

HOUSE BILL NO. 47

INTRODUCED BY K. ZOLNIKOV

BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE STATE BUILDING ENERGY CONSERVATION ACT; REMOVING THE DEPARTMENT OF ENVIRONMENTAL QUALITY'S AUTHORITY TO ISSUE ENERGY CONSERVATION PROGRAM BONDS; ALLOWING THE DEPARTMENT TO SET AN ANNUAL INTEREST RATE FOR PROJECTS; REVISING DEFINITIONS; REVISING CERTAIN PROJECT REQUIREMENTS; AMENDING SECTIONS 90-4-602, 90-4-605, 90-4-606, 90-4-607, 90-4-613, 90-4-614, 90-4-615, 90-4-616, 90-4-617, AND 90-4-625, MCA; REPEALING SECTIONS 90-4-611 AND 90-4-612, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 90-4-602, MCA, is amended to read:

**"90-4-602. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

~~(1)~~ "Board" means the board of examiners provided for in 2-15-1007.

~~(2)~~(1) "Cost" includes the expenses related to planning, design, construction, and installation of energy conservation improvements and any administrative expenses of the department incurred in the performance of its duties under the energy conservation program.

~~(3)~~(2) "Department" means the department of environmental quality provided for in 2-15-3501.

~~(4)~~(3) "Energy conservation program" means a program for the financing, acquisition, construction, and installation of alternative energy systems, as defined in 15-32-102, or equipment, systems, and improvements in state-owned buildings, structures, and facilities that save energy or water utility and associated operation and maintenance costs.

~~(5)~~ "Energy conservation program bonds" includes all series of bonds issued to finance any portion of the energy conservation program.

1           ~~(6)~~(4) "Energy cost savings" means the savings in utility and associated operation and maintenance  
2 costs to a state agency as a result of an energy conservation program.

3           ~~(7)~~(5) "Participating state agency" means, for a state-owned building, structure, or facility, the state  
4 agency that pays for the utilities for that building.

5           ~~(8)~~(6) "State agency" means:

6           (a) each executive, legislative, or judicial branch department, office, or agency;

7           (b) the university system; and

8           (c) a community college district."  
9

10           **Section 2.** Section 90-4-605, MCA, is amended to read:

11           **"90-4-605. Preparation of energy conservation program.** (1) The department shall identify  
12 buildings or building systems that have a potential for energy savings, based on age, energy use, function, and  
13 condition of the building. ~~Upon~~On request of the department, a state agency shall provide the department with  
14 information necessary to allow the department to comply with this requirement.

15           (2) Based on the criteria in subsection (1) and on the feasibility of leveraging other funds, such as  
16 federal and utility energy conservation program money, the department shall select certain facilities for ~~indepth~~  
17 in-depth energy analyses to identify the technical and financial feasibility of making energy conservation  
18 improvements to the facilities.

19           (3) (a) ~~Upon~~On completion of the energy analyses, the department shall identify estimated costs  
20 and savings to the state based on these analyses.

21           (b) The department shall notify the department of administration of each project for which: the  
22 estimated savings are determined to be greater than the cost of the project, plus annual interest payments on  
23 the unpaid balance of the cost of the project.

24           (i) ~~for projects to be funded with bond proceeds, the estimated savings are determined to be~~  
25 ~~greater than the bond payment costs; and~~

26           (ii) ~~for projects to be funded from the general fund or the energy conservation capital projects~~  
27 ~~account, the estimated savings are determined to be greater than the cost of the project plus annual interest~~  
28 ~~payments of 3% of the unpaid balance of the cost of the project.~~

1 (c) ~~Upon~~On receipt of the notification, the department of administration shall implement a design  
2 and construction project using ~~bond proceeds or~~ funds from the general fund or the energy conservation capital  
3 projects account established in 90-4-617 for the costs of the project.

4 (4) The department shall compile a report that must include the following:

5 (a) a listing of contacts between the department and other state agencies;

6 (b) a summary of the department's review of agency requests and a selection of projects for  
7 ~~indepth~~in-depth analysis;

8 (c) a summary of the energy analyses conducted by the department, including the estimated cost  
9 of each proposed project and the estimated energy cost savings of each proposed project; and

10 (d) a listing of additional projects under consideration, for which energy analyses have not been  
11 conducted.

12 (5) The department shall submit the report required by subsection (4) to the governor before  
13 September 1 of each even-numbered year."

14 (6) The department shall set the annual interest rate for projects funded by the energy  
15 conservation program by July 1 of each year. The annual interest rate may not exceed 3%. The department  
16 may set the annual interest rate to cover administrative costs of the program."

17

18 **Section 3.** Section 90-4-606, MCA, is amended to read:

19 **"90-4-606. Program report and recommendations.** The governor shall submit the projects  
20 proposed to be funded by the energy conservation program for the next biennium as a part of the budget  
21 required by 17-7-123. The governor shall make available, as provided by 17-7-124:

22 (1) the report prepared by the department; and

23 (2) the proposed method of financing the improvement. ~~If energy conservation program bonds are~~  
24 ~~proposed to be issued to finance the program improvements, the governor shall include within the report a~~  
25 ~~written statement by the department that the estimated annual energy savings to be derived from the~~  
26 ~~installation of the energy saving equipment or improvements, upon completion, are expected to equal or~~  
27 ~~exceed the annual debt service to be paid on the energy conservation program bonds proposed to be issued to~~  
28 ~~fund the costs of the equipment or improvements."~~

1

2 **Section 4.** Section 90-4-607, MCA, is amended to read:

3 **"90-4-607. Duties of department.** In addition to the duties set forth in 90-4-605, the department is  
4 authorized to:

- 5 (1) analyze state utility data to identify high-potential energy conservation projects;
- 6 (2) perform comprehensive energy analyses on state-owned buildings, structures, and facilities,  
7 contracting with private engineers when necessary; and

8 (3) transfer funds and authority to the department of administration or other participating agencies  
9 to:

- 10 (a) procure, design, and ~~construction of~~ construct cost-effective energy improvements; and
- 11 (b) ~~transfer funds and authority to other agencies to procure, design, and construct cost-effective~~  
12 ~~energy improvements; and~~

13 (4) ~~—~~ train facility maintenance staff in energy saving techniques and maintenance of energy  
14 improvements and monitor energy conservation projects to ensure that cost savings are realized ~~and are~~  
15 ~~adequate to cover the debt service if bonds have been issued to fund the improvements."~~

16

17 **Section 5.** Section 90-4-613, MCA, is amended to read:

18 **"90-4-613. Use Creation and use of energy conservation program account.** (1) There is created  
19 an energy conservation program account within the state special revenue fund established in 17-2-102.

20 (2) The energy conservation program account must be segregated by the treasurer from all other  
21 money in that or any other fund in the state treasury and used only to pay costs of the energy conservation  
22 program. The department may transfer all money authorized by the legislature for its administrative  
23 expenditures from the energy conservation program account to a special revenue fund."

24

25 **Section 6.** Section 90-4-614, MCA, is amended to read:

26 **"90-4-614. Appropriation of energy cost savings.** (1) In preparing the executive budget each  
27 biennium, the governor shall include for each state agency that is participating in the state energy conservation  
28 program using money from the ~~sale of energy conservation program bonds~~ energy conservation program

1 account provided for in 90-4-613 ———an estimate of the energy cost savings expected for that agency in  
 2 each year of the biennium.

3 (2) Each session, the legislature shall review the governor's submission pursuant to 90-4-606 and  
 4 subsection (1) of this section and appropriate in the general appropriations act authority for each participating  
 5 state agency to transfer funds in an amount equal to the agency's energy cost savings to the energy  
 6 conservation program debt service account established in 90-4-625. ~~These transfers must be made for a period~~  
 7 ~~that is equal to the term of the bonds, plus 1 year.~~

8 (3) The current level utility appropriations of each state agency participating in the energy  
 9 conservation program must be reduced by the amount appropriated in subsection (2).

10 (4) Each participating state agency shall transfer ~~upon~~on request of the department the amount  
 11 appropriated in accordance with subsection (2)."

12

13 **Section 7.** Section 90-4-615, MCA, is amended to read:

14 **"90-4-615. Energy conservation repayment account.** (1) There is an energy conservation  
 15 repayment account in the state special revenue fund established in 17-2-102.

16 (2) There must be deposited in the energy conservation repayment account:

17 (a) the amount of energy costs saved as a result of energy conservation projects in state buildings,  
 18 facilities, or structures using appropriations from the energy conservation capital projects account or the general  
 19 fund for the energy conservation program;

20 (b) interest earned on the account;

21 (c) interest earned on the energy conservation capital projects account created in 90-4-617; and

22 (d) funds transferred to the account by the legislature.

23 (3) Money in the energy conservation repayment account is available to the department of  
 24 environmental quality by appropriation to fund the costs of the energy conservation program for:

25 (a) conducting energy analysis;

26 (b) data collection and analysis;

27 (c) program administration and oversight; and

28 (d) procurement, design, and construction costs for projects with energy cost savings considered

1 not appropriate for funding through the repayment program; and

2 ~~(d)~~(e) monitoring the results of state building energy conservation projects.

3 (4) If the unencumbered funds in the account at the end of a biennium exceed \$2 million, the  
4 department shall transfer to the energy conservation capital projects account the amount of funds in excess of  
5 \$2 million."  
6

7 **Section 8.** Section 90-4-616, MCA, is amended to read:

8 **"90-4-616. Transfer of energy savings from projects.** (1) In preparing the executive budget each  
9 biennium, for each state agency participating in the energy conservation program by using appropriations from  
10 the general fund or the energy conservation capital projects account created in 90-4-617, the governor shall  
11 include an estimate of the energy cost savings expected for that agency in each year of the biennium.

12 (2) Each session, the legislature shall review the governor's submission pursuant to 90-4-606 and  
13 subsection (1) of this section and, unless the legislature disapproves, shall include in the general appropriations  
14 act authority for each participating state agency to transfer funds in an amount equal to the agency's estimated  
15 energy cost savings to the energy conservation repayment account established in 90-4-615. These transfers  
16 must continue until the cost of the project, including energy analysis, acquisition and installation costs of energy  
17 saving equipment or systems, and the cost of the construction of improvements in state buildings, facilities, or  
18 structures, plus annual interest payments of ~~3%~~ at a rate set pursuant to 90-4-605(6) of the unpaid balance of  
19 the cost of the project, has been paid into the energy conservation repayment account.

20 (3) The current level utility appropriations of state agencies participating in the energy conservation  
21 program must be reduced by the sum of the amounts approved to be transferred pursuant to subsection (2).

22 (4) ~~Upon~~On request of the department, each participating state agency shall transfer the amounts  
23 approved pursuant to subsection (2)."  
24

25 **Section 9.** Section 90-4-617, MCA, is amended to read:

26 **"90-4-617. Energy conservation capital projects account.** (1) There is an energy conservation  
27 capital projects account in the capital projects fund type established in 17-2-102.

28 (2) There must be deposited in the account:

- 1 (a) money transferred from the energy conservation repayment account; and
- 2 (b) other amounts transferred to the account by the legislature.
- 3 (3) Money in the account is available to the department by appropriation and ~~must~~ may be used to
- 4 pay the costs of the acquisition, installation, and construction of energy saving equipment, systems, or
- 5 improvements in state buildings, facilities, or structures."

6

7 **Section 10.** Section 90-4-625, MCA, is amended to read:

8 **"90-4-625. Energy conservation program debt service account.** ~~(1)~~ There is an energy  
9 conservation program debt service account within the debt service fund type established in 17-2-102.

10 ~~(2) — The department shall transfer to the major repair long range building program account created~~  
11 ~~in 17-7-221 money in the energy conservation debt service account that is in excess of the amount that may be~~  
12 ~~needed to satisfy the principal and interest payments on the energy conservation program bonds. "~~

13

14 NEW SECTION. **Section 11. Repealer.** The following sections of the Montana Code Annotated are  
15 repealed:

16 90-4-611. Authority to issue energy conservation program bonds.

17 90-4-612. Form -- principal and interest -- fiscal agent -- deposit of proceeds.

18

19 NEW SECTION. **Section 12. Saving clause.** [This act] does not affect rights and duties that  
20 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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22 NEW SECTION. **Section 13. Effective date.** [This act] is effective July 1, 2025.

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