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 McBride Metcalf Holmes Hayne Frater Sheldon Conney Johnson Nathe Hammond Menahan Keeler Hirsch Keedy

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

the above systems.

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

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

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

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

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

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

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

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

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

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

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

(i) physical connection to the solar system;

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

supplied by the complete system; and

(iii) nonreliance on fossil or radioactive fuels.

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

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

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

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

difference must be expressed as a percentage of the standard.

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

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

% energy savings determined by the department	% reduction in taxable value	Number of years reduced value effective
0 - 10	0	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
more than 50	20	20

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

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% energy waste	% increase in taxable value	Number of years reduced value effective
0 - 10	0	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
more than 50	20	20

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 7. 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 wood stoves meeting strict efficiency standards and used for auxiliary heat;

(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 8. 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 9. 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

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application.

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

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

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

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

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

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

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

documentation need be included unless the department requests otherwise.

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

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

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

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

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

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

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

approves.

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

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

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

Section 12. Repealer. 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, are repealed.

Section 13. Effective date and applicability. This act is effective on passage and approval and applies to all 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	1,000
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 insultation 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:	FY80	FY81
Corporation License Tax and Income Tax		
under current law	$189,268,000	$204,790,000
under proposed law	187,121,250	201,930,750
Estimated Decrease	($ 2,146,750)	($ 2,859,250)
Fund Information:		
General Fund		
under current law	$121,131,520	$131,065,600
under proposed law	119,757,600	129,235,680
Estimated Decrease	($ 1,373,920)	($ 1,829,920)
Earmarked Revenue (School Foundation Program)		
under current law	$ 47,317,000	$ 51,197,500
under proposed law	46,780,313	50,482,688
Estimated Decrease	($ 536,687)	($ 714,812)
Sinking Fund		
under current law	$ 20,819,480	$ 22,526,900
under proposed law	20,583,337	22,212,382
Estimated Decrease	($ 236,143)	($ 314,518)

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 Building Codes Division	FY80	FY81
Personal Services	$2,759,612	$2,925,189
Operating costs	941,850	998,361
Equipment	110,400	20,000
	$3,811,862	$3,943,550

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. Irwin for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3/7/79

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:

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

Continued on Page 2

Richard L. Irwin for

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 4/4/79

FUND INFORMATION:

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

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, COONEY, JOHNSON, NATHE,
HARRINGTON, MENAHAN, KESSLER, HEMSTAD,
RAMIREZ, HIRSCH, KEEDY, FABREGA

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."

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SECOND READING

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

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

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

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

(f) auxiliary--the solar system component which

provides backup energy. Eligibility is determined by:

(i) physical connection to the solar system;

(ii) provision of less than half of the annual energy supplied by the complete system; and

(iii) nonreliance on fossil or radioactive fuels.

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

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

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

Section 4. Adjustment in taxable value of certain buildings. (1) The department shall adopt rules prescribing heat loss standards for existing and newly constructed buildings. An existing building that is remodeled or a newly constructed building shall be evaluated by the department OR

ITS AGENT AS ESTABLISHED IN [SECTION 6] to determine its designed heat loss. The department OR ITS AGENT shall then compute the degree to which the building evaluated is more or less energy efficient than the established standard. The difference must be expressed as a percentage of the standard.

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

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

% energy savings determined by the department	% reduction in taxable value	Number of years reduced value effective
0 - 10	0	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

more than

50 20 20

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

~~%-energy-waste----------%-increase-in------Number-of-years----------taxable-value-------reduced-value---effective---~~

~~---0---10----------0----------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---------~~

~~--more-than~~

~~-----50----------20----------20---------~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) for evaluations under [section 4]:

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

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

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

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

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

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

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

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

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

~~(5) All 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 wood stoves meeting strict efficiency standards and used for auxiliary heat;

(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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 13. Repealer. 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, are repealed.

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

-End-

HOUSE BILL NO. 884

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

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

THIRD READING

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 the above systems.

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

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

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

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

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

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

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

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

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

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

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

(f) auxiliary--the solar system component which

provides backup energy. Eligibility is determined by:

(i) physical connection to the solar system;

(ii) provision of less than half of the annual energy supplied by the complete system; and

(iii) nonreliance on fossil or radioactive fuels.

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

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

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

Section 4. Adjustment in taxable value of certain buildings. (1) The department shall adopt rules prescribing heat loss standards for existing and newly constructed buildings. An existing building that is remodeled or a newly constructed building shall be evaluated by the department OR

ITS AGENT AS ESTABLISHED IN [SECTION 6] to determine its designed heat loss. The department OR ITS AGENT shall then compute the degree to which the building evaluated is more or less energy efficient than the established standard. The difference must be expressed as a percentage of the standard.

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

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

% energy savings determined by the department	% reduction in taxable value	Number of years reduced value effective
0 - 10	0	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

more than

50 20 20

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

~~% energy waste | % increase in taxable value | Number of years reduced value effective~~

~~0 10 0 New~~

~~more than~~

~~10 20 4 10~~

~~more than~~

~~20 30 8 10~~

~~more than~~

~~30 40 12 15~~

~~more than~~

~~40 50 16 15~~

~~more than~~

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

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