

SENATE BILL NO. 437

2/15 Introduced  
2/16 Referred to Taxation  
2/16 Fiscal Note Requested  
2/22 Fiscal Note Received  
2/25 Hearing  
3/12 Tabled in Committee

*Senate* BILL NO. 437

INTRODUCED BY FULLER *Ream*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAX CREDIT FOR THE INSTALLATION OF NONFOSSIL ENERGY SYSTEMS IN MONTANA;

DEFINING SUCH SYSTEMS; PROVIDING A FUNDING SOURCE FOR THE CREDITS; 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 Nonfossil Energy Tax Credit Act of 1985".

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

- (1) "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.
- (2) "Installed" means placed in position in a functionally operative state.
- (3) "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.

(4) "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.

(5) "System" means a recognized nonfossil form of energy generation as defined in 15-32-102.

Section 3. Tax credit for system -- dwellings. The owner of a dwelling located in Montana on which a system is installed may claim a tax credit in an amount equal to 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 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 system.

Section 4. Eligible costs. (1) For the purposes of



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1 determining the amount of the tax credit that may be claimed  
 2 pursuant to [section 3 or 5], eligible costs include  
 3 purchase costs, installation charges, monthly lease  
 4 payments, and the compensation paid to the owner of burdened  
 5 property in connection with the acquisition of a solar  
 6 easement as provided for in Title 70, chapter 17, part 3.  
 7 Investments made for energy conservation purposes, as  
 8 defined in 15-32-102, applied in conjunction with systems to  
 9 reduce the total cost or backup energy requirements of such  
 10 systems are considered part of the systems and are eligible  
 11 costs. However, if a credit is claimed for energy  
 12 conservation purposes under [this act], it may not also be  
 13 claimed under Title 15, chapter 32, part 1. Interest charges  
 14 are not eligible costs.

15 (2) The eligible costs of any system eligible for the  
 16 credit provided under [this act] must be reduced by any  
 17 grant provided by a state or federal agency for such a  
 18 system.

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

25 Section 6. Limitation on credit. (1) To the extent

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

7 (2) The total amount of credit available may not  
 8 exceed \$1,000 per system for a taxpayer filing a separate  
 9 return and \$2,000 for each joint return.

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

23 Section 8. Apportionment of credit. If a system serves  
 24 two or more dwellings, the owner or owners of the system are  
 25 eligible for the tax credit provided in [section 3] in

1 proportion to the number of dwellings served. The amount of  
2 the credit must be determined by dividing the eligible costs  
3 of the system by the number of dwellings served.

4 Section 9. Special provision for owner-builders. The  
5 owner-builder or owner-developer of a new home may elect not  
6 to claim the tax credit for any or all systems installed on  
7 a new home. If an owner-builder or owner-developer  
8 irrevocably elects not to claim the tax credit provided for  
9 in [section 3], the original purchaser of the new home on  
10 which the system is installed may claim the credit. In  
11 claiming the credit, the purchaser shall confirm the  
12 election by a written document signed by the owner-builder  
13 or owner-developer. If the owner-developer elects to forego  
14 the credit provided for in [section 3], but claims a federal  
15 energy tax credit for the system, the purchaser must reduce  
16 the state tax credit provided in [section 3] so that the  
17 effective credit for any taxable year does not exceed 20% of  
18 eligible costs.

19 Section 10. Leased systems. Taxpayers who lease a  
20 system are eligible for the tax credit provided in [section  
21 3 or 5]. In any year, the credit applies only to the  
22 principal recovery portion of lease payments made during  
23 that year and to amounts expended on a portion of the system  
24 purchased under the lease agreement during that year. As  
25 used in this section, "principal recovery portion" means the

1 cost incurred by the lessor in acquiring the system,  
2 including equipment and installation costs in a purchase  
3 agreement or promissory note, but does not include interest  
4 charges or maintenance expenses.

5 Section 11. Source of funds for tax credit. The  
6 alternative energy and energy conservation research  
7 development and demonstration account established in  
8 90-4-103 is the source of funding for the tax credit allowed  
9 under [section 3]. The amount of money in the account that  
10 is available for purposes of the tax credit is subject to  
11 availability of funds and to the appropriation of such funds  
12 by the legislature for the purposes of [section 3].

13 Section 12. Rulemaking. The department of revenue may  
14 adopt such rules and require such facts and information to  
15 be reported as it considers necessary to enforce the  
16 provisions of [this act]. The department of revenue may  
17 request technical advice from other departments when  
18 developing rules under [this act].

19 Section 13. Repealer. Sections 15-32-201 through  
20 15-32-203, MCA, are repealed.

21 Section 14. Applicability date. This act applies to  
22 taxable years beginning after December 31, 1984, and before  
23 January 2, 1988.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 465-85

Form BD-15

In compliance with a written request received February 19, 19 85, there is hereby submitted a Fiscal Note for S.B. 437 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 OF PROPOSED LEGISLATION:

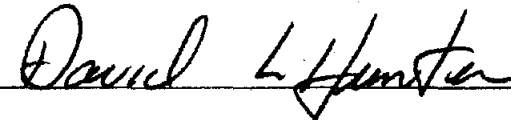
An act providing a tax credit for the installation of nonfossil energy systems in Montana; defining such systems; providing a funding source for the credits; and providing rulemaking authority to establish criteria for such systems.

FISCAL IMPACT:

The proposed legislation would increase the tax credit for the installation of nonfossil energy systems, but the source of funding would change from the general fund, foundation program and debt service account to the alternative energy and energy conservation research development and demonstration account. For tax year 1983 the credit amounted to \$63,599. If the proposed credit had been in effect for tax year 1983, the credit would have cost at least \$354,000. For fiscal year 1986 and 1987 the tax credit could be significantly more due to the increase in the credit and having the credit apply to premises other than dwellings. Administrative costs may increase if more taxpayers apply for the credit.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Other legislation is required per Section 11 to appropriate funds for the nonfossil energy tax credit from the alternative energy and energy conservation research development and demonstration account.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 22, 1985

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