

SENATE BILL NO. 283

Introduced: 01/25/83

Referred to Committee on Natural Resources: 01/25/83

Hearing: 2/7/83

Report: 02/15/83, Do Pass, As Amended

2nd Reading: 02/17/83

On Motion, 2/18/83, That The Bill Be Taken From Engrossing
and Rereferred To 2nd Reading. Motion Passed.

On Motion, 2/16/83, That The Bill Be Taken From 2nd Reading
and Rereferred To The Committee on Taxation. Motion
Carried.

Rereferred to Committee on Taxation: 2/18/83

Report: 03/01/83, Do Pass

2nd Reading: 03/03/83

3rd Reading: 03/04/83

Transmitted to House: 3/4/83

Referred to Committee on Taxation: 03/07/83

Hearing: 3/17/83

Report: 03/23/83, Be Concurred In, As Amended

2nd Reading: 03/04/83, Be Not Concurred In
Bill Killed.

1 *Sen. Bill No. 283*
2 INTRODUCED BY *Fuller, Hollen, Christine*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAX CREDIT
5 FOR THE INSTALLATION OF SOLAR ENERGY SYSTEMS IN MONTANA;
6 DEFINING SUCH SYSTEMS; AND PROVIDING RULEMAKING AUTHORITY TO
7 ESTABLISH CRITERIA FOR SUCH SYSTEMS; REPEALING SECTIONS
8 15-32-201 THROUGH 15-32-203, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Short title. This act may be cited as the
12 "Montana Solar Tax Credit Act of 1983".

13 Section 2. Definitions. As used in [this act], unless
14 the context requires otherwise, the following definitions
15 apply:

16 (1) "Active thermal system" means a system that uses
17 solar devices thermally isolated from the living or
18 commercial space to provide for collection, storage, or
19 distribution of solar energy for heating, cooling, hot
20 water, or electricity.

21 (2) "Dwelling" means a building or portion thereof
22 used for residential purposes and includes single-family
23 residences, mobile homes, and the individual units of
24 condominiums, cooperatives, apartment buildings, or other
25 similar multiple dwellings.

1 (3) "Energy conservation measures" includes but is not
2 limited to load management devices, flue dampers, efficiency
3 increasing devices, insulation above standards set by
4 building codes, water heating insulation jackets, water
5 heater and distribution system timing devices, and shower
6 and faucet flow-reducing devices.

7 (4) "Installed" means placed in position in a
8 functionally operative state.

9 (5) "Owner" includes a recorded holder of legal title,
10 a lessee with at least 3 years remaining on his lease, the
11 holder of a recorded easement, a person purchasing premises
12 under a contract of sale or who holds shares or membership
13 in a cooperative housing corporation, which holding is a
14 requisite to the exclusive right of occupancy to the
15 premises, or a person who is a member of a nonprofit
16 corporation or association that is a recorded holder of
17 legal title.

18 (6) "Passive thermal system" means a system that uses
19 the structural elements of the building, not augmented by
20 mechanical components, to provide for collection, storage,
21 or distribution of solar energy for heating or cooling in
22 residential and commercial applications.

23 (7) "Premises" means the principal stationary location
24 in Montana where the system is installed for direct use or
25 for purposes of sale of energy and includes land, easements,

INTRODUCED BILL

-2-

SB 283

1 buildings or portions thereof such as roofs, and mobile
2 homes.

3 (8) "Semipassive thermal system" means a system that
4 uses the structure of a building, augmented by mechanical
5 components, to provide for collection, storage, or
6 distribution of solar energy for heating or cooling in
7 residential and commercial applications.

8 (9) "Solar device" means the equipment associated with
9 the collection, conversion, transfer, distribution, storage,
10 or control of solar energy. In the case of a solar device
11 associated with two or more solar energy systems, the credit
12 allowed for the solar device may be taken for any one of the
13 systems or divided equally among them.

14 (10) "Solar energy system" means the use of solar
15 devices, including but not limited to passive thermal
16 systems, semipassive thermal systems, active thermal
17 systems, photovoltaic systems, and wind-driven systems, with
18 a useful life of at least 3 years and used for the direct
19 production of energy for resale or use and for the
20 individual functions of:

- 21 (a) domestic, recreational, therapeutic, or service
- 22 water heating;
- 23 (b) space conditioning;
- 24 (c) production of electricity;
- 25 (d) process heat, including distillation;

1 (e) solar mechanical energy; or

2 (f) wind energy for the production of electricity or
3 mechanical work.

4 Section 3. Tax credit for solar system -- dwellings.
5 The owner of a dwelling located in Montana on which a solar
6 energy system is installed may claim a tax credit in an
7 amount equal to 60% of the eligible costs incurred, to be
8 taken against the tax liability imposed upon the owner
9 pursuant to Title 15, chapter 30 or 31.

10 Section 4. Eligible costs. (1) For the purposes of
11 determining the amount of the tax credit that may be claimed
12 pursuant to [section 3 or 5], eligible costs include
13 purchase costs, installation charges, monthly lease
14 payments, and the compensation paid to the owner of burdened
15 property in connection with the acquisition of a solar
16 easement as provided for in Title 70, chapter 17, part 3.
17 Energy conservation measures applied in conjunction with
18 solar energy systems to reduce the total cost or backup
19 energy requirements of such systems are considered part of
20 the systems and are eligible costs. Interest charges are
21 not eligible costs.

22 (2) The eligible costs of any solar energy system
23 eligible for the credit provided under this section must be
24 reduced by any grant provided by a state or federal agency
25 for such a system.

Section 5. Tax credit for solar system — premises other than dwellings. The owner of premises other than a dwelling, located in Montana, on which a solar energy system is installed may claim a tax credit in an amount equal to 25% of the eligible costs incurred, to be taken against the tax liability imposed upon the owner pursuant to Title 15, chapter 30 or 31.

Section 6. Limitation on credit. (1) To the extent that the federal energy tax credit for costs incurred by a taxpayer for the purchase and installation of a solar energy system is allowed or allowable, the state tax credit provided for in [section 3 or 5] must be reduced by the amount of any federal credit so that the effective credit for any taxable year does not exceed 60% of eligible costs.

(2) The total amount of credit available to any taxpayer may not exceed \$3,000 per solar energy system.

Section 7. Carryover of credit. The tax credit allowed under [section 3 or 5] is to be deducted from the taxpayer's income tax liability for the taxable year in which the system invested in by the taxpayer is installed. If the amount of the tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax

credit has been deducted from tax liability. However, no tax credit may be carried over for deduction after the fourth taxable year succeeding the taxable year in which the system was installed.

Section 8. Apportionment of credit. If a solar energy system serves two or more dwellings, the owner or owners of the system are eligible for the tax credit provided in [section 3] in proportion to the number of dwellings served. The amount of the credit must be determined by dividing the eligible costs of the system by the number of dwellings served.

Section 9. Special provision for owner-builders. The owner-builder or owner-developer of a new home may elect not to claim the solar energy tax credit for any or all systems installed on a new home. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit provided for in [section 3], the original purchaser of the new home on which the system is installed may claim the credit. In claiming the credit, the purchaser shall confirm the election by a written document signed by the owner-builder or owner-developer.

Section 10. Leased solar energy systems. Taxpayers who lease a solar energy system are eligible for the tax credit provided in [section 3 or 5]. In any year, the credit applies only to the principal recovery portion of lease

1 payments made during that year and to amounts expended on a
2 portion of the system purchased under the lease agreement
3 during that year. As used in this section, "principal
4 recovery portion" means the cost incurred by the lessor in
5 acquiring the solar energy system, including equipment and
6 installation costs in a purchase agreement or promissory
7 note, but does not include interest charges or maintenance
8 expenses.

9 Section 11. Rulemaking. The department of natural
10 resources and conservation shall establish guidelines and
11 criteria for solar energy systems that are eligible for the
12 tax credit provided by [section 3 or 5]. Such guidelines
13 and criteria are limited to minimum standards for the
14 safety, reliability, and durability of solar energy systems.

15 Section 12. Repealer. Sections 15-32-201 through
16 15-32-203, MCA, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 244-83

FISCAL NOTE

Form BD 15

In compliance with a written request received January 26, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 283 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 OF PROPOSED LEGISLATION:

Senate Bill 283 provides a tax credit for the installation of solar energy systems in Montana; defines such systems; and provides rulemaking authority to establish criteria for such systems.

ASSUMPTIONS:

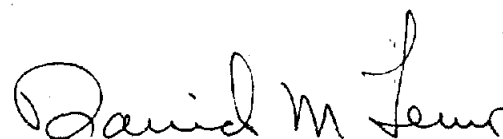
- 1) An engineer (grade 15, step 2) will be required for one year to review existing standards and develop standards for Montana.
- 2) Safety standards will be covered by building codes.

FISCAL IMPACT:

Lower bound estimates of the reduction of individual income tax collections are \$496,000 and \$592,000 for fiscal years 1984 and 1985, respectively. These estimates are based on the amount of credits likely to be produced by the continuation of the existing alternative energy credit. However, the bill would greatly liberalize the credit by increasing the credit rates, increasing the maximum credit, and increasing the types of investments which would qualify. All of these factors will lead to a greater decline in revenues.

No estimate of the reduction in corporate license tax collections is possible since no data is available.

<u>Expenditures</u>	<u>FY 84</u>	<u>FY 85</u>
Personal Services:		
Salary	\$ 21,872	\$ -0-
Benefits (@ 20%)	4,374	-0-
Total	<u>\$ 26,246</u>	<u>\$ -0-</u>

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-31-83

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Since the proposed state credit is tied to the federal credit, the revenue impact will be greatly increased when and if the federal credit is reduced or eliminated. The elimination of the federal credit, for example, would increase to state credit from 20% to 60%, leading to a greater impact on individual income tax collections.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

- 1) The proposal extends credits to more types of investments than the federal government allows. Hence, the credit rate for the investments not allowed by the IRS will be 60% not 20%.
- 2) Section 4 includes energy conservation measures in eligible costs of the system. This could be construed to include conservation measures applied to the dwelling, not just the alternative energy system. In this case, the credit rate will be 45% for this portion of the investment, which would conflict with the existing energy conservation credit and possibly lead to two credits being claimed on the same investment.
- 3) The Department of Natural Resources and Conservation may not be able to develop reliability standards for passive solar systems, because passive solar systems must be an integral part of a structure and each structure tends to be different.

Approved by Committee
on Natural Resources

SENATE BILL NO. 283
INTRODUCED BY FULLER,
HALLIGAN, CHRISTIAEMS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAX CREDIT
FOR THE INSTALLATION OF SOLAR ENERGY SYSTEMS IN MONTANA;
DEFINING SUCH SYSTEMS; AND PROVIDING RULEMAKING AUTHORITY TO
ESTABLISH CRITERIA FOR SUCH SYSTEMS; REPEALING SECTIONS
15-32-201 THROUGH 15-32-203, MCA; AND PROVIDING AN
APPLICABILITY DATE."

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

Section 1. Short title. This act may be cited as the
"Montana Solar Tax Credit Act of 1983".

Section 2. Definitions. As used in [this act], unless
the context requires otherwise, the following definitions
apply:

(1) "Active thermal system" means a system that uses
solar devices thermally isolated from the living or
commercial space to provide for collection, storage, or
distribution of solar energy for heating, cooling, hot
water, or electricity.

(2) "Dwelling" means a building or portion thereof
used for residential purposes and includes single-family
residences, mobile homes, and the individual units of

condominiums, cooperatives, apartment buildings, or other
similar multiple dwellings.

(3) "Energy conservation measures" includes but is not
limited to load management devices, flue dampers, efficiency
increasing devices, insulation above standards set by
building codes, water heating insulation jackets, water
heater and distribution system timing devices, and shower
and faucet flow-reducing devices.

(4) "Installed" means placed in position in a
functionally operative state.

(5) "Owner" includes a recorded holder of legal title,
a lessee with at least 3 years remaining on his lease, the
holder of a recorded easement, a person purchasing premises
under a contract of sale or who holds shares or membership
in a cooperative housing corporation, which holding is a
requisite to the exclusive right of occupancy to the
premises, or a person who is a member of a nonprofit
corporation or association that is a recorded holder of
legal title.

(6) "Passive thermal system" means a system that uses
the structural elements of the building, not augmented by
mechanical components, to provide for collection, storage,
or distribution of solar energy for heating or cooling in
residential and commercial applications.

(7) "Premises" means the principal stationary location

in Montana where the system is installed for direct use or for purposes of sale of energy and includes land, easements, buildings or portions thereof such as roofs, and mobile homes.

(8) "Semipassive thermal system" means a system that uses the structure of a building, augmented by mechanical components, to provide for collection, storage, or distribution of solar energy for heating or cooling in residential and commercial applications.

(9) "Solar device" means the equipment associated with the collection, conversion, transfer, distribution, storage, or control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems or divided equally among them.

(10) "Solar energy system" means the use of solar devices, including but not limited to passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems, and wind-driven systems, with a useful life of at least 3 years and used for the direct production of energy for resale or use and for the individual functions of:

(a) domestic, recreational, therapeutic, or service water heating;

(b) space conditioning;

(c) production of electricity;

(d) process heat, including distillation;

(e) solar mechanical energy; or

(f) wind energy for the production of electricity or mechanical work.

Section 3. Tax credit for solar system -- dwellings.

The owner of a dwelling located in Montana on which a solar energy system is installed may claim a tax credit in an amount equal to 60% 20% of the eligible costs incurred, to be taken against the tax liability imposed upon the owner pursuant to Title 15, chapter 30 or 31. IF THE SOLAR ENERGY SYSTEM IS OWNED BY MORE THAN ONE PERSON OR CORPORATION, NO MORE THAN AN AGGREGATE OF 20% OF THE ELIGIBLE COSTS MAY BE CLAIMED AS A CREDIT BY ALL OWNERS OF THE SOLAR ENERGY SYSTEM.

Section 4. Eligible costs. (1) For the purposes of determining the amount of the tax credit that may be claimed pursuant to [section 3 or 5], eligible costs include purchase costs, installation charges, monthly lease payments, and the compensation paid to the owner of burdened property in connection with the acquisition of a solar easement as provided for in Title 70, chapter 17, part 3. Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems are considered part of

the systems and are eligible costs. ~~HOWEVER, IF A CREDIT IS CLAIMED FOR ENERGY CONSERVATION MEASURES UNDER [THIS ACT], IT MAY NOT ALSO BE CLAIMED UNDER TITLE 15, CHAPTER 32, PART 1.~~ Interest charges are not eligible costs.

(2) The eligible costs of any solar energy system eligible for the credit provided under this section must be reduced by any grant provided by a state or federal agency for such a system.

Section 5. Tax credit for solar system -- premises other than dwellings. The owner of premises other than a dwelling, located in Montana, on which a solar energy system is installed may claim a tax credit in an amount equal to 25% of the eligible costs incurred, to be taken against the tax liability imposed upon the owner pursuant to Title 15, chapter 30 or 31.

Section 6. Limitation on credit. (1) To the extent that the federal energy tax credit for costs incurred by a taxpayer for the purchase and installation of a solar energy system is allowed or allowable, the state tax credit provided for in [section 3 or 5] must be reduced by the amount of any federal credit so that the effective credit for any taxable year does not exceed 60% of eligible costs.

(2) The total amount of credit available to any taxpayer may not exceed ~~\$3,000~~ \$1,000 per solar energy system.

Section 7. Carryover of credit. The tax credit allowed under [section 3 or 5] is to be deducted from the taxpayer's income tax liability for the taxable year in which the system invested in by the taxpayer is installed. If the amount of the tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability. However, no tax credit may be carried over for deduction after the fourth taxable year succeeding the taxable year in which the system was installed.

Section 8. Apportionment of credit. If a solar energy system serves two or more dwellings, the owner or owners of the system are eligible for the tax credit provided in [section 3] in proportion to the number of dwellings served. The amount of the credit must be determined by dividing the eligible costs of the system by the number of dwellings served.

Section 9. Special provision for owner-builders. The owner-builder or owner-developer of a new home may elect not to claim the solar energy tax credit for any or all systems installed on a new home. If an owner-builder or owner-developer irrevocably elects not to claim the tax

1 credit provided for in [section 3], the original purchaser
 2 of the new home on which the system is installed may claim
 3 the credit. In claiming the credit, the purchaser shall
 4 confirm the election by a written document signed by the
 5 owner-builder or owner-developer. ~~IE THE OWNER-DEVELOPER~~
 6 ~~ELECTS TO FOREGO THE CREDIT PROVIDED FOR IN [SECTION 3], BUT~~
 7 ~~CLAIMS A FEDERAL ENERGY TAX CREDIT FOR THE SOLAR ENERGY~~
 8 ~~SYSTEM, THE PURCHASER MUST REDUCE THE STATE TAX CREDIT~~
 9 ~~PROVIDED IN [SECTION 3] SO THAT THE EFFECTIVE CREDIT FOR ANY~~
 10 ~~TAXABLE YEAR DOES NOT EXCEED 20% OF ELIGIBLE COSTS.~~

11 Section 10. Leased solar energy systems. Taxpayers who
 12 lease a solar energy system are eligible for the tax credit
 13 provided in [section 3 or 5]. In any year, the credit
 14 applies only to the principal recovery portion of lease
 15 payments made during that year and to amounts expended on a
 16 portion of the system purchased under the lease agreement
 17 during that year. As used in this section, "principal
 18 recovery portion" means the cost incurred by the lessor in
 19 acquiring the solar energy system, including equipment and
 20 installation costs in a purchase agreement or promissory
 21 note, but does not include interest charges or maintenance
 22 expenses.

23 ~~Section 11--Rulemaking. The department of natural~~
 24 ~~resources and conservation shall establish guidelines and~~
 25 ~~criteria for solar energy systems that are eligible for the~~

1 ~~tax--credit--provided--by--[section 3 or 5]--Such guidelines~~
 2 ~~and criteria are limited to minimum standards for the~~
 3 ~~safety, reliability and durability of solar energy systems.~~
 4 THERE IS A NEW MCA SECTION THAT READS:

5 Section 11. Rulemaking. The department of revenue is
 6 authorized to make such rules and to require such facts and
 7 information to be reported as it may deem necessary to
 8 enforce the provisions of this act. The department of
 9 revenue may request technical advice from other departments
 10 when developing rules under this act.

11 Section 12. Repealer. Sections 15-32-201 through
 12 15-32-203, MCA, are repealed.

13 SECTION 13. APPLICABILITY DATE. THIS ACT APPLIES TO
 14 TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1982, AND ENDING
 15 DECEMBER 31, 1986.

-End-

Rereferred and
Approved by committee
on Taxation

SENATE BILL NO. 283
INTRODUCED BY FULLER,
HALLIGAN, CHRISTIAENS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAX CREDIT
FOR THE INSTALLATION OF SOLAR ENERGY SYSTEMS IN MONTANA;
DEFINING SUCH SYSTEMS; AND PROVIDING RULEMAKING AUTHORITY TO
ESTABLISH CRITERIA FOR SUCH SYSTEMS; REPEALING SECTIONS
15-32-201 THROUGH 15-32-203, MCA; AND PROVIDING AN
APPLICABILITY DATE."

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

Section 1. Short title. This act may be cited as the
"Montana Solar Tax Credit Act of 1983".

Section 2. Definitions. As used in [this act], unless
the context requires otherwise, the following definitions
apply:

(1) "Active thermal system" means a system that uses
solar devices thermally isolated from the living or
commercial space to provide for collection, storage, or
distribution of solar energy for heating, cooling, hot
water, or electricity.

(2) "Dwelling" means a building or portion thereof
used for residential purposes and includes single-family
residences, mobile homes, and the individual units of

condominiums, cooperatives, apartment buildings, or other
similar multiple dwellings.

(3) "Energy conservation measures" includes but is not
limited to load management devices, flue dampers, efficiency
increasing devices, insulation above standards set by
building codes, water heating insulation jackets, water
heater and distribution system timing devices, and shower
and faucet flow-reducing devices.

(4) "Installed" means placed in position in a
functionally operative state.

(5) "Owner" includes a recorded holder of legal title,
a lessee with at least 3 years remaining on his lease, the
holder of a recorded easement, a person purchasing premises
under a contract of sale or who holds shares or membership
in a cooperative housing corporation, which holding is a
requisite to the exclusive right of occupancy to the
premises, or a person who is a member of a nonprofit
corporation or association that is a recorded holder of
legal title.

(6) "Passive thermal system" means a system that uses
the structural elements of the building, not augmented by
mechanical components, to provide for collection, storage,
or distribution of solar energy for heating or cooling in
residential and commercial applications.

(7) "Premises" means the principal stationary location

1 in Montana where the system is installed for direct use or
2 for purposes of sale of energy and includes land, easements,
3 buildings or portions thereof such as roofs, and mobile
4 homes.

5 (8) "Semipassive thermal system" means a system that
6 uses the structure of a building, augmented by mechanical
7 components, to provide for collection, storage, or
8 distribution of solar energy for heating or cooling in
9 residential and commercial applications.

10 (9) "Solar device" means the equipment associated with
11 the collection, conversion, transfer, distribution, storage,
12 or control of solar energy. In the case of a solar device
13 associated with two or more solar energy systems, the credit
14 allowed for the solar device may be taken for any one of the
15 systems or divided equally among them.

16 (10) "Solar energy system" means the use of solar
17 devices, including but not limited to passive thermal
18 systems, semipassive thermal systems, active thermal
19 systems, photovoltaic systems, and wind-driven systems, with
20 a useful life of at least 3 years and used for the direct
21 production of energy for resale or use and for the
22 individual functions of:

23 (a) domestic, recreational, therapeutic, or service
24 water heating;

25 (b) space conditioning;

1 (c) production of electricity;
2 (d) process heat, including distillation;
3 (e) solar mechanical energy; or
4 (f) wind energy for the production of electricity or
5 mechanical work.

6 Section 3. Tax credit for solar system -- dwellings.
7 The owner of a dwelling located in Montana on which a solar
8 energy system is installed may claim a tax credit in an
9 amount equal to ~~60%~~ 20% of the eligible costs incurred, to
10 be taken against the tax liability imposed upon the owner
11 pursuant to Title 15, chapter 30 or 31. ~~IF THE SOLAR ENERGY~~
12 ~~SYSTEM IS OWNED BY MORE THAN ONE PERSON OR CORPORATION, NO~~
13 ~~MORE THAN AN AGGREGATE OF 20% OF THE ELIGIBLE COSTS MAY BE~~
14 ~~CLAIMED AS A CREDIT BY ALL OWNERS OF THE SOLAR ENERGY~~
15 ~~SYSTEM.~~

16 Section 4. Eligible costs. (1) For the purposes of
17 determining the amount of the tax credit that may be claimed
18 pursuant to [section 3 or 5], eligible costs include
19 purchase costs, installation charges, monthly lease
20 payments, and the compensation paid to the owner of burdened
21 property in connection with the acquisition of a solar
22 easement as provided for in Title 70, chapter 17, part 3.
23 Energy conservation measures applied in conjunction with
24 solar energy systems to reduce the total cost or backup
25 energy requirements of such systems are considered part of

the systems and are eligible costs. ~~HOWEVER, IF A CREDIT IS CLAIMED FOR ENERGY CONSERVATION MEASURES UNDER [THIS ACT], IT MAY NOT ALSO BE CLAIMED UNDER TITLE 15, CHAPTER 32, PART 1.~~ Interest charges are not eligible costs.

(2) The eligible costs of any solar energy system eligible for the credit provided under this section must be reduced by any grant provided by a state or federal agency for such a system.

Section 5. Tax credit for solar system — premises other than dwellings. The owner of premises other than a dwelling, located in Montana, on which a solar energy system is installed may claim a tax credit in an amount equal to 25% of the eligible costs incurred, to be taken against the tax liability imposed upon the owner pursuant to Title 15, chapter 30 or 31.

Section 6. Limitation on credit. (1) To the extent that the federal energy tax credit for costs incurred by a taxpayer for the purchase and installation of a solar energy system is allowed or allowable, the state tax credit provided for in [section 3 or 5] must be reduced by the amount of any federal credit so that the effective credit for any taxable year does not exceed 60% of eligible costs.

(2) The total amount of credit available to any taxpayer may not exceed ~~\$3,000~~ \$1,000 per solar energy system.

Section 7. Carryover of credit. The tax credit allowed under [section 3 or 5] is to be deducted from the taxpayer's income tax liability for the taxable year in which the system invested in by the taxpayer is installed. If the amount of the tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability. However, no tax credit may be carried over for deduction after the fourth taxable year succeeding the taxable year in which the system was installed.

Section 8. Apportionment of credit. If a solar energy system serves two or more dwellings, the owner or owners of the system are eligible for the tax credit provided in [section 3] in proportion to the number of dwellings served. The amount of the credit must be determined by dividing the eligible costs of the system by the number of dwellings served.

Section 9. Special provision for owner-builders. The owner-builder or owner-developer of a new home may elect not to claim the solar energy tax credit for any or all systems installed on a new home. If an owner-builder or owner-developer irrevocably elects not to claim the tax

1 credit provided for in [section 3], the original purchaser
 2 of the new home on which the system is installed may claim
 3 the credit. In claiming the credit, the purchaser shall
 4 confirm the election by a written document signed by the
 5 owner-builder or owner-developer. ~~IE THE OWNER-DEVELOPER~~
 6 ~~ELECTS TO FOREGO THE CREDIT PROVIDED FOR IN [SECTION 3], BUT~~
 7 ~~CLAIMS A FEDERAL ENERGY TAX CREDIT FOR THE SOLAR ENERGY~~
 8 ~~SYSTEM, THE PURCHASER MUST REDUCE THE STATE TAX CREDIT~~
 9 ~~PROVIDED IN [SECTION 3] SO THAT THE EFFECTIVE CREDIT FOR ANY~~
 10 ~~TAXABLE YEAR DOES NOT EXCEED 20% OF ELIGIBLE COSTS.~~

11 Section 10. Leased solar energy systems. Taxpayers who
 12 lease a solar energy system are eligible for the tax credit
 13 provided in [section 3 or 5]. In any year, the credit
 14 applies only to the principal recovery portion of lease
 15 payments made during that year and to amounts expended on a
 16 portion of the system purchased under the lease agreement
 17 during that year. As used in this section, "principal
 18 recovery portion" means the cost incurred by the lessor in
 19 acquiring the solar energy system, including equipment and
 20 installation costs in a purchase agreement or promissory
 21 note, but does not include interest charges or maintenance
 22 expenses.

23 ~~Section 11. Rulemaking. The department of natural~~
 24 ~~resources and conservation shall establish guidelines and~~
 25 ~~criteria for solar energy systems that are eligible for the~~

1 ~~tax credit provided by [section 3 or 5]. Such guidelines~~
 2 ~~and criteria are limited to minimum standards for the~~
 3 ~~safety, reliability, and durability of solar energy systems.~~

4 ~~THERE IS A NEW MCA SECTION THAT READS:~~

5 Section 11. Rulemaking. The department of revenue is
 6 authorized to make such rules and to require such facts and
 7 information to be reported as it may deem necessary to
 8 enforce the provisions of this act. The department of
 9 revenue may request technical advice from other departments
 10 when developing rules under this act.

11 Section 12. Repealer. Sections 15-32-201 through
 12 15-32-203, MCA, are repealed.

13 ~~SECTION 13. APPLICABILITY DATE. THIS ACT APPLIES TO~~
 14 ~~TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1982, AND ENDING~~
 15 ~~DECEMBER 31, 1986.~~

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 283

3

4 A statement of intent is required for this bill because

5 it grants rulemaking authority to the Department of Revenue

6 in Section 11, to establish criteria and guidelines for the

7 safety, reliability, and durability of solar energy systems.

8 The Legislature intends that these criteria address such

9 issues as:

10 (1) systems meeting federal safety standards;

11 (2) warranties on systems; and

12 (3) the life expectancies of systems.

THIRD READING

SB 283

SENATE BILL NO. 283
INTRODUCED BY FULLER,
HALLIGAN, CHRISTIAENS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAX CREDIT
FOR THE INSTALLATION OF SOLAR ENERGY SYSTEMS IN MONTANA;
DEFINING SUCH SYSTEMS; AND PROVIDING RULEMAKING AUTHORITY TO
ESTABLISH CRITERIA FOR SUCH SYSTEMS; REPEALING SECTIONS
15-32-201 THROUGH 15-32-203, MCA; AND PROVIDING AN
APPLICABILITY DATE."

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

Section 1. Short title. This act may be cited as the
"Montana Solar Tax Credit Act of 1983".

Section 2. Definitions. As used in [this act], unless
the context requires otherwise, the following definitions
apply:

(1) "Active thermal system" means a system that uses
solar devices thermally isolated from the living or
commercial space to provide for collection, storage, or
distribution of solar energy for heating, cooling, hot
water, or electricity.

(2) "Dwelling" means a building or portion thereof
used for residential purposes and includes single-family
residences, mobile homes, and the individual units of

condominiums, cooperatives, apartment buildings, or other
similar multiple dwellings.

(3) "Energy conservation measures" includes but is not
limited to load management devices, flue dampers, efficiency
increasing devices, insulation above standards set by
building codes, water heating insulation jackets, water
heater and distribution system timing devices, and shower
and faucet flow-reducing devices.

(4) "Installed" means placed in position in a
functionally operative state.

(5) "Owner" includes a recorded holder of legal title,
a lessee with at least 3 years remaining on his lease, the
holder of a recorded easement, a person purchasing premises
under a contract of sale or who holds shares or membership
in a cooperative housing corporation, which holding is a
requisite to the exclusive right of occupancy to the
premises, or a person who is a member of a nonprofit
corporation or association that is a recorded holder of
legal title.

(6) "Passive thermal system" means a system that uses
the structural elements of the building, not augmented by
mechanical components, to provide for collection, storage,
or distribution of solar energy for heating or cooling in
residential and commercial applications.

(7) "Premises" means the principal stationary location

1 in Montana where the system is installed for direct use or
2 for purposes of sale of energy and includes land, easements,
3 buildings or portions thereof such as roofs, and mobile
4 homes.

5 (8) "Semipassive thermal system" means a system that
6 uses the structure of a building, augmented by mechanical
7 components, to provide for collection, storage, or
8 distribution of solar energy for heating or cooling in
9 residential and commercial applications.

10 (9) "Solar device" means the equipment associated with
11 the collection, conversion, transfer, distribution, storage,
12 or control of solar energy. In the case of a solar device
13 associated with two or more solar energy systems, the credit
14 allowed for the solar device may be taken for any one of the
15 systems or divided equally among them.

16 (10) "Solar energy system" means the use of solar
17 devices, including but not limited to passive thermal
18 systems, semipassive thermal systems, active thermal
19 systems, photovoltaic systems, and wind-driven systems, with
20 a useful life of at least 3 years and used for the direct
21 production of energy for resale or use and for the
22 individual functions of:

23 (a) domestic, recreational, therapeutic, or service
24 water heating;

25 (b) space conditioning;

1 (c) production of electricity;
2 (d) process heat, including distillation;
3 (e) solar mechanical energy; or
4 (f) wind energy for the production of electricity or
5 mechanical work.

6 Section 3. Tax credit for solar system -- dwellings.
7 The owner of a dwelling located in Montana on which a solar
8 energy system is installed may claim a tax credit in an
9 amount equal to ~~60%~~ 20% of the eligible costs incurred, to
10 be taken against the tax liability imposed upon the owner
11 pursuant to Title 15, chapter 30 or 31. IF THE SOLAR ENERGY
12 SYSTEM IS OWNED BY MORE THAN ONE PERSON OR CORPORATION, NO
13 MORE THAN AN AGGREGATE OF 20% OF THE ELIGIBLE COSTS MAY BE
14 CLAIMED AS A CREDIT BY ALL OWNERS OF THE SOLAR ENERGY
15 SYSTEM.

16 Section 4. Eligible costs. (1) For the purposes of
17 determining the amount of the tax credit that may be claimed
18 pursuant to [section 3 or 5], eligible costs include
19 purchase costs, installation charges, monthly lease
20 payments, and the compensation paid to the owner of burdened
21 property in connection with the acquisition of a solar
22 easement as provided for in Title 70, chapter 17, part 3.
23 Energy conservation measures applied in conjunction with
24 solar energy systems to reduce the total cost or backup
25 energy requirements of such systems are considered part of

the systems and are eligible costs. ~~HOWEVER, IF A CREDIT IS CLAIMED FOR ENERGY CONSERVATION MEASURES UNDER [THIS ACT], IT MAY NOT ALSO BE CLAIMED UNDER TITLE 15, CHAPTER 32, PART 1.~~ Interest charges are not eligible costs.

(2) The eligible costs of any solar energy system eligible for the credit provided under this section must be reduced by any grant provided by a state or federal agency for such a system.

Section 5. Tax credit for solar system -- premises other than dwellings. The owner of premises other than a dwelling, located in Montana, on which a solar energy system is installed may claim a tax credit in an amount equal to 25% of the eligible costs incurred, to be taken against the tax liability imposed upon the owner pursuant to Title 15, chapter 30 or 31.

Section 6. Limitation on credit. (1) To the extent that the federal energy tax credit for costs incurred by a taxpayer for the purchase and installation of a solar energy system is allowed or allowable, the state tax credit provided for in [section 3 or 5] must be reduced by the amount of any federal credit so that the effective credit for any taxable year does not exceed 60% of eligible costs.

(2) The total amount of credit available to any taxpayer may not exceed ~~\$3,000~~ \$1,000 per solar energy system.

Section 7. Carryover of credit. The tax credit allowed under [section 3 or 5] is to be deducted from the taxpayer's income tax liability for the taxable year in which the system invested in by the taxpayer is installed. If the amount of the tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability. However, no tax credit may be carried over for deduction after the fourth taxable year succeeding the taxable year in which the system was installed.

Section 8. Apportionment of credit. If a solar energy system serves two or more dwellings, the owner or owners of the system are eligible for the tax credit provided in [section 3] in proportion to the number of dwellings served. The amount of the credit must be determined by dividing the eligible costs of the system by the number of dwellings served.

Section 9. Special provision for owner-builders. The owner-builder or owner-developer of a new home may elect not to claim the solar energy tax credit for any or all systems installed on a new home. If an owner-builder or owner-developer irrevocably elects not to claim the tax

credit provided for in [section 3], the original purchaser of the new home on which the system is installed may claim the credit. In claiming the credit, the purchaser shall confirm the election by a written document signed by the owner-builder or owner-developer. IF THE OWNER-DEVELOPER ELECTS TO FOREGO THE CREDIT PROVIDED FOR IN [SECTION 3], BUT CLAIMS A FEDERAL ENERGY TAX CREDIT FOR THE SOLAR ENERGY SYSTEM, THE PURCHASER MUST REDUCE THE STATE TAX CREDIT PROVIDED IN [SECTION 3] SO THAT THE EFFECTIVE CREDIT FOR ANY TAXABLE YEAR DOES NOT EXCEED 20% OF ELIGIBLE COSTS.

Section 10. Leased solar energy systems. Taxpayers who lease a solar energy system are eligible for the tax credit provided in [section 3 or 5]. In any year, the credit applies only to the principal recovery portion of lease payments made during that year and to amounts expended on a portion of the system purchased under the lease agreement during that year. As used in this section, "principal recovery portion" means the cost incurred by the lessor in acquiring the solar energy system, including equipment and installation costs in a purchase agreement or promissory note, but does not include interest charges or maintenance expenses.

~~Section 11. Rulemaking. The department of natural resources and conservation shall establish guidelines and criteria for solar energy systems that are eligible for the~~

~~tax credit provided by [section 3 or 5]. Such guidelines and criteria are limited to minimum standards for the safety, reliability, and durability of solar energy systems.~~

THERE IS A NEW MCA SECTION THAT READS:

Section 11. Rulemaking. The department of revenue is authorized to make such rules and to require such facts and information to be reported as it may deem necessary to enforce the provisions of this act. The department of revenue may request technical advice from other departments when developing rules under this act.

Section 12. Repealer. Sections 15-32-201 through 15-32-203, MCA, are repealed.

SECTION 13. APPLICABILITY DATE. THIS ACT APPLIES TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1982, AND ENDING DECEMBER 31, 1986.

-End-

HOUSE TAXATION COMMITTEE
AMENDMENTS TO SB 283, THIRD READING COPY, BLUE
MARCH 21, 1983

1. Statement of Intent, line 6.
Following: "Section"
Strike: "11"
Insert: "12"
2. Statement of Intent, line 7.
Following: "of"
Strike: "solar"
Following: "energy"
Insert: "generation"
3. Title, line 6.
Following: "OF"
Strike: "SOLAR"
4. Title, line 7.
Following: "SYSTEMS"
Insert: "; PROVIDING A FUNDING SOURCE FOR THE CREDITS"
5. Page 1, lines 18 through 22.
Strike: subsection (1) in its entirety
ReNUMBER: subsequent subsections
6. Page 2, lines 3 through 8.
Strike: subsection (3) in its entirety
ReNUMBER: subsequent subsections
7. Page 2, lines 20 through 24.
Strike: subsection (6) in its entirety
ReNUMBER: subsequent subsections
8. Page 3, line 5 through line 5 page 4.
Strike: subsections (8), (9), and (10) in their entirety
Insert: "(5) 'System' means a recognized nonfossil form of energy generation as defined in 15-32-102."
9. Page 4, line 6.
Following: "for"
Strike: "solar"
10. Page 4, line 7 and 8.
Following: "which a" on line 7
Strike: "solar energy"
11. Page 4, line 11.
Following: "THE"
Strike: "SOLAR ENERGY"

12. Page 4, line 14.
Following: "OF THE"
Strike: "SOLAR ENERGY"
13. Page 4, line 23.
Following: line 22
Strike: "Energy"
Insert: "Investments made for energy"
Following: "conservation"
Strike: "measures"
Insert: "purposes, as defined in 15-32-102,"
14. Page 4, line 24.
Following: line 23
Strike: "solar energy"
15. Page 5, line 2.
Following: "CONSERVATION"
Strike: "MEASURES"
Insert: "purposes"
16. Page 5, line 23 and 24.
Following: "available" on line 23
Strike: line 23 through "taxpayer" on line 24
Following: "\$1,000"
Insert: "for a taxpayer filing a separate return and \$2,000 for each joint return"
17. Page 7, line 7.
Following: "THE"
Strike: "SOLAR ENERGY"
18. Page 7, line 11.
Following: "Leased"
Strike: "solar energy"
19. Page 7, line 12.
Following: "a"
Strike: "solar energy"
20. Page 7, line 19.
Following: "the"
Strike: "solar energy"

21. Page 8, line 4.

Following: line 3

Insert: "THERE IS A NEW MCA SECTION THAT READS:

"Section 11. Source of funds for tax credit. The alternative energy research development and demonstration account established in 90-4-103 is the source of funding for the tax credit allowed under [section 3]. The amount of money in the account that is available for purposes of the tax credit is subject to availability of funds and to the appropriation of such funds by the legislature for the purposes of [section 3]."

Renumber: subsequent sections

AND AS AMENDED
BE CONCURRED IN