House Bill 707

In The House

February 10, 1981	Introduced and referred to Committee on Taxation.
February 16, 1981	Fiscal note requested.
February 18, 1981	Fiscal note returned.
March 28, 1981	Committee recommend bill do not pass.

House BILL NO. 707

INTRODUCED BY Walsh - Eggs

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE "MONTANA ENERGY CONSERVATION ACT"; PROVIDING TAX INCENTIVES FOR RENEWABLE ENERGY SYSTEMS AND ENERGY CONSERVATION PRACTICES; REPEALING SECTIONS 15-32-102 THROUGH 15-32-106, 15-32-108, AND 15-32-201 THROUGH 15-32-203, MCA; AND 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 consequence of excessive energy use;

LC 1247/01

(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 that 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 as 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.

INTRODUCED BILL
HB 707

(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 that does not inhibit solar radiation transmission during periods of significant availability;

(f) auxiliary--the solar system component that 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 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 inherent in the design of the building in accordance with the following table:

% 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

(3) It is the intent of this section that no credit under [this act] be allowed for capital investment for energy conservation if the construction meets only the minimum 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 creditable research organizations that are involved in the field of heating, cooling, and

HB707

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 described under this section. The department may inspect such construction for application of the tax incentives 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 subsection (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. 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) 1.5% 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) 0.5% 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, 1981, in order to qualify for an income tax credit, must also include installation of the energy conservation measures enumerated in subsection (2).

(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, excluding wood stoves 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

 HB 707

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 be made only 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 if 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 15-32-102 through 15-32-106, 15-32-108, and 15-32-201 through 15-22-203, MCA, are repealed.

Section 14. Effective date and applicability. This act is effective on passage and approval and applies to all taxable years beginning after December 31, 1980.

-End-

HB 707

STATE OF MONTANA

REQUEST NO. 386-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 18, 19 81, there is hereby submitted a Fiscal Note for HOUSE BILL 707 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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

An act to be known as the "Montana Energy Conservation Act", providing tax incentives for renewable energy systems and energy conservation.

FISCAL INFORMATION DEPARTMENT OF ADMINISTRATION

REVENUE AND EXPENDITURE IMPACT	FY 82			FY 83		
State Impact:	Amount Under Existing Law	Amount Under Proposed Law	Increase (Decrease)	Amount Under Existing Law	Amount Under Proposed Law	Increase (Decrease)
Revenue:						
Earmarked (permit fees)	1,171,661	1,171,661	0	1,221,855	1,221,855	0
Energy Rev. Fees		843,898	843,898		945,166	945,166
Expenditures:						
Personal Serv.	815,890	1,488,693	672,803	816,080	1,569,619	753,539
Operating Exp.	352,347	504,242	151,895	402,351	572,473	170,122
Capital Outlay	3,424	22,624	19,200	3,424	24,929	21,505
Total Expend.	1,171,661	2,015,559	843,898	1,221,855	2,167,021	945,166
Net Effect (Rev. less Costs)	0	0	0	0	0	0

REVENUE IMPACT: DEPARTMENT OF REVENUE

ASSUMPTIONS

1. There will be 300 renewable energy devices installed in homes each fiscal year. In 1979, there were 198 legitimate claims for the alternative energy credit.
2. There will be 50 commercial installations each fiscal year.
3. Residential devices will cost an average of $3,000 each and commercial units will average $15,000 each.
4. The proposal does not allow the carryover of unused credits, therefore the income distribution of taxpayers claiming the alternative energy credit in 1979 and income tax liability figures are used to estimate the changes in individual income tax revenues.
5. No data are available to estimate the impact on property tax revenue.

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: _____

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FISCAL IMPACT

	FY 82	FY 83
Corp. License Tax & Indiv. Inc. Tax		
Under current law	$207,256,000	$214,393,000
Under proposed law	206,604,198	213,741,198
Estimated Decrease	($ 651,802)	($ 651,802)
University Levy		
Under current law		
Under proposed law	UNKNOWN	UNKNOWN

EFFECT ON LOCAL GOVERNMENT

Local government should experience a decrease in revenues because of the adjustments of taxable values. Presumably, the addition of renewable energy systems would tend to increase taxable values of homes. On net, it is felt that the reduction in taxable values proposed by this bill will negate any increases in taxable values due to the improvements. Furthermore, the impact on revenue would tend to increase over time due to the length of time the reduced taxable values are in effect.

TECHNICAL NOTE

Note that the estimated fiscal impact may be conservative. This proposal and the current Federal program can result in maximum credits of 105% of the installation cost. This could result in large increases in the installation of these devices.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-18-81