

SENATE BILL NO. 340

INTRODUCED BY DOHERTY, RYE, YELLOWTAIL, DRISCOLL,
GRADY, H. HANSON, S. RICE, HARPER
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

IN THE SENATE

FEBRUARY 9, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON NATURAL RESOURCES.

FIRST READING.

FEBRUARY 19, 1993

COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

PRINTING REPORT.

FEBRUARY 20, 1993

SECOND READING, DO PASS.

FEBRUARY 22, 1993

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 44; NOES, 4.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & ECONOMIC DEVELOPMENT.

FIRST READING.

MARCH 13, 1993

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 27, 1993

SECOND READING, CONCURRED IN.

MARCH 30, 1993

THIRD READING, CONCURRED IN.
AYES, 90; NOES, 7.

MARCH 31, 1993

RETURNED TO SENATE.

IN THE SENATE

MARCH 31, 1993

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Servant* BILL NO. *340*
2 INTRODUCED BY *Dennis Ryan Yellowtail*
3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL
4 *Donnell Brady* *Sharon* *SRice* *74*
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A POLICY
6 ON RESIDENTIAL ENERGY EFFICIENCY; PROVIDING FOR THE
7 APPLICABILITY OF THE ENERGY CONSERVATION PROVISIONS OF THE
8 STATE BUILDING CODE TO RESIDENTIAL BUILDINGS; REQUIRING THAT
9 THE ADOPTION OF RULES FOR ENERGY CONSERVATION IN BUILDINGS
10 CONFORM TO CERTAIN POLICIES; PROVIDING FOR THE CERTIFICATION
11 OF INSTALLATION OF ENERGY EFFICIENCY FEATURES BY BUILDERS;
12 PROVIDING FOR THE LABELING OF ENERGY EFFICIENCY FEATURES IN
13 NEW HOMES; AND AMENDING SECTIONS 50-60-102 AND 50-60-203,
14 MCA."
15

16 WHEREAS, the Environmental Quality Council, as part of
17 its study of energy policy under the requirements of House
18 Joint Resolution No. 31, adopted in the 1991 Legislative
19 Session, created a Residential Energy Efficiency Working
20 Group (Working Group) to address a long-standing controversy
21 surrounding residential energy efficiency and specifically
22 the energy provisions of the state building code; and

23 WHEREAS, the Working Group included broad representation
24 from energy utilities, the home building industry, energy
25 consumers, state and local governments, the lending and real

1 estate industries, low-income and conservation groups, and
2 the building supply industry; and

3 WHEREAS, the Working Group met nine times during the
4 1992 interim and agreed that any final recommendations must
5 be adopted by consensus and supported by all participants as
6 a package, with all elements to be adopted or none at all;
7 and

8 WHEREAS, the Working Group adopted by consensus the
9 policy statement embodied in [section 1] and then adopted by
10 consensus a package of implementation strategies; and

11 WHEREAS, the implementation strategies include:

12 (1) information strategies for consumers, builders,
13 building code officials, home inspectors, bankers, realtors,
14 and appraisers, specifically encompassing education,
15 training, and technical assessment and demonstration of
16 conservation measures, as well as an energy labeling sticker
17 and initiation of first steps toward a home energy rating
18 system;

19 (2) financial strategies geared toward making energy-
20 efficient new homes more affordable, including:

21 (a) petitioning the Federal Home Administration (FHA)
22 to increase the upper limits of FHA home mortgages;

23 (b) initiating a residential mortgage program for
24 energy-efficient homes under the Montana Board of Housing
25 that would maintain a low down payment requirement and raise

1 mortgage ceiling levels above FHA limits; and

2 (c) establishing a loan reserve account in the

3 Department of Natural Resources and Conservation that allows

4 the Board of Housing to sell bonds to enable it to offer

5 loans above the FHA limit that would be funded by home

6 buyers, utilities, and the State of Montana as provided in

7 House Bill No. 10;

8 (3) energy provider strategies in which utilities would

9 continue to offer on a voluntary basis incentive programs to

10 their customers to purchase energy-efficient products or

11 services; and

12 (4) building code strategies, including enforcement of

13 the energy conservation provisions of the state building

14 code in certain residential buildings through a combination

15 of builder self-certification and state and local government

16 enforcement for those residences currently subject to the

17 state building code, as well as increasing the efficiency

18 standards in the energy code according to the consensus

19 levels adopted by the Working Group; and

20 WHEREAS, it is the consensus of the Working Group that

21 implementation of the building code strategies relating to

22 the applicability of the energy code to certain residences

23 is contingent on the establishment, funding, and operation

24 of the financial strategy concerning the Board of Housing

25 program promoting the affordability of energy-efficient new

1 homes; and

2 WHEREAS, this bill embodies those consensus

3 recommendations of the Working Group requiring statutory

4 authorization.

5 STATEMENT OF INTENT

6 A statement of intent is necessary for this bill because

7 it directs the department of commerce, in adopting rules

8 pertaining to energy conservation in buildings under the

9 provisions of 50-60-203, to conform those rules to the

10 policy provided in [section 1] and to the relevant policies

11 that may be developed according to the provisions of ____

12 Bill No. ____ [LC 275].

13 This bill also requires that the department of commerce

14 design a labeling sticker describing the energy efficiency

15 measures in newly constructed homes. In designing this

16 energy labeling sticker, the department of commerce should

17 consult with the department of natural resources and

18 conservation and with interested building industry and

19 consumer groups.

20 It is the intent of the legislature that the department

21 of commerce adhere to the recommendations related to energy

22 efficiency in residential buildings developed under the

23 auspices of House Joint Resolution No. 31, adopted by the

24 1991 legislature.

25 In accordance with the recommendations resulting from

the directive of House Joint Resolution No. 31, the legislature intends that rules pertaining to energy conservation in certain residential buildings may not apply to those buildings containing less than five dwelling units and not otherwise subject to the state building code unless an affordable energy-efficient housing program is established as provided by House Bill No. 10. The coordination instruction in [section 7] reflects this intent.

It is further the intent of the legislature that in applying the energy conservation provisions of the state building code to certain residential buildings as provided in [section 2], the enforcement of those provisions be accomplished through builder self-certification as provided in [section 4] and not through enforcement by the department of commerce, except for those residential structures containing five or more dwelling units or for those residential structures otherwise subject to the state building code.

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

NEW SECTION. Section 1. Statement of policy on residential energy efficiency. The legislature finds that the people of Montana have an interest in energy efficiency in certain residential buildings for the purpose of

protecting and improving their economic and environmental well-being and energy security, while recognizing the basic need for safe and affordable shelter. It is the policy of the state of Montana to encourage energy efficiency in residential buildings through strategies that ensure that:

(1) the housing consumer has access to the information required to make informed choices about structures and energy efficiency measures;

(2) energy efficiency measures are safe, reliable, and readily available for use in Montana;

(3) investments in energy efficiency measures are cost-effective;

(4) the cost of energy efficiency measures on the combination of down payments, monthly mortgage payments, and monthly utility bills does not adversely affect the affordability of housing to prospective home buyers and renters; and

(5) energy efficiency measures do not place an undue or inequitable burden on residential building owners or renters, the residential construction industry, financial institutions, real estate salespersons and appraisers, energy providers, or state and local governments.

Section 2. Section 50-60-102, MCA, is amended to read:

"50-60-102. Applicability. (1) The Except as provided in subsection (5), state building codes do not apply to:

(a) residential buildings containing less than five dwelling units or their attached-to structures, any farm or ranch building, and any private garage or private storage structure used only for the owner's own use, located within the municipality's or county's jurisdictional area, unless the local legislative body or board of county commissioners by ordinance or resolution makes the state building code applicable to these structures; or

(b) mines and buildings on mine property regulated under Title 82, chapter 4, and subject to inspection under the Federal Mine Safety and Health Act.

(2) The Except as provided in subsection (5), the state may not enforce the state building code under 50-60-205 for the buildings referred to in subsection (1). Local governments that have made the state building codes applicable to the aforementioned buildings referred to in subsection (1) may enforce within their jurisdictional areas the state building code as adopted by the respective local government.

(3) Where When good and sufficient cause exists, a written request for limitation of the state building code may be filed with the department for filing as a permanent record.

(4) The department may limit the application of any rule or portion of the state building code to include or

exclude:

(a) specified classes or types of buildings according to use or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable;

(b) specified areas of the state based upon size, population density, special conditions prevailing therein in the area, or other factors which that make differentiation or separate classification or regulation necessary, proper, or desirable.

(5) (a) For purposes of promoting the energy efficiency of home design and operation, the provisions of the state building code relating to energy conservation adopted pursuant to 50-60-203(1) apply to residential buildings, except:

(i) farm and ranch buildings; and

(ii) any private garage or private storage structure attached to a residential building and used only for the owner's own use.

(b) The provisions of the state building code relating to energy conservation in residential buildings are enforceable:

(i) by the department only for those residential buildings containing five or more dwelling units or otherwise subject to the state building code; and

(ii) through the builder self-certification program provided for in [section 4] for those residential buildings containing less than five dwelling units and not otherwise subject to the state building code."

Section 3. Section 50-60-203, MCA, is amended to read:

"50-60-203. Department to adopt state building code by rule. (1) (a) The department shall adopt rules relating to the construction of, the installation of equipment in, and standards for materials to be used in all buildings or classes of buildings, including provisions dealing with safety, sanitation, and conservation of energy. The department may amend or repeal such the rules.

(b) In adopting rules concerning the conservation of energy, the department shall conform those rules to the policy established in [section 1] [and to relevant policies developed under the provisions of Bill No. [LC 275]].

(2) The department may adopt by reference nationally recognized building codes in whole or in part, but this does not prevent the department from adopting rules more stringent than those contained in such national codes.

(3) The rules, when adopted as provided in parts 1 through 4, constitute the "state building code" and are acceptable for the buildings to which they are applicable.

(4) The department shall adopt rules that permit the

installation of below-grade liquefied petroleum gas-burning appliances in single-family dwellings."

NEW SECTION. Section 4. Enforcement of energy code through builder self-certification. A person who begins construction on a residential building in Montana after [the effective date of this act] shall certify in writing to the building owner at the conclusion of construction that the residential building has been constructed in compliance with the energy-efficient construction standards adopted under the provisions of 50-60-203(1).

NEW SECTION. Section 5. Energy labeling sticker. (1) The department, in consultation with the department of natural resources and conservation, shall prescribe by rule requirements for a labeling sticker to be affixed to a new residential building that describes the energy efficiency components of the home, including but not limited to heating appliance efficiencies and R-value or U-value of ceilings, walls, floors, windows, and doors in new residential buildings.

(2) A person constructing a new residential building shall affix to that residential building in a manner prescribed by the department a labeling sticker as described in subsection (1).

NEW SECTION. Section 6. Codification instruction. [Sections 1, 4, and 5] are intended to be codified as an

1 integral part of Title 50, chapter 60, part 2, and the
2 provisions of Title 50, chapter 60, part 2, apply to
3 [sections 1, 4, and 5].

4 NEW SECTION. **Section 7.** Coordination instruction. (1)
5 If an appropriation is not provided to the department of
6 natural resources and conservation to establish a housing
7 loan reserve account for energy-efficient homes as provided
8 in House Bill No. 10, then [sections 2 and 4 of this act]
9 are void.

10 (2) If ___ Bill No. ___ [LC 275] is not passed and
11 approved, the bracketed language in [section 3 of this act],
12 amending 50-60-203, is void.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0340, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: This bill establishes a policy on residential energy efficiency; provides for the applicability of the energy conservation provisions of the state building code to residential buildings; requires that the adoption of rule for energy conservation in buildings conform to certain policies. It also provides for the certification of installation of energy efficiency features by builders and for the labeling of energy efficiency features in new homes.

Assumptions:

1. Work done by the EQC to further develop residential energy efficiency policies will be done within the limits of existing appropriations or through private or federal funding sources, as has been the case with HJR 31.
2. There is no fiscal impact on the Department of Commerce in that all required activities fit within the current program's process.

FISCAL IMPACT:

None

David Lewis 2-13-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Steve Doherty 2/16/93
STEVE DOHERTY, PRIMARY SPONSOR DATE

Fiscal Note for SB0340, as introduced

SB 340

APPROVED BY COMM. ON
NATURAL RESOURCES

1 *Sencute* BILL NO. *340*
2 INTRODUCED BY *Denehy Glyn Yellowtail*
3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL
4 *Drumell Brady Haman Skrice*
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A POLICY
6 ON RESIDENTIAL ENERGY EFFICIENCY; PROVIDING FOR THE
7 APPLICABILITY OF THE ENERGY CONSERVATION PROVISIONS OF THE
8 STATE BUILDING CODE TO RESIDENTIAL BUILDINGS; REQUIRING THAT
9 THE ADOPTION OF RULES FOR ENERGY CONSERVATION IN BUILDINGS
10 CONFORM TO CERTAIN POLICIES; PROVIDING FOR THE CERTIFICATION
11 OF INSTALLATION OF ENERGY EFFICIENCY FEATURES BY BUILDERS;
12 PROVIDING FOR THE LABELING OF ENERGY EFFICIENCY FEATURES IN
13 NEW HOMES; AND AMENDING SECTIONS 50-60-102 AND 50-60-203,
14 MCA."

15
16 WHEREAS, the Environmental Quality Council, as part of
17 its study of energy policy under the requirements of House
18 Joint Resolution No. 31, adopted in the 1991 Legislative
19 Session, created a Residential Energy Efficiency Working
20 Group (Working Group) to address a long-standing controversy
21 surrounding residential energy efficiency and specifically
22 the energy provisions of the state building code; and

23 WHEREAS, the Working Group included broad representation
24 from energy utilities, the home building industry, energy
25 consumers, state and local governments, the lending and real

1 estate industries, low-income and conservation groups, and
2 the building supply industry; and

3 WHEREAS, the Working Group met nine times during the
4 1992 interim and agreed that any final recommendations must
5 be adopted by consensus and supported by all participants as
6 a package, with all elements to be adopted or none at all;
7 and

8 WHEREAS, the Working Group adopted by consensus the
9 policy statement embodied in [section 1] and then adopted by
10 consensus a package of implementation strategies; and

11 WHEREAS, the implementation strategies include:

12 (1) information strategies for consumers, builders,
13 building code officials, home inspectors, bankers, realtors,
14 and appraisers, specifically encompassing education,
15 training, and technical assessment and demonstration of
16 conservation measures, as well as an energy labeling sticker
17 and initiation of first steps toward a home energy rating
18 system;

19 (2) financial strategies geared toward making energy-
20 efficient new homes more affordable, including:

21 (a) petitioning the Federal Home Administration (FHA)
22 to increase the upper limits of FHA home mortgages;

23 (b) initiating a residential mortgage program for
24 energy-efficient homes under the Montana Board of Housing
25 that would maintain a low down payment requirement and raise

1 mortgage ceiling levels above FHA limits; and

2 (c) establishing a loan reserve account in the
3 Department of Natural Resources and Conservation that allows
4 the Board of Housing to sell bonds to enable it to offer
5 loans above the FHA limit that would be funded by home
6 buyers, utilities, and the State of Montana as provided in
7 House Bill No. 10;

8 (3) energy provider strategies in which utilities would
9 continue to offer on a voluntary basis incentive programs to
10 their customers to purchase energy-efficient products or
11 services; and

12 (4) building code strategies, including enforcement of
13 the energy conservation provisions of the state building
14 code in certain residential buildings through a combination
15 of builder self-certification and state and local government
16 enforcement for those residences currently subject to the
17 state building code, as well as increasing the efficiency
18 standards in the energy code according to the consensus
19 levels adopted by the Working Group; and

20 WHEREAS, it is the consensus of the Working Group that
21 implementation of the building code strategies relating to
22 the applicability of the energy code to certain residences
23 is contingent on the establishment, funding, and operation
24 of the financial strategy concerning the Board of Housing
25 program promoting the affordability of energy-efficient new

1 homes; and

2 WHEREAS, this bill embodies those consensus
3 recommendations of the Working Group requiring statutory
4 authorization.

5 STATEMENT OF INTENT

6 A statement of intent is necessary for this bill because
7 it directs the department of commerce, in adopting rules
8 pertaining to energy conservation in buildings under the
9 provisions of 50-60-203, to conform those rules to the
10 policy provided in [section 1] and to the relevant policies
11 that may be developed according to the provisions of ____
12 Bill No. ____ [LC 275].

13 This bill also requires that the department of commerce
14 design a labeling sticker describing the energy efficiency
15 measures in newly constructed homes. In designing this
16 energy labeling sticker, the department of commerce should
17 consult with the department of natural resources and
18 conservation and with interested building industry and
19 consumer groups.

20 It is the intent of the legislature that the department
21 of commerce adhere to the recommendations related to energy
22 efficiency in residential buildings developed under the
23 auspices of House Joint Resolution No. 31, adopted by the
24 1991 legislature.

25 In accordance with the recommendations resulting from

the directive of House Joint Resolution No. 31, the legislature intends that rules pertaining to energy conservation in certain residential buildings may not apply to those buildings containing less than five dwelling units and not otherwise subject to the state building code unless an affordable energy-efficient housing program is established as provided by House Bill No. 10. The coordination instruction in [section 7] reflects this intent.

It is further the intent of the legislature that in applying the energy conservation provisions of the state building code to certain residential buildings as provided in [section 2], the enforcement of those provisions be accomplished through builder self-certification as provided in [section 4] and not through enforcement by the department of commerce, except for those residential structures containing five or more dwelling units or for those residential structures otherwise subject to the state building code.

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

NEW SECTION. Section 1. Statement of policy on residential energy efficiency. The legislature finds that the people of Montana have an interest in energy efficiency in certain residential buildings for the purpose of

protecting and improving their economic and environmental well-being and energy security, while recognizing the basic need for safe and affordable shelter. It is the policy of the state of Montana to encourage energy efficiency in residential buildings through strategies that ensure that:

(1) the housing consumer has access to the information required to make informed choices about structures and energy efficiency measures;

(2) energy efficiency measures are safe, reliable, and readily available for use in Montana;

(3) investments in energy efficiency measures are cost-effective;

(4) the cost of energy efficiency measures on the combination of down payments, monthly mortgage payments, and monthly utility bills does not adversely affect the affordability of housing to prospective home buyers and renters; and

(5) energy efficiency measures do not place an undue or inequitable burden on residential building owners or renters, the residential construction industry, financial institutions, real estate salespersons and appraisers, energy providers, or state and local governments.

Section 2. Section 50-60-102, MCA, is amended to read:

"50-60-102. Applicability. (1) The Except as provided in subsection (5), state building codes do not apply to:

1 (a) residential buildings containing less than five
 2 dwelling units or their attached-to structures, any farm or
 3 ranch building, and any private garage or private storage
 4 structure used only for the owner's own use, located within
 5 the municipality's or county's jurisdictional area, unless
 6 the local legislative body or board of county commissioners
 7 by ordinance or resolution makes the state building code
 8 applicable to these structures; or

9 (b) mines and buildings on mine property regulated
 10 under Title 82, chapter 4, and subject to inspection under
 11 the Federal Mine Safety and Health Act.

12 (2) The Except as provided in subsection (5), the state
 13 may not enforce the state building code under 50-60-205 for
 14 the buildings referred to in subsection (1). Local
 15 governments that have made the state building codes
 16 applicable to the aforementioned buildings referred to in
 17 subsection (1) may enforce within their jurisdictional areas
 18 the state building code as adopted by the respective local
 19 government.

20 (3) Where When good and sufficient cause exists, a
 21 written request for limitation of the state building code
 22 may be filed with the department for filing as a permanent
 23 record.

24 (4) The department may limit the application of any
 25 rule or portion of the state building code to include or

1 exclude:

2 (a) specified classes or types of buildings according
 3 to use or other distinctions as may make differentiation or
 4 separate classification or regulation necessary, proper, or
 5 desirable;

6 (b) specified areas of the state based upon size,
 7 population density, special conditions prevailing therein in
 8 the area, or other factors which that make differentiation
 9 or separate classification or regulation necessary, proper,
 10 or desirable.

11 (5) (a) For purposes of promoting the energy efficiency
 12 of home design and operation, the provisions of the state
 13 building code relating to energy conservation adopted
 14 pursuant to 50-60-203(1) apply to residential buildings,
 15 except:

16 (i) farm and ranch buildings; and

17 (ii) any private garage or private storage structure
 18 attached to a residential building and used only for the
 19 owner's own use.

20 (b) The provisions of the state building code relating
 21 to energy conservation in residential buildings are
 22 enforceable:

23 (i) by the department only for those residential
 24 buildings containing five or more dwelling units or
 25 otherwise subject to the state building code; and

(ii) through the builder self-certification program provided for in [section 4] for those residential buildings containing less than five dwelling units and not otherwise subject to the state building code."

Section 3. Section 50-60-203, MCA, is amended to read:

"50-60-203. Department to adopt state building code by rule. (1) (a) The department shall adopt rules relating to the construction of, the installation of equipment in, and standards for materials to be used in all buildings or classes of buildings, including provisions dealing with safety, sanitation, and conservation of energy. The department may amend or repeal such the rules.

(b) In adopting rules concerning the conservation of energy, the department shall conform those rules to the policy established in [section 1] [and to relevant policies developed under the provisions of Bill No. [LC 275]].

(2) The department may adopt by reference nationally recognized building codes in whole or in part, but this does not prevent the department from adopting rules more stringent than those contained in such national codes.

(3) The rules, when adopted as provided in parts 1 through 4, constitute the "state building code" and are acceptable for the buildings to which they are applicable.

(4) The department shall adopt rules that permit the

installation of below-grade liquefied petroleum gas-burning appliances in single-family dwellings."

NEW SECTION. Section 4. Enforcement of energy code through builder self-certification. A person who begins construction on a residential building in Montana after [the effective date of this act] shall certify in writing to the building owner at the conclusion of construction that the residential building has been constructed in compliance with the energy-efficient construction standards adopted under the provisions of 50-60-203(1).

NEW SECTION. Section 5. Energy labeling sticker. (1) The department, in consultation with the department of natural resources and conservation, shall prescribe by rule requirements for a labeling sticker to be affixed to a new residential building that describes the energy efficiency components of the home, including but not limited to heating appliance efficiencies and R-value or U-value of ceilings, walls, floors, windows, and doors in new residential buildings.

(2) A person constructing a new residential building shall affix to that residential building in a manner prescribed by the department a labeling sticker as described in subsection (1).

NEW SECTION. Section 6. Codification instruction. [Sections 1, 4, and 5] are intended to be codified as an

1 integral part of Title 50, chapter 60, part 2, and the
2 provisions of Title 50, chapter 60, part 2, apply to
3 [sections 1, 4, and 5].

4 NEW SECTION. **Section 7. Coordination instruction. (1)**
5 If an appropriation is not provided to the department of
6 natural resources and conservation to establish a housing
7 loan reserve account for energy-efficient homes as provided
8 in House Bill No. 10, then [sections 2 and 4 of this act]
9 are void.

10 (2) If ___ Bill No. ___ [LC 275] is not passed and
11 approved, the bracketed language in [section 3 of this act],
12 amending 50-60-203, is void.

-End-

1 ~~Senate~~ BILL NO. 340
 2 INTRODUCED BY Doherty, Glyn - Yellowtail
 3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL
 4 Donnell Brady Hansen Skier
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A POLICY
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 16 WHEREAS, the Environmental Quality Council, as part of
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 18 Joint Resolution No. 31, adopted in the 1991 Legislative
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 20 Group (Working Group) to address a long-standing controversy
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23 WHEREAS, the Working Group included broad representation
 24 from energy utilities, the home building industry, energy
 25 consumers, state and local governments, the lending and real

1 estate industries, low-income and conservation groups, and
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3 WHEREAS, the Working Group met nine times during the
 4 1992 interim and agreed that any final recommendations must
 5 be adopted by consensus and supported by all participants as
 6 a package, with all elements to be adopted or none at all;
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8 WHEREAS, the Working Group adopted by consensus the
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 10 consensus a package of implementation strategies; and

11 WHEREAS, the implementation strategies include:
 12 (1) information strategies for consumers, builders,
 13 building code officials, home inspectors, bankers, realtors,
 14 and appraisers, specifically encompassing education,
 15 training, and technical assessment and demonstration of
 16 conservation measures, as well as an energy labeling sticker
 17 and initiation of first steps toward a home energy rating
 18 system;

THERE ARE NO CHANGES IN THIS BILL
 AND WILL NOT BE REPRINTED. PLEASE
 REFER TO YELLOW COPY FOR COMPLETE TEXT.



SENATE BILL NO. 340

INTRODUCED BY DOHERTY, RYE, YELLOWTAIL, DRISCOLL,

GRADY, H. HANSON, S. RICE, HARPER

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A POLICY ON RESIDENTIAL ENERGY EFFICIENCY; PROVIDING FOR THE APPLICABILITY OF THE ENERGY CONSERVATION PROVISIONS OF THE STATE BUILDING CODE TO RESIDENTIAL BUILDINGS; REQUIRING THAT THE ADOPTION OF RULES FOR ENERGY CONSERVATION IN BUILDINGS CONFORM TO CERTAIN POLICIES; PROVIDING FOR THE CERTIFICATION OF INSTALLATION OF ENERGY EFFICIENCY FEATURES BY BUILDERS; PROVIDING FOR THE LABELING OF ENERGY EFFICIENCY FEATURES IN NEW HOMES; AND AMENDING SECTIONS 50-60-102 AND 50-60-203, MCA."

WHEREAS, the Environmental Quality Council, as part of its study of energy policy under the requirements of House Joint Resolution No. 31, adopted in the 1991 Legislative Session, created a Residential Energy Efficiency Working Group (Working Group) to address a long-standing controversy surrounding residential energy efficiency and specifically the energy provisions of the state building code; and

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(b) initiating a residential mortgage program for energy-efficient homes under the Montana Board of Housing

1 that would maintain a low down payment requirement and raise
2 mortgage ceiling levels above FHA limits; and

3 (c) establishing a loan reserve account in the
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5 the Board of Housing to sell bonds to enable it to offer
6 loans above the FHA limit that would be funded by home
7 buyers, utilities, and the State of Montana as provided in
8 House Bill No. 10;

9 (3) energy provider strategies in which utilities would
10 continue to offer on a voluntary basis incentive programs to
11 their customers to purchase energy-efficient products or
12 services; and

13 (4) building code strategies, including enforcement of
14 the energy conservation provisions of the state building
15 code in certain residential buildings through a combination
16 of builder self-certification and state and local government
17 enforcement for those residences currently subject to the
18 state building code, as well as increasing the efficiency
19 standards in the energy code according to the consensus
20 levels adopted by the Working Group; and

21 WHEREAS, it is the consensus of the Working Group that
22 implementation of the building code strategies relating to
23 the applicability of the energy code to certain residences
24 is contingent on the establishment, funding, and operation
25 of the financial strategy concerning the Board of Housing

1 program promoting the affordability of energy-efficient new
2 homes; and

3 WHEREAS, this bill embodies those consensus
4 recommendations of the Working Group requiring statutory
5 authorization.

6 STATEMENT OF INTENT

7 A statement of intent is necessary for this bill because
8 it directs the department of commerce, in adopting rules
9 pertaining to energy conservation in buildings under the
10 provisions of 50-60-203, to conform those rules to the
11 policy provided in [section 1] and to the relevant policies
12 that may be developed according to the provisions of Senate
13 Bill No. 225.

14 This bill also requires that the department of commerce
15 design a labeling sticker describing the energy efficiency
16 measures in newly constructed homes. In designing this
17 energy labeling sticker, the department of commerce should
18 consult with the department of natural resources and
19 conservation and with interested building industry and
20 consumer groups.

21 It is the intent of the legislature that the department
22 of commerce adhere to the recommendations related to energy
23 efficiency in residential buildings developed under the
24 auspices of House Joint Resolution No. 31, adopted by the
25 1991 legislature.

In accordance with the recommendations resulting from the directive of House Joint Resolution No. 31, the legislature intends that rules pertaining to energy conservation in certain residential buildings may not apply to those buildings containing less than five dwelling units and not otherwise subject to the state building code unless an affordable energy-efficient housing program is established as provided by House Bill No. 10. The coordination instruction in [section 7] reflects this intent.

It is further the intent of the legislature that in applying the energy conservation provisions of the state building code to certain residential buildings as provided in [section 2], the enforcement of those provisions be accomplished through builder self-certification as provided in [section 4] and not through enforcement by the department of commerce, except for those residential structures containing five or more dwelling units or for those residential structures otherwise subject to the state building code.

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

NEW SECTION. Section 1. Statement of policy on residential energy efficiency. The legislature finds that the people of Montana have an interest in energy efficiency

in certain residential buildings for the purpose of protecting and improving their economic and environmental well-being and energy security, while recognizing the basic need for safe and affordable shelter. It is the policy of the state of Montana to encourage energy efficiency in residential buildings through strategies that ensure that:

(1) the housing consumer has access to the information required to make informed choices about structures and energy efficiency measures;

(2) energy efficiency measures are safe, reliable, and readily available for use in Montana;

(3) investments in energy efficiency measures are cost-effective;

(4) the cost of energy efficiency measures on the combination of down payments, monthly mortgage payments, and monthly utility bills does not adversely affect the affordability of housing to prospective home buyers and renters; and

(5) energy efficiency measures do not place an undue or inequitable burden on residential building owners or renters, the residential construction industry, financial institutions, real estate salespersons and appraisers, energy providers, or state and local governments.

Section 2. Section 50-60-102, MCA, is amended to read:

***50-60-102. Applicability.** (1) The Except as provided

1 in subsection (5), state building codes do not apply to:

2 (a) residential buildings containing less than five
3 dwelling units or their attached-to structures, any farm or
4 ranch building, and any private garage or private storage
5 structure used only for the owner's own use, located within
6 the municipality's or county's jurisdictional area, unless
7 the local legislative body or board of county commissioners
8 by ordinance or resolution makes the state building code
9 applicable to these structures; or

10 (b) mines and buildings on mine property regulated
11 under Title 82, chapter 4, and subject to inspection under
12 the Federal Mine Safety and Health Act.

13 (2) The Except as provided in subsection (5), the state
14 may not enforce the state building code under 50-60-205 for
15 the buildings referred to in subsection (1). Local
16 governments that have made the state building codes
17 applicable to the aforementioned buildings referred to in
18 subsection (1) may enforce within their jurisdictional areas
19 the state building code as adopted by the respective local
20 government.

21 (3) Where When good and sufficient cause exists, a
22 written request for limitation of the state building code
23 may be filed with the department for filing as a permanent
24 record.

25 (4) The department may limit the application of any

1 rule or portion of the state building code to include or
2 exclude:

3 (a) specified classes or types of buildings according
4 to use or other distinctions as may make differentiation or
5 separate classification or regulation necessary, proper, or
6 desirable;

7 (b) specified areas of the state based upon size,
8 population density, special conditions prevailing therein in
9 the area, or other factors which that make differentiation
10 or separate classification or regulation necessary, proper,
11 or desirable.

12 (5) (a) For purposes of promoting the energy efficiency
13 of home design and operation, the provisions of the state
14 building code relating to energy conservation adopted
15 pursuant to 50-60-203(1) apply to residential buildings,
16 except:

17 (i) farm and ranch buildings; and

18 (ii) any private garage or private storage structure
19 attached to a residential building and used only for the
20 owner's own use.

21 (b) The provisions of the state building code relating
22 to energy conservation in residential buildings are
23 enforceable:

24 (i) by the department only for those residential
25 buildings containing five or more dwelling units or

otherwise subject to the state building code; and

(ii) through the builder self-certification program provided for in [section 4] for those residential buildings containing less than five dwelling units and not otherwise subject to the state building code."

Section 3. Section 50-60-203, MCA, is amended to read:

"50-60-203. Department to adopt state building code by rule. (1) (a) The department shall adopt rules relating to the construction of, the installation of equipment in, and standards for materials to be used in all buildings or classes of buildings, including provisions dealing with safety, sanitation, and conservation of energy. The department may amend or repeal such the rules.

(b) In adopting rules concerning the conservation of energy, the department shall conform those rules to the policy established in [section 1] [and to relevant policies developed under the provisions of Senate Bill No. 225.

(2) The department may adopt by reference nationally recognized building codes in whole or in part, but this does not prevent the department from adopting rules more stringent than those contained in such national codes.

(3) The rules, when adopted as provided in parts 1 through 4, constitute the "state building code" and are acceptable for the buildings to which they are applicable.

(4) The department shall adopt rules that permit the

installation of below-grade liquefied petroleum gas-burning appliances in single-family dwellings."

NEW SECTION. Section 4. Enforcement of energy code through builder self-certification. A person who begins construction on a residential building in Montana after [the effective date of this act] shall certify in writing to the building owner at the conclusion of construction that the residential building has been constructed in compliance with the energy-efficient construction standards adopted under the provisions of 50-60-203(1).

NEW SECTION. Section 5. Energy labeling sticker. (1) The department, in consultation with the department of natural resources and conservation, shall prescribe by rule requirements for a labeling sticker to be affixed to a new residential building that describes the energy efficiency components of the home, including but not limited to heating appliance efficiencies and R-value or U-value of ceilings, walls, floors, windows, and doors in new residential buildings.

(2) A person constructing a new residential building shall affix to that residential building in a manner prescribed by the department a labeling sticker as described in subsection (1).

NEW SECTION. Section 6. Codification instruction. [Sections 1, 4, and 5] are intended to be codified as an

1 integral part of Title 50, chapter 60, part 2, and the
2 provisions of Title 50, chapter 60, part 2, apply to
3 [sections 1, 4, and 5].

4 NEW SECTION. **Section 7.** Coordination instruction. (1)
5 If an appropriation is not provided to the department of
6 natural resources and conservation to establish a housing
7 loan reserve account for energy-efficient homes as provided
8 in House Bill No. 10, then [sections 2 and 4 of this act]
9 are void.

10 (2) If Senate Bill No. 225 is not passed and approved,
11 the bracketed language in [section 3 of this act], amending
12 50-60-203, is void.

-End-