design drawings and specifications;

20 (b) an analysis of the predicted performance of the
21 system, including the estimated amount of conventional
22 energy displaced;

23 (c) any additional evidence in support of the claim.

24 (4) The claimant shall submit two copies of the claim
25 of exemption to the department. Only one copy of supporting

1 documentation need be included unless the department
2 requests otherwise.

3 (5) At any time after submission of a claim, the
4 department may request from the claimant such information as
5 is needed for a complete staff analysis of the claim.

6 (6) As soon as practicable after filing of a claim,
7 the department shall review the claim. No later than 90 days
8 after filing of a claim, the department shall issue a
9 written decision.

10 (7) No claim may be approved unless the department
11 finds that:

12 (a) the system proposed for exemption will result in
13 energy savings by using renewable energy equal to or greater
14 than energy savings from similar systems authorized by [this
15 act];

16 (b) compliance with the requirements of [this act]
17 would be impossible without substantial increases in costs
18 of installing the system; and

19 (c) the systems proposed for exemption are as
20 reliable, durable, and safe as similar systems authorized by
21 [this act].

22 (8) The decision on the claim shall either approve or
23 disapprove the claim in whole or in part and shall state
24 reasons supporting the decision. A certificate of exemption
25 shall be issued for those claims which the department

1 approves.

2 (9) Notice of the decision shall be sent to the
3 claimant and to any person who has requested such notice.

4 Section 11. Conformance to building codes required --
5 additional certification of performance. (1) To be eligible
6 for a tax credit under [this act], the renewable energy
7 system must receive a local building permit or department
8 approval of the system where a local building permit is not
9 applicable.

10 (2) Following installation, the renewable energy
11 system must also be determined by the department or its
12 agent to be in working order and to meet designated
13 capabilities and must be so certified.

14 Section 12. Repealer. Sections 15-32-101, 15-32-102,
15 15-32-104 through 15-32-106, 15-32-108, and 15-32-201
16 through 15-32-203, MCA, are repealed.

17 Section 13. Effective date and applicability. This act
18 is effective on passage and approval and applies to all
19 taxable years beginning after December 31, 1978.

-End-

STATE OF MONTANA

REQUEST NO. 421-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 26, 19 79, there is hereby submitted a Fiscal Note for House Bill 884 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION:

This proposed bill is an Act to be known as the Montana Energy Conservation Act; providing tax incentives and penalties for renewable energy systems and energy conservation practices; and provides an effective date.

ASSUMPTIONS:

Revenue Impact:

1. There will be 350 new residential solar systems in the biennium (150 in FY80 and 200 in FY81).
2. There will be 25 solar systems installed in commercial establishments in FY80 and 25 in FY81.
3. The average cost of each system is \$3,000.
4. There will be 3000 wood stoves purchased in FY80 and 4000 in FY81. 200 each year will be installed in commercial establishments.
5. The average cost for each wood stove, including stove pipe, is \$800.
6. All systems and wood stoves listed in assumptions 1-5 would qualify for tax credits.
7. The Department of Revenue projections for income tax and corporation license tax in FY80 and FY81 are correct.
8. The impact will be split between corporation license tax and income tax.
9. This note does not include the impact of passive solar systems because no data are available on these systems.

For further detail on the above assumptions see fiscal notes for HB 216, 299 and SB 173, the assumptions are the same as used in these fiscal notes.

EXPENDITURE IMPACT:

1. All buildings, including farm structures, not covered by a local program must be inspected by the Department.
2. There are presently 15,000 electrical permits issued per year by the Department. The permits are estimated to break down as follows:

Mobile Home Service Hookups	2,000
New Homes	4,000
New or Major Remodel Construction	8,000
Minor Remodel	<u>1,000</u>

TOTAL PERMITS 15,000

3. It will require an average of 4 hours to evaluate a new residence for deviation from the designed heat loss and 8 hours for an existing residence.
4. It will require one hour additional time for conference and appeals on residential buildings.
5. It will require an average of 8 hours to evaluate a new commercial type structure for deviation from the designed heat loss and 16 hours for an existing building.
6. It will require an average of 6 hours to inspect residential buildings and 8 hours for commercial type buildings to determine compliance of structures with approval plans. This includes travel time.
7. There will be a 5% appeal rate resulting from the evaluation process. The average cost of each hearing is assumed to be \$500.

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

STATE OF MONTANA

REQUEST NO. 421-79 continued

FISCAL NOTE

Form BD 15

In compliance with a written request received _____, 19_____, there is hereby submitted a Fiscal Note for _____ pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

8. Renewable energy tax credits for existing and new buildings, will require an insulation verification inspection (6 hours), an analysis of the energy system (16 hours), certification for conformance (12 hours), and conferences (2 hours), and hearings (2 hours).
9. 10% of residential construction will be involved with renewable energy tax credits and 20% of commercial type construction.
10. Budgets increase 6% between FY80 and 81.
11. 100 square feet per person is needed for office space at the rate of \$5.00 per square foot per year.
12. \$800 per person is required for equipment costs.
13. Assume that local governments can participate in the program. Budget figures and staff may need to be doubled if local governments do not participate.
14. The Program for Taxable Value will require technical staff equal to Grade 16 Step 1 to obtain necessary skills.
15. Since the present operation is self-supporting, general funds are needed to support the additional duties.

FISCAL IMPACT:

Revenue Impact:

	<u>FY80</u>	<u>FY81</u>
Corporation License Tax and Income Tax		
under current law	\$189,268,000	\$204,790,000
under proposed law	<u>187,121,250</u>	<u>201,930,750</u>
Estimated Decrease	<u>(\$ 2,146,750)</u>	<u>(\$ 2,859,250)</u>

Fund Information:

General Fund

under current law	\$121,131,520	\$131,065,600
under proposed law	<u>119,757,600</u>	<u>129,235,680</u>
Estimated Decrease	<u>(\$ 1,373,920)</u>	<u>(\$ 1,829,920)</u>

Earmarked Revenue (School Foundation Program)

under current law	\$ 47,317,000	\$ 51,197,500
under proposed law	<u>46,780,313</u>	<u>50,482,688</u>
Estimated Decrease	<u>(\$ 536,687)</u>	<u>(\$ 714,812)</u>

Sinking Fund

under current law	\$ 20,819,480	\$ 22,526,900
under proposed law	<u>20,583,337</u>	<u>22,212,382</u>
Estimated Decrease	<u>(\$ 236,143)</u>	<u>(\$ 314,518)</u>

Effect on Local Governments:

There should be some impact on local government revenues because of the provisions for reducing or increasing the taxable value of properties inspected. The impact is, however, indeterminable.

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

STATE OF MONTANA

REQUEST NO. 421-79 continued

FISCAL NOTE

Form BD-15

In compliance with a written request received _____, 19 _____, there is hereby submitted a Fiscal Note for _____ pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

EXPENDITURE IMPACT:

Additional cost of proposed legislation to	<u>FY80</u>	<u>FY81</u>
Building Codes Division		
Personal Services	\$2,759,612	\$2,925,189
Operating costs	941,850	998,361
Equipment	110,400	20,000
	<u>\$3,811,862</u>	<u>\$3,943,550</u>

The additional cost must be funded from the State General Fund.

TECHNICAL NOTES:

1. The Department of Administration certifies the buildings and systems. It should be a requirement that this certification accompany any application for tax incentives.
2. There should be an effective date for the costs. It should be for costs incurred after December 31, 1978.
3. The repealer should be changed depending on the intent of this proposal. If it is so decided to repeal the energy conservation deduction then section 15-32-103 should be included in the repealer. If it is so decided that the deduction is not to be repealed then the section should not be repealed. The definitions, limitation, application and procedure are repealed, but the deduction is still retained.
4. It should be noted that the revenues to the Earmarked Revenue Account are used to support the Public School Foundation Program. Therefore, any decrease in income to that account may necessitate additional support from other sources.

LOCAL IMPACT:

If local governments participate in the program, local government costs will increase in total approximately \$3 million per year.

Richard L. Jung
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3/2/79

STATE OF MONTANA

Request No. 421-79

FISCAL NOTE

Form BD-15

In compliance with a written request received April 2, 1979, there is hereby submitted a Fiscal Note for Amended House Bill 884 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION:

This proposed bill would be known as the "Montana Energy Conservation Act"; providing tax incentives for renewable energy systems and energy conservation practices.

ASSUMPTIONS:

1. There will be 100 solar systems installed in residences in each of FY 80 and FY 81. 60% of the systems will heat only domestic hot water and cost \$1,500 each, 30 systems will cost \$5,000 and 10 systems will cost \$10,000.
2. Since there is not carry over provision for the credit it is assumed that taxpayers will be able to avail themselves of \$1,000 worth of credit for the \$1,500 systems, \$1,500 for the \$5,000 systems and \$3,000 for the \$10,000 systems.
3. There will be 10 commercial systems installed each year with a cost of \$15,000 and \$3,500 credit will be available for each system.
4. The Department of Revenue projections for corporation license tax and income tax collection for the 80-81 biennium are correct.
5. The impact will be split between income tax and corporation license tax.
6. This note does not include the impact of passive solar systems because no data are available on these systems.
7. Assume a 1% appeal rate for taxable value and a 5% appeal rate for tax credit program.
8. Standards development cost will be \$40,000 in FY 80 which will be funded through an energy grant.
9. The note reflects total cost of full implementation of the act.
10. If the Divison's modified level of budgeting is passed by the legislature, the enforcement will be attempted with the increased staffing. If this should be unobtainable, an amendment to the budget may be needed in FY 81.

REVENUE IMPACT:

	<u>FY 80</u>	<u>FY 81</u>
Corporation License Tax and Income Tax		
under current law	\$189,268,000	\$204,790,000
under proposed law	189,098,000	204,620,000
Estimated Decrease	<u>(\$ 170,000)</u>	<u>(\$ 170,000)</u>

Continued on Page 2

Richard J. Tracy
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 4/4/79

FUND INFORMATION:

	<u>FY 80</u>	<u>FY 81</u>
General Fund		
under current law	\$121,131,520	\$131,065,600
under proposed law	<u>121,022,720</u>	<u>130,956,800</u>
Estimated Decrease	<u>(\$ 108,800)</u>	<u>(\$ 108,800)</u>
Earmarked Revenue Fund (School Foundation Program)		
under current law	\$ 47,317,000	\$ 51,197,500
under proposed law	<u>47,274,500</u>	<u>51,155,000</u>
Estimated Decrease	<u>(\$ 42,500)</u>	<u>(\$ 42,500)</u>
Sinking Fund		
under current law	\$ 20,819,480	\$ 22,526,200
under proposed law	<u>20,800,780</u>	<u>22,507,500</u>
Estimated Decrease	<u>(\$ 18,700)</u>	<u>(\$ 18,700)</u>

EFFECT ON LOCAL GOVERNMENT:

Local government should experience a slight decrease in revenues because of the taxable value adjustment provisions. There will be an increase in taxable value by the addition of new solar systems but this will be more than offset by the decrease in taxable value resulting from the reduction for houses that exceed standards for energy conservation.

EXPENDITURE IMPACT:

The cost to fully implement the provisions of the act by the Department of Administration are estimated to be \$226,900 in FY 80 and \$198,209 in FY 81 from fees collected into the revolving fund. However, the Department of Administration, Building Codes Division will attempt to phase in the implementation over the course of the biennium using staff granted by the modified budget level (HB 483) if so approved. If workload proves to be greater than anticipated, additional staffing may be sought through the budget amendment process in FY 81. The standards to be established for the renewable energy portion of the act can probably be developed through access to federal grants.

The Department of Revenue estimates that its Property Assessment Division will incur additional administrative costs of approximately \$2,000 per year, the funding for which must be supplied from the General Fund.

TECHNICAL NOTE:

It should be noted that the revenue to the Earmarked Revenue Account are used to support the Public School Foundation Program. Therefore, any decrease in income to that account may necessitate additional support from other sources.

Approved by Committee
on Taxation

HOUSE BILL NO. 884

INTRODUCED BY FAGG, McBRIDE, METCALF, HOLMES,

HARPER, FRATES, SHELDEN, CODNEY, JOHNSON, NATHE,

HARRINGTON, MENAHAN, KESSLER, HEMSTAD,

RAMIREZ, HIRSCH, KEEDY, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE
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 14 from the building or collector;

15 (b) collector--the solar system component that
 16 collects solar radiation and may consist of an insulated box
 17 (metal, wood, plastic, or fiberglass) with or without
 18 glazing that contains a solar radiation absorption surface
 19 and flow passages to carry the transfer medium to be heated;
 20 the collector may also be integrated with storage, for
 21 example, south-facing glass with masonry, water tanks, or
 22 water tubes;

23 (c) distribution or transfer component--the solar
 24 system component that circulates the working fluid between
 25 the storage and collector in a domestic water heating

1 system; or, in a space conditioning system, transfers
 2 thermal energy from collector or storage and collector to
 3 the location where it is required;

4 (d) storage component--the solar system component that
 5 receives thermal energy and retains it for future use. Types
 6 of storage include:

7 (i) chemical--chemical storage used as a phase
 8 transformation of the storage material, with the heat
 9 storage capability largely dependent upon the material's
 10 latent heat of fusion or the energy transferred through
 11 chemical reactions;

12 (ii) liquid--liquid storage used to accommodate heat in
 13 proportion to its specific heat capacity and temperature
 14 increase;

15 (iii) mass materials--concrete, masonry, or other heavy
 16 materials used to store thermal energy for heating or
 17 cooling;

18 (iv) pebble or rock beds--pebble beds or rock beds
 19 used to store thermal energy for heating or cooling;

20 (e) thermal insulation shutters--the solar system
 21 component that minimizes heat loss through the collector
 22 glazing during periods of little or no solar radiation
 23 availability but which does not inhibit solar radiation
 24 transmission during periods of significant availability;

25 (f) auxiliary--the solar system component which

1 provides backup energy. Eligibility is determined by:

2 (i) physical connection to the solar system;

3 (ii) provision of less than half of the annual energy

4 supplied by the complete system; and

5 (iii) nonreliance on fossil or radioactive fuels.

6 (5) "Active solar energy system" means an indirect

7 thermal energy system that consists of components thermally

8 isolated from the living space for collection of solar

9 energy and transfer of thermal energy to provide heating,

10 cooling, or both.

11 (6) "Passive solar energy system" means a direct

12 thermal energy system that uses the structure of a building

13 and its operable components to provide heating or cooling

14 during the appropriate times of the year by using the

15 climate resources available at the site.

16 (7) "Hybrid system" means a solar energy system that

17 combines both passive and active components into one system;

18 for example, solar collectors on a roof that provide heat to

19 the direct thermal storage component located inside the

20 insulated shell of the structure.

21 Section 4. Adjustment in taxable value of certain

22 buildings. (1) The department shall adopt rules prescribing

23 heat loss standards for existing and newly constructed

24 buildings. An existing building that is remodeled or a newly

25 constructed building shall be evaluated by the department ~~OR~~

1 ~~ITS AGENT AS ESTABLISHED IN [SECTION 6]~~ to determine its

2 designed heat loss. The department ~~OR ITS AGENT~~ shall then

3 compute the degree to which the building evaluated is more

4 or less energy efficient than the established standard. The

5 difference must be expressed as a percentage of the

6 standard.

7 (2) After appraising a newly constructed or remodeled

8 building, the department of revenue shall adjust the taxable

9 value of the building to reflect the level of energy savings

10 or waste inherent in the design of the building in

11 accordance with the following tables ~~TABLE:~~

12 ~~(a) If the heat loss in a building is less than the~~

13 ~~standard, the following table applies:~~

14 % energy savings	15 % reduction in	16 Number of years
17 determined by the	18 taxable value	19 reduced value
20 department	21	22 effective
23 0 - 10	24 0	25 N.A.
more than		
10 - 20	4	10
more than		
20 - 30	8	10
more than		
30 - 40	12	15
more than		
40 - 50	16	15

1 more than
2 50 20 20
3 (b) ~~if the heat loss in a building is greater than the~~
4 ~~standards, the following table applies:~~
5 ~~% energy waste ----- % increase in ----- Number of years~~
6 ~~----- taxable value ----- reduced value~~
7 ~~----- effective -----~~
8 ~~-- 0 -- 10 ----- 0 ----- N/A -----~~
9 ~~-- more than~~
10 ~~-- 10 -- 20 ----- 4 ----- 10 -----~~
11 ~~-- more than~~
12 ~~-- 20 -- 30 ----- 8 ----- 10 -----~~
13 ~~-- more than~~
14 ~~-- 30 -- 40 ----- 12 ----- 15 -----~~
15 ~~-- more than~~
16 ~~-- 40 -- 50 ----- 16 ----- 15 -----~~
17 ~~-- more than~~
18 ~~-- 50 ----- 20 ----- 20 -----~~

19 (3) It is the intent of this section that no credit
20 under [this act] be allowed for capital investment for
21 energy conservation ~~or penalties be applied for energy waste~~
22 if the construction meets the standards set forth in the
23 rules established by the department. The rules adopted shall
24 be based on the best current available information sources,
25 including the national bureau of standards, the department

1 of housing and urban development, and any other federal
2 agencies, professional societies, or credible research
3 organizations that are involved in the field of heating,
4 cooling, and ventilating or renewable energy usage.

5 (4) The department shall annually update rules and
6 standards to conform to the new methods of construction and
7 the availability of materials that would raise the standards
8 established by the department.

9 (5) The department shall adopt rules for the
10 certification of new and remodeled construction eligible for
11 tax incentives ~~and penalties~~ described under this section.
12 The department may inspect such construction for application
13 of the tax incentives ~~and penalties~~ described in subsection
14 (2).

15 Section 5. Tax credits for renewable energy systems.
16 (1) There is allowed as a credit against the taxes imposed
17 in 15-30-103, 15-30-104, and 15-31-101:

18 (a) an amount equal to the lesser of \$5,000 or 75% of
19 the cost incurred by the taxpayer in installing an approved
20 renewable energy system in a single-family dwelling that is
21 the taxpayer's principal dwelling;

22 (b) an amount equal to the lesser of \$100,000 or 55%
23 of the cost incurred by the taxpayer in installing an
24 approved renewable energy system in a building other than
25 that described in (1)(a) above.

1 (2) No renewable energy system may be approved unless
2 it meets the minimum standards published by the department.

3 ~~(2) THE AMOUNT OF THE CREDIT MAY NOT EXCEED THE TAX~~
4 ~~LIABILITY FOR THE YEAR IN WHICH THE COSTS OF THE SYSTEM ARE~~
5 ~~INCURRED BY THE PERSON CLAIMING A CREDIT.~~

6 ~~(4) NO CREDIT MAY BE CLAIMED FOR SO MUCH OF THE COSTS~~
7 ~~OF THE RENEWABLE ENERGY SYSTEM AS IS FINANCED BY A STATE,~~
8 ~~FEDERAL, OR PRIVATE GRANT.~~

9 ~~SECTION 6. THERE IS A NEW MCA SECTION THAT READS:~~

10 Application fees. (1) No tax benefit may be received
11 under [sections 4 and 5] unless the taxpayer so requests
12 through procedures adopted by the department.

13 (2) The eligible taxpayer shall apply to the
14 department or its designated agent and shall submit a fee as
15 described in subsection (3) to cover the costs of evaluating
16 the plans or material describing the renewable energy
17 system. Any portion of the fee not used in evaluating the
18 system must be returned to the applicant.

19 (3) The following fees must be submitted with an
20 application for adjustment in the taxable value of a
21 building under [section 4] and for tax credits for renewable
22 energy systems under [section 5]:

23 (a) for evaluations under [section 4]:

24 (i) 1 1/2% of the first \$1,000 of the total cost of
25 the improvement;

1 (ii) 1% of the next \$4,000 of the total cost of the
2 improvement; and

3 (iii) 1/2% of the total cost of the improvement in
4 excess of \$5,000;

5 (b) for evaluations under [section 5] a fee of 1% of
6 the cost of the system.

7 Section 7. Required energy conservation measures. (1)
8 Every renewable energy system installed after July 1, 1979,
9 in order to qualify for an income tax credit, must also
10 include installation of the following energy conservation
11 measures: ENUMERATED IN SUBSECTION (2).

12 ~~(1) All accessible walls and ceilings or attic spaces~~
13 ~~must be insulated to a level of R-19.~~

14 ~~(2) All windows, doors, and building seams in heated~~
15 ~~rooms and structures must be weatherstripped and caulked to~~
16 ~~minimize air infiltration.~~

17 ~~(3) All existing water heaters that supplement~~
18 ~~alternate energy systems must be refitted with additional~~
19 ~~insulation with a thermal resistance value of R-6 or shall~~
20 ~~include a minimum thermal resistance of the total water~~
21 ~~heater insulation jacket of R-12.~~

22 ~~(4) All water basin faucets and shower heads in new~~
23 ~~construction must be equipped with low-flow devices rated at~~
24 ~~a maximum of 3 gallons per minute.~~

25 ~~(5) All windows must be equipped with thermal~~

1 ~~insulation-shutters-storm-windows-or-double-glazing~~
 2 ~~(2) THE DEPARTMENT SHALL ADOPT RULES AND STANDARDS FOR~~
 3 ~~THE INSTALLATION OF THE FOLLOWING ENERGY CONSERVATION~~
 4 ~~MEASURES:~~
 5 ~~(A) INSULATION LEVELS FOR ACCESSIBLE WALLS AND~~
 6 ~~CEILING OR ATTIC SPACES;~~
 7 ~~(B) INSTALLATION REQUIREMENTS TO MINIMIZE AIR~~
 8 ~~INFILTRATION FOR ALL WINDOWS, DOORS, AND BUILDING SEAMS IN~~
 9 ~~HEATED ROOMS AND STRUCTURES;~~
 10 ~~(C) INSULATION LEVELS FOR ALL EXISTING WATER HEATERS~~
 11 ~~SUPPLEMENTED WITH ALTERNATE ENERGY SYSTEMS;~~
 12 ~~(D) MAXIMUM WATER FLOW RATES FOR WATER BASIN FAUCETS~~
 13 ~~AND SHOWER HEADS FOR NEW CONSTRUCTION;~~
 14 ~~(E) INSTALLATION OF THERMAL INSULATION SHUTTERS, STORM~~
 15 ~~WINDOWS, OR DOUBLE GLAZING ON ALL WINDOWS.~~
 16 Section 8. Eligible systems. Renewable energy systems
 17 eligible for a tax credit under the provisions of [section
 18 5] include but are not limited to:
 19 (1) solar energy systems, including:
 20 (a) active solar energy systems;
 21 (b) passive solar energy systems; and
 22 (c) hybrid solar energy systems;
 23 (2) wind energy conversion systems that provide energy
 24 for heating, cooling, electricity, or mechanical purposes;
 25 (3) geothermal energy systems;

1 (4) (a) biomass energy conversion systems, including
 2 wood stoves meeting strict efficiency standards and used for
 3 auxiliary heat;
 4 (b) biomass systems using the decomposition,
 5 fermentation, or distillation or any combination of those
 6 processes for the production of direct heat or fuel; and
 7 (c) woodwaste systems used for the production of
 8 electricity;
 9 (5) hydro energy systems producing electrical or
 10 mechanical energy by means of a small system impounding not
 11 over 20 acres in surface area; or
 12 (6) any combination of the above systems.
 13 Section 9. Department of revenue to establish
 14 procedures for claiming tax credits. The department of
 15 revenue shall establish procedures and forms for claiming
 16 tax credits for renewable energy systems approved by the
 17 department.
 18 Section 10. Certification of renewable energy systems.
 19 (1) The department shall adopt rules and develop procedures
 20 and forms for the certification of renewable energy systems.
 21 (2) The department must act on an application for
 22 certification within 90 days from receipt of a complete
 23 application.
 24 Section 11. Claims of exemption. (1) A person who
 25 wishes to claim tax credit for any proposed renewable energy

1 system other than as provided in [this act] must file a
 2 claim of exemption and obtain approval of eligibility in
 3 accordance with the provisions of this section. The claimant
 4 in all proceedings under this section assumes the burden of
 5 proof.

6 (2) A claim may only be made on a form published by
 7 the department. The forms shall be revised as necessary to
 8 assist claimants in providing the information necessary to
 9 substantiate a claim. The claim shall be verified by the
 10 claimant, and the claimant is subject to the penalty
 11 provided in 45-7-202 for a false claim.

12 (3) The department may adopt rules requiring
 13 supporting documentation of the claim. The documentation
 14 shall include when relevant:

15 (a) a description of the system, including appropriate
 16 design drawings and specifications;

17 (b) an analysis of the predicted performance of the
 18 system, including the estimated amount of conventional
 19 energy displaced;

20 (c) any additional evidence in support of the claim.

21 (4) The claimant shall submit two copies of the claim
 22 of exemption to the department. Only one copy of supporting
 23 documentation need be included unless the department
 24 requests otherwise.

25 (5) At any time after submission of a claim, the

1 department may request from the claimant such information as
 2 is needed for a complete staff analysis of the claim.

3 (6) As soon as practicable after filing of a claim,
 4 the department shall review the claim. No later than 90 days
 5 after filing of a claim, the department shall issue a
 6 written decision.

7 (7) No claim may be approved unless the department
 8 finds that:

9 (a) the system proposed for exemption will result in
 10 energy savings by using renewable energy equal to or greater
 11 than energy savings from similar systems authorized by [this
 12 act];

13 (b) compliance with the requirements of [this act]
 14 would be impossible without substantial increases in costs
 15 of installing the system; and

16 (c) the systems proposed for exemption are as
 17 reliable, durable, and safe as similar systems authorized by
 18 [this act].

19 (8) The decision on the claim shall either approve or
 20 disapprove the claim in whole or in part and shall state
 21 reasons supporting the decision. A certificate of exemption
 22 shall be issued for those claims which the department
 23 approves.

24 (9) Notice of the decision shall be sent to the
 25 claimant and to any person who has requested such notice.

1 Section 12. Conformance to building codes required --
2 additional certification of performance. (1) To be eligible
3 for a tax credit under [this act], the renewable energy
4 system must receive a local building permit or department
5 approval of the system where a local building permit is not
6 applicable.

7 (2) Following installation, the renewable energy
8 system must also be determined by the department or its
9 agent to be in working order and to meet designated
10 capabilities and must be so certified.

11 Section 13. Repealer. Sections ~~15-32-101~~, 15-32-102,
12 ~~15-32-104~~ through 15-32-106, 15-32-108, and 15-32-201
13 through 15-32-203, MCA, are repealed.

14 Section 14. Effective date and applicability. This act
15 is effective on passage and approval and applies to all
16 COSTS INCURRED IN taxable years beginning after December 31,
17 1978.

-End-

1 HOUSE BILL NO. 884

2 INTRODUCED BY FAGG, McBRIDE, METCALF, HOLMES,
 3 HARPER, FRATES, SHELDEN, COONEY, JOHNSON, NATHE,
 4 HARRINGTON, MENAHAN, KESSLER, HEMSTAD,
 5 RAMIREZ, HIRSCH, KEEDY, FABREGA
 6

7 A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE
 8 'MONTANA ENERGY CONSERVATION ACT'; PROVIDING TAX INCENTIVES
 9 AND--PENALTIES FOR RENEWABLE ENERGY SYSTEMS AND ENERGY
 10 CONSERVATION PRACTICES; AND REPEALING SECTIONS ~~15-32-101~~
 11 ~~15-32-102~~ THROUGH 15-32-106, 15-32-108, AND
 12 15-32-201 THROUGH 15-32-203, MCA; PROVIDING AN EFFECTIVE
 13 DATE."
 14

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

16 Section 1. Legislative findings. The legislature finds
 17 that the state faces problems in the conversion, use, and
 18 conservation of energy. The legislature sees a
 19 responsibility to its citizens to insure adequate supplies
 20 of energy needed to provide jobs and a sound economy. Since
 21 much of our future is dependent upon adequate energy, it is
 22 necessary to enact an energy policy that will:

- 23 (1) provide needed energy to encourage and assist
 24 light and secondary industries to locate in Montana;
 25 (2) develop a program of tax incentives to encourage

1 the prevention of energy waste and the development of
 2 alternative energy;

3 (3) design programs to eliminate waste, as it is the
 4 major violation of excessive energy use;

5 (4) develop a program that will use the 2,000 to 2,800
 6 annual hours of Montana sunshine and capitalize on our wind
 7 resources, as well as our geothermal and other natural
 8 sources of energy, to supplement the traditional energy
 9 sources currently being used.

10 Section 2. Purpose. [This act] is designed to use tax
 11 incentives to encourage less energy loss in structures; to
 12 develop and use solar, wind, and other forms of renewable
 13 energy; and to establish guidelines and a program of energy
 14 conservation in Montana, providing Montanans with a state
 15 rich in energy both for today's and tomorrow's needs.

16 Section 3. Definitions. As used in [this act] the
 17 following definitions apply:

18 (1) "Building" means any improvement, including a
 19 mobile home, used for residential, commercial, industrial,
 20 or agricultural purposes, which is enclosed with walls and a
 21 roof.

22 (2) "Department" means the department of
 23 administration established in 2-15-1001.

24 (3) "Renewable energy generation system" means any
 25 heating, cooling, or energy producing system that uses at

1 its source solar, geothermal, wind, or biomass energy or
 2 hydro energy produced by means of a small system impounding
 3 not over 20 acres in surface area or a combination of any of
 4 the above systems.

5 (4) "Solar energy system" means an integrated system
 6 of components that collectively uses solar energy to heat,
 7 cool, or produce electricity and that has a useful life of
 8 at least 10 years. A solar energy system may include an
 9 active, passive, or hybrid solar energy system. A solar
 10 energy system may consist of the following components:

11 (a) glazing--the solar system component that consists
 12 of transparent or translucent materials used to transmit
 13 solar radiation and to reduce the loss of thermal energy
 14 from the building or collector;

15 (b) collector--the solar system component that
 16 collects solar radiation and may consist of an insulated box
 17 (metal, wood, plastic, or fiberglass) with or without
 18 glazing that contains a solar radiation absorption surface
 19 and flow passages to carry the transfer medium to be heated;
 20 the collector may also be integrated with storage, for
 21 example, south-facing glass with masonry, water tanks, or
 22 water tubes;

23 (c) distribution or transfer component--the solar
 24 system component that circulates the working fluid between
 25 the storage and collector in a domestic water heating

1 system; or, in a space conditioning system, transfers
 2 thermal energy from collector or storage and collector to
 3 the location where it is required;

4 (d) storage component--the solar system component that
 5 receives thermal energy and retains it for future use. Types
 6 of storage include:

7 (i) chemical--chemical storage used as a phase
 8 transformation of the storage material, with the heat
 9 storage capability largely dependent upon the material's
 10 latent heat of fusion or the energy transferred through
 11 chemical reactions;

12 (ii) liquid--liquid storage used to accommodate heat in
 13 proportion to its specific heat capacity and temperature
 14 increase;

15 (iii) mass materials--concrete, masonry, or other heavy
 16 materials used to store thermal energy for heating or
 17 cooling;

18 (iv) pebble or rock beds--pebble beds or rock beds
 19 used to store thermal energy for heating or cooling;

20 (e) thermal insulation shutters--the solar system
 21 component that minimizes heat loss through the collector
 22 glazing during periods of little or no solar radiation
 23 availability but which does not inhibit solar radiation
 24 transmission during periods of significant availability;

25 (f) auxiliary--the solar system component which

1 provides backup energy. Eligibility is determined by:

2 (i) physical connection to the solar system;

3 (ii) provision of less than half of the annual energy

4 supplied by the complete system; and

5 (iii) nonreliance on fossil or radioactive fuels.

6 (5) "Active solar energy system" means an indirect

7 thermal energy system that consists of components thermally

8 isolated from the living space for collection of solar

9 energy and transfer of thermal energy to provide heating,

10 cooling, or both.

11 (6) "Passive solar energy system" means a direct

12 thermal energy system that uses the structure of a building

13 and its operable components to provide heating or cooling

14 during the appropriate times of the year by using the

15 climate resources available at the site.

16 (7) "Hybrid system" means a solar energy system that

17 combines both passive and active components into one system;

18 for example, solar collectors on a roof that provide heat to

19 the direct thermal storage component located inside the

20 insulated shell of the structure.

21 Section 4. Adjustment in taxable value of certain

22 buildings. (1) The department shall adopt rules prescribing

23 heat loss standards for existing and newly constructed

24 buildings. An existing building that is remodeled or a newly

25 constructed building shall be evaluated by the department QB

1 ITS AGENT AS ESTABLISHED IN [SECTION 6] to determine its

2 designed heat loss. The department OR ITS AGENT shall then

3 compute the degree to which the building evaluated is more

4 or less energy efficient than the established standard. The

5 difference must be expressed as a percentage of the

6 standard.

7 (2) After appraising a newly constructed or remodeled

8 building, the department of revenue shall adjust the taxable

9 value of the building to reflect the level of energy savings

10 or waste inherent in the design of the building in

11 accordance with the following ~~table~~ TABLE:

12 ~~(c) If the heat loss in a building is less than the~~

13 ~~standard, the following table applies:~~

14 % energy savings	15 % reduction in taxable value	16 Number of years reduced value effective
17 0 - 10	18 0	19 N.A.
20 more than 10 - 20	21 4	22 10
23 more than 20 - 30	24 8	25 10
26 more than 30 - 40	27 12	28 15
29 more than 40 - 50	30 16	31 15

1 more than
2 50 20 20
3 ~~(b) if the heat loss in a building is greater than the~~
4 ~~standards, the following table applies:~~

5 % energy waste	6 % increase in taxable value	7 Number of years reduced value effective
8 ---0---10	8 ---	8 ---NA---
9 --more than		
10 ---10---20	10 ---	10 ---
11 --more than		
12 ---20---30	12 ---	12 ---
13 --more than		
14 ---30---40	14 ---	14 ---
15 --more than		
16 ---40---50	16 ---	16 ---
17 --more than		
18 ---50---	18 ---	18 ---

19 (3) It is the intent of this section that no credit
20 under [this act] be allowed for capital investment for
21 energy conservation ~~or penalties be applied for energy waste~~
22 if the construction meets the standards set forth in the
23 rules established by the department. The rules adopted shall
24 be based on the best current available information sources,
25 including the national bureau of standards, the department

1 of housing and urban development, and any other federal
2 agencies, professional societies, or credible research
3 organizations that are involved in the field of heating,
4 cooling, and ventilating or renewable energy usage.

5 (4) The department shall annually update rules and
6 standards to conform to the new methods of construction and
7 the availability of materials that would raise the standards
8 established by the department.

9 (5) The department shall adopt rules for the
10 certification of new and remodeled construction eligible for
11 tax incentives ~~and penalties~~ described under this section.
12 The department may inspect such construction for application
13 of the tax incentives ~~and penalties~~ described in subsection
14 (2).

15 Section 5. Tax credits for renewable energy systems.
16 (1) There is allowed as a credit against the taxes imposed
17 in 15-30-103, 15-30-104, and 15-31-101:

18 (a) an amount equal to the lesser of \$5,000 or 75% of
19 the cost incurred by the taxpayer in installing an approved
20 renewable energy system in a single-family dwelling that is
21 the taxpayer's principal dwelling;

22 (b) an amount equal to the lesser of \$100,000 or 55%
23 of the cost incurred by the taxpayer in installing an
24 approved renewable energy system in a building other than
25 that described in (1)(a) above.

1 (2) No renewable energy system may be approved unless
2 it meets the minimum standards published by the department.

3 ~~(3) THE AMOUNT OF THE CREDIT MAY NOT EXCEED THE TAX~~
4 ~~LIABILITY FOR THE YEAR IN WHICH THE COSTS OF THE SYSTEM ARE~~
5 ~~INCURRED BY THE PERSON CLAIMING A CREDIT.~~

6 ~~(4) NO CREDIT MAY BE CLAIMED FOR SO MUCH OF THE COSTS~~
7 ~~OF THE RENEWABLE ENERGY SYSTEM AS IS FINANCED BY A STATE,~~
8 ~~FEDERAL, OR PRIVATE GRANT.~~

9 SECTION 6. THERE IS A NEW MCA SECTION THAT READS:

10 Application fees. (1) No tax benefit may be received
11 under [sections 4 and 5] unless the taxpayer so requests
12 through procedures adopted by the department.

13 (2) The eligible taxpayer shall apply to the
14 department or its designated agent and shall submit a fee as
15 described in subsection (3) to cover the costs of evaluating
16 the plans or material describing the renewable energy
17 system. Any portion of the fee not used in evaluating the
18 system must be returned to the applicant.

19 (3) The following fees must be submitted with an
20 application for adjustment in the taxable value of a
21 building under [section 4] and for tax credits for renewable
22 energy systems under [section 5]:

23 (a) for evaluations under [section 4]:

24 (i) 1 1/2% of the first \$1,000 of the total cost of
25 the improvement;

1 (ii) 1% of the next \$4,000 of the total cost of the
2 improvement; and

3 (iii) 1/2% of the total cost of the improvement in
4 excess of \$5,000;

5 (b) for evaluations under [section 5] a fee of 1% of
6 the cost of the system.

7 Section 7. Required energy conservation measures. (1)
8 Every renewable energy system installed after July 1, 1979,
9 in order to qualify for an income tax credit, must also
10 include installation of the following energy conservation
11 measures: ENUMERATED IN SUBSECTION (2).

12 ~~(1) Accessible walls and ceilings or attic spaces~~
13 ~~must be insulated to a level of R-19.~~

14 ~~(2) Windows, doors, and building seams in heated~~
15 ~~rooms and structures must be weatherstripped and caulked to~~
16 ~~minimize air infiltration.~~

17 ~~(3) Existing water heaters that supplement~~
18 ~~alternate energy systems must be refitted with additional~~
19 ~~insulation with a thermal resistance value of R-6 or shall~~
20 ~~include a minimum thermal resistance of the total water~~
21 ~~heater insulation jacket of R-12.~~

22 ~~(4) Water basin faucets and shower heads in new~~
23 ~~construction must be equipped with low-flow devices rated at~~
24 ~~a maximum of 3 gallons per minute.~~

25 ~~(5) Windows must be equipped with thermal~~

~~insulation-shutters-storm-windows-or-double-glazing~~

~~(2) THE DEPARTMENT SHALL ADOPT RULES AND STANDARDS FOR THE INSTALLATION OF THE FOLLOWING ENERGY CONSERVATION MEASURES:~~

~~(A) INSULATION LEVELS FOR ACCESSIBLE WALLS AND CEILINGS OR ATTIC SPACES;~~

~~(B) INSTALLATION REQUIREMENTS TO MINIMIZE AIR INFILTRATION FOR ALL WINDOWS, DOORS, AND BUILDING SEAMS IN HEATED ROOMS AND STRUCTURES;~~

~~(C) INSULATION LEVELS FOR ALL EXISTING WATER HEATERS SUPPLEMENTED WITH ALTERNATE ENERGY SYSTEMS;~~

~~(D) MAXIMUM WATER FLOW RATES FOR WATER BASIN FAUCETS AND SHOWER HEADS FOR NEW CONSTRUCTION;~~

~~(E) INSTALLATION OF THERMAL INSULATION SHUTTERS, STORM WINDOWS, OR DOUBLE GLAZING ON ALL WINDOWS.~~

Section 8. Eligible systems. Renewable energy systems eligible for a tax credit under the provisions of {section 5} include but are not limited to:

(1) solar energy systems, including:

(a) active solar energy systems;

(b) passive solar energy systems; and

(c) hybrid solar energy systems;

(2) wind energy conversion systems that provide energy for heating, cooling, electricity, or mechanical purposes;

(3) geothermal energy systems;

(4) (a) biomass energy conversion systems, including EXCLUDING wood stoves meeting strict efficiency standards and used for auxiliary heat AND FIREPLACES;

(b) biomass systems using the decomposition, fermentation, or distillation or any combination of those processes for the production of direct heat or fuel; and

(c) woodwaste systems used for the production of electricity;

(5) hydro energy systems producing electrical or mechanical energy by means of a small system impounding not over 20 acres in surface area; or

(6) any combination of the above systems.

Section 9. Department of revenue to establish procedures for claiming tax credits. The department of revenue shall establish procedures and forms for claiming tax credits for renewable energy systems approved by the department.

Section 10. Certification of renewable energy systems.

(1) The department shall adopt rules and develop procedures and forms for the certification of renewable energy systems.

(2) The department must act on an application for certification within 90 days from receipt of a complete application.

Section 11. Claims of exemption. (1) A person who wishes to claim tax credit for any proposed renewable energy

1 system other than as provided in [this act] must file a
2 claim of exemption and obtain approval of eligibility in
3 accordance with the provisions of this section. The claimant
4 in all proceedings under this section assumes the burden of
5 proof.

6 (2) A claim may only be made on a form published by
7 the department. The forms shall be revised as necessary to
8 assist claimants in providing the information necessary to
9 substantiate a claim. The claim shall be verified by the
10 claimant, and the claimant is subject to the penalty
11 provided in 45-7-202 for a false claim.

12 (3) The department may adopt rules requiring
13 supporting documentation of the claim. The documentation
14 shall include when relevant:

15 (a) a description of the system, including appropriate
16 design drawings and specifications;

17 (b) an analysis of the predicted performance of the
18 system, including the estimated amount of conventional
19 energy displaced;

20 (c) any additional evidence in support of the claim.

21 (4) The claimant shall submit two copies of the claim
22 of exemption to the department. Only one copy of supporting
23 documentation need be included unless the department
24 requests otherwise.

25 (5) At any time after submission of a claim, the

1 department may request from the claimant such information as
2 is needed for a complete staff analysis of the claim.

3 (6) As soon as practicable after filing of a claim,
4 the department shall review the claim. No later than 90 days
5 after filing of a claim, the department shall issue a
6 written decision.

7 (7) No claim may be approved unless the department
8 finds that:

9 (a) the system proposed for exemption will result in
10 energy savings by using renewable energy equal to or greater
11 than energy savings from similar systems authorized by [this
12 act];

13 (b) compliance with the requirements of [this act]
14 would be impossible without substantial increases in costs
15 of installing the system; and

16 (c) the systems proposed for exemption are as
17 reliable, durable, and safe as similar systems authorized by
18 [this act].

19 (8) The decision on the claim shall either approve or
20 disapprove the claim in whole or in part and shall state
21 reasons supporting the decision. A certificate of exemption
22 shall be issued for those claims which the department
23 approves.

24 (9) Notice of the decision shall be sent to the
25 claimant and to any person who has requested such notice.

1 Section 12. Conformance to building codes required --
2 additional certification of performance. (1) To be eligible
3 for a tax credit under [this act], the renewable energy
4 system must receive a local building permit or department
5 approval of the system where a local building permit is not
6 applicable.

7 (2) Following installation, the renewable energy
8 system must also be determined by the department or its
9 agent to be in working order and to meet designated
10 capabilities and must be so certified.

11 Section 13. Repealer. Sections ~~15-32-101~~, 15-32-102,
12 ~~15-32-104~~ through 15-32-106, 15-32-108, and 15-32-201
13 through 15-32-203, MCA, are repealed.

14 Section 14. Effective date and applicability. This act
15 is effective on passage and approval and applies to all
16 COSTS INCURRED IN taxable years beginning after December 31,
17 1978.

-End-