

## HOUSE BILL NO. 238

INTRODUCED BY M. PHILLIPS

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING EFFICIENCY AUDITS IN STATE-OWNED BUILDINGS; ALLOWING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO CONTRACT WITH AUDIT PROVIDERS; REQUIRING THE DEPARTMENT TO IMPLEMENT THE AUDITS IN CONJUNCTION WITH THE STATE ENERGY CONSERVATION PROGRAM; PROVIDING FUNDING FOR EFFICIENCY AUDITS; CREATING A STATE-OWNED BUILDING EFFICIENCY AUDIT SPECIAL REVENUE ACCOUNT; REQUIRING THE TRACKING OF ENERGY USE AND ESTIMATED GREENHOUSE GAS EMISSIONS IN STATE-OWNED BUILDINGS; REQUIRING THE REPORTING OF ENERGY USE, ESTIMATED GREENHOUSE GAS EMISSIONS, AND COST SAVINGS IN STATE-OWNED BUILDINGS FOLLOWING AUDITS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 90-4-605, AND 90-4-607, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, it is the policy of the state to encourage state agencies and public institutions of higher education to invest in efficiency measures and infrastructure upgrades that reduce consumption of energy, produce savings, and improve the quality of indoor air in facilities and, when economically feasible, to operate, maintain, or renovate buildings in a manner that will minimize energy and water consumption and reduce operational costs associated with infrastructure; and

WHEREAS, there is growing interest in the United States in state-level actions to address the effects of climate change and greenhouse gas emissions; and

WHEREAS, Montana has formed a Climate Change Advisory Committee to examine state-level greenhouse gas reductions, and efficiency audits can assist in the reductions by providing for energy efficiency and waste-reduction measures; and

WHEREAS, efficiency audits can encourage the use of alternative energy sources.

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

**NEW SECTION.** **Section 1. Short title.** [Sections 1 through 6] may be cited as the "State-Owned Building Efficiency Audit Act".

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2        **NEW SECTION.** **Section 2. Legislative findings and policy.** The legislature finds that:

3            (1) investment in efficiency measures and infrastructure upgrades and modernization in state-owned  
4 buildings can reduce the amount of energy and water consumed, reduce waste, reduce long-term operational  
5 costs, reduce greenhouse gas emissions, and produce immediate and long-term savings; and

6            (2) conserving energy and water, while reducing waste in state-owned buildings, can result in cost  
7 savings for taxpayers.

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9        **NEW SECTION.** **Section 3. Definitions.** As used in [sections 1 through 6], the following definitions  
10 apply:

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

12            (2) "Efficiency audit" means a comprehensive building systems audit, performed by the department or  
13 by a qualified provider selected by the department, for the purpose of identifying the energy and water  
14 consumption characteristics of a building by identifying the type, amount, and rate of energy and amount of water  
15 used in the building and its major energy systems. Audits will document efficiency measures, estimates of  
16 potential reductions in greenhouse gas emissions, cost-savings factors, and estimated savings from the efficiency  
17 measures identified.

18            (3) "Efficiency measure" means building improvements or equipment, an alternative system, or a change  
19 in operating practices that is designed to reduce greenhouse gas emissions, provide savings of energy or water,  
20 or provide savings in the operating budget of an agency or institution.

21            (4) "Greenhouse gas" includes the following gases:

22            (a) carbon dioxide;

23            (b) methane;

24            (c) nitrous oxide;

25            (d) hydrofluorocarbons;

26            (e) perfluorocarbons; and

27            (f) sulfur hexafluoride.

28            (5) "Qualified provider" means a person who:

29            (a) is experienced in the evaluation, design, and implementation of efficiency measures and building  
30 improvement measures; and

(b) has knowledge and experience in the measurement of savings from efficiency measures.

(6) "State-owned buildings" include:

(a) facilities owned by the state and used by each department, office, or agency of all branches of state government; and

(b) facilities owned by the state and used by the university system.

**NEW SECTION. Section 4. State-owned building efficiency audits -- tracking and reporting.** (1)

(a) Agencies and institutions shall track and report utility use and cost along with an estimate of greenhouse gas emissions to the department on an annual basis.

(b) The department shall provide an electronic reporting application and consistent format for this data.

(c) Data must be reported on all buildings greater than 1,500 square feet or with utility use greater than \$5,000 each year.

(2) The utility tracking reports must be used by the department in determining facilities for which efficiency audits are appropriate and in determining the effectiveness of efficiency measures installed.

(3) Following installation of efficiency measures, the department shall compare the utility use and cost and determine any change in usage or cost, including monetary savings and reduction of greenhouse gas emissions attributable to efficiency measures. Each even-numbered year, the department shall prepare a report of those changes, including monetary savings and reduction of greenhouse gas emissions attributable to efficiency measures implemented in the previous biennium. The report must be submitted to the governor pursuant to 90-4-605(5).

**NEW SECTION. Section 5. State-owned building efficiency audit -- program description.** (1) The

department shall establish a program to require each state-owned building to undergo an efficiency audit before June 30, 2015.

(2) Audits are not required in buildings:

(a) where comprehensive energy retrofit projects occurred after January 1, 2002; or

(b) with less than 10,000 square feet and less than \$25,000 in annual utility costs, including electricity, natural gas, propane, wood used for fuel, water, and other utilities.

(3) The department may procure engineering services from qualified providers to complete efficiency audits.

(4) Audits must be used to identify energy and water needs and uses, to set measurable goals and objectives for reducing energy use, water use, or greenhouse gas emissions, to identify specific operational and management efficiency measures, and to identify building improvements, equipment needs, or alternative systems.

(5) The department shall evaluate the results of the audit and identify buildings to include in the state building energy conservation program provided for in 90-4-605.

**NEW SECTION. Section 6. State-owned building efficiency audit -- special revenue account -- statutory appropriation.** (1) There is a state-owned building efficiency audit special revenue account within the state special revenue fund established in 17-2-102.

(2) Any income and earnings on the account must be deposited in the account.

(3) The money in the account must be used to conduct efficiency audits in state-owned buildings, to collect or gather information for administration of the audit program, or to assist in the implementation of the audits' findings.

(4) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department.

(5) After July 1, 2015, any remaining money in the account is transferred to the debt service fund established in 17-2-102.

**NEW SECTION. Section 7. State-owned building efficiency audit -- fund transfer.** There is transferred \$3 million from the state general fund to the special revenue account established in [section 6].

**Section 8.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-407; 5-13-403; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; [section 6]; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202, 23-4-204, 23-4-302, and 23-4-304 becomes effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010.)"

**Section 9.** Section 90-4-605, MCA, is amended to read:

**"90-4-605. Preparation of energy conservation program.** (1) The department shall identify buildings that have a potential for energy savings, based on ~~age, energy use, function, and condition of the building.~~ utility use reports pursuant to [section 4], efficiency audits completed according to [section 5], age, function, condition of the building, and any planned renovations. Upon request of the department, a state agency shall provide the department with information necessary to allow the department to comply with this requirement.

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

(3) ~~Upon completion of the energy analyses, the~~ The department shall identify estimated costs and savings to the state based on ~~these analyses~~ the efficiency audits completed pursuant to [section 5]. If the estimated savings are determined to be greater than the bond payment costs for a particular project, the department shall notify the department of administration. Upon receipt of the notification, the department of administration shall implement a design and construction project using bond proceeds for the costs of the project, shall determine a time, within 10 years of the receipt of the notification, when a design and construction process will occur, or shall identify conditions that make investment in efficiency measures of a particular facility unnecessary.

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

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

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

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

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

(a) a summary of the efficiency audits completed at a state-owned building, including the estimated cost of each proposed project, the estimated cost savings of each proposed project, and the estimated reduction in greenhouse gas emissions;

(b) a list of the projects proposed for construction in the next biennium;

(c) the energy use report required in [section 4(1)] for a building where a project is proposed for construction; and

(d) the energy cost savings report required in [section 4(3)].

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

**Section 10.** Section 90-4-607, MCA, is amended to read:

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

(1) analyze state utility data to identify high-potential energy conservation projects;

(2) perform comprehensive ~~energy analyses~~ efficiency audits on state-owned buildings, structures, and facilities, contracting with ~~private engineers~~ qualified providers, as defined in [section 3], when necessary;

(3) transfer funds and authority to the department of administration to:

(a) procure design and construction of cost-effective energy improvements; and

(b) transfer funds and authority to other agencies to procure, design, and construct cost-effective energy improvements; and

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

NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 90, chapter 4, and the provisions of Title 90, chapter 4, apply to [sections 1 through 6].

**NEW SECTION. Section 12. Effective date.** [This act] is effective July 1, 2007.

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