

## 1 HOUSE BILL NO. 646

2 INTRODUCED BY W. GRINDE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA HIGH PERFORMANCE SCHOOLS  
5 AND ECONOMIC STIMULUS ACT; PROVIDING FOR A PUBLIC SCHOOL BUILDINGS ENERGY EFFICIENCY  
6 ACCOUNT AND FOR AN ENERGY EFFICIENCY AND CONSERVATION PROGRAM IN THE DEPARTMENT  
7 OF ENVIRONMENTAL QUALITY; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION  
8 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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12 NEW SECTION. **Section 1. Short title.** [Sections 1 through 6] may be cited as the "Montana High  
13 Performance Schools and Economic Stimulus Act".

14

15 NEW SECTION. **Section 2. Legislative findings.** The legislature finds that investing in energy  
16 efficiency in public school buildings will:

- 17 (1) reduce state and local tax revenue spent on energy bills;  
18 (2) improve the condition of aging buildings;  
19 (3) provide healthier and more comfortable learning environments for students and workplaces for  
20 teachers;  
21 (4) create employment opportunities in the building trades; and  
22 (5) stimulate Montana's economy.

23

24 NEW SECTION. **Section 3. Definitions.** As used in [sections 1 though 6], unless the context requires  
25 otherwise, the following definitions apply:

- 26 (1) "Department" means the department of environmental quality provided for in 2-15-3501.  
27 (2) "Energy efficiency and conservation program" means a program for the financing, acquisition,  
28 construction, and installation of energy saving equipment, systems, and improvements in public school district  
29 buildings, structures, and facilities and for the evaluation of potential energy savings and recommendations for  
30 energy efficiency and conservation investments for public school district buildings.

1 (3) "Payback period" means an estimated period of time within which the costs of the facility  
2 improvements will be recovered from the savings generated by the resulting reduced energy consumption.

3 (4) "Public school district" means a district as defined in 20-6-101 or a K-12 school district as defined  
4 in 20-6-701.

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6 **NEW SECTION. Section 4. Public school buildings energy efficiency account -- statutory**  
7 **appropriation -- department to award grants for 2011 biennium.** (1) There is a public school buildings energy  
8 efficiency account in the federal special revenue fund established in 17-2-102.

9 (2) Money may be deposited in the account from funds received from the federal government under the  
10 American Recovery and Reinvestment Act of 2009, Public Law 111-5, that are available for grants to public  
11 school districts for school infrastructure energy efficiency projects.

12 (3) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department  
13 exclusively for grants to public school districts for energy efficiency projects as provided for in [section 5].

14 (4) For the 2011 biennium only, after receiving and evaluating proposals, the department may award  
15 energy improvement grants to public school districts. The total grants awarded by the department under this  
16 section may not exceed the amount deposited pursuant to subsection (2). In awarding grants under this  
17 subsection, all definitions and requirements of [sections 1 through 6] apply except that the department need not  
18 submit its recommendations to the governor and legislative approval is not required for the award of specific  
19 grants.

20  
21 **NEW SECTION. Section 5. Public school buildings -- energy efficiency and conservation program**  
22 **-- department duties -- financing options -- criteria.** (1) There is an energy efficiency and conservation  
23 program. The department shall prepare an application form based upon the criteria in this section.

24 (2) A public school district may submit an application to the department for assistance in funding for:

25 (a) an energy audit or evaluation by a prequalified energy auditor, in the same manner as provided in  
26 90-4-605, of the potential for energy savings in a building owned by the public school district;

27 (b) the design of a building exceeding the international energy conservation code adopted by the  
28 department of labor and industry by 20% or to the extent that is cost-effective over the life of the building or major  
29 renovation; or

30 (c) energy efficiency improvements that are based on an energy audit or evaluation and that achieve

1 energy efficiency through a comprehensive, integrated design approach that considers the building envelope and  
2 domestic hot water, heating, cooling, and lighting systems. Grants or loans to public school districts for investment  
3 in energy efficiency improvements under this subsection (1)(c) must be based upon an energy audit or evaluation  
4 and upon data collected for and reported by the department of administration in the K-12 public schools facility  
5 condition assessment final report.

6 (3) The department shall provide assistance to public school districts in financing energy efficiency  
7 upgrades through funding packages that may include but are not limited to the following sources:

8 (a) grants from the public school buildings energy efficiency account, as provided in [section 4], that are  
9 in compliance with requirements of the funding source;

10 (b) loans through the board of investments as provided in Title 17, chapter 6, part 3;

11 (c) federal or utility energy conservation program money;

12 (d) [the quality schools facility grant program in House Bill No. 152]; or

13 (e) local government energy performance contracts entered into under Title 90, chapter 4, part 11.

14 (4) In administering the initial grants based on funds available under [section 4] and in preparing a report  
15 to the governor under [section 6], the department shall apply the following criteria to applications for school facility  
16 energy efficiency projects in the listed order of priority:

17 (a) projects that solve urgent and serious public health or safety problems or that enable public school  
18 districts to meet state or federal health or safety standards;

19 (b) projects that provide improvements necessary to allow school facilities to meet or exceed the  
20 international energy conservation code adopted by the department of labor and industry;

21 (c) projects that provide long-term, cost-effective benefits through energy-efficient design with a payback  
22 period not to exceed 20 years; or

23 (d) projects for public school districts that reflect a higher need for financial assistance as identified by  
24 the level of participation in the federal school food services program administered by the superintendent of public  
25 instruction.

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27 **NEW SECTION. Section 6. Energy efficiency and conservation program -- application -- reporting.**

28 (1) A public school district may submit an application to the department for an evaluation of the potential for  
29 energy savings in a building owned by the public school district based on age, energy use, function, and condition  
30 of the building.

1 (2) Based on the criteria in subsection (1) and on the feasibility of leveraging other funds, the department  
2 shall select certain facilities for comprehensive energy analyses to identify the technical and financial feasibility  
3 of making energy efficiency improvements to the facilities.

4 (3) Upon completion of the energy analyses, the department shall identify estimated costs and savings  
5 to a public school district based on the analyses.

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

7 (a) a listing of contacts between the department and public school districts;

8 (b) a summary of the department's review of public school district requests and a selection of projects  
9 for comprehensive analysis;

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

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

14 (5) The department is authorized to:

15 (a) analyze public school district utility data to identify projects with high potential for energy efficiency  
16 and conservation;

17 (b) contract with private engineers when necessary to perform comprehensive energy analyses on  
18 buildings, structures, and facilities owned by public school districts;

19 (c) transfer funds and authority to a public school district to procure design and construction services  
20 for cost-effective energy improvements; and

21 (d) monitor energy efficiency and conservation projects to ensure that cost savings are realized.

22 (6) The department shall submit the report required by subsection (4) to the governor before September  
23 1 of each even-numbered year.

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

26 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
27 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the  
28 need for a biennial legislative appropriation or budget amendment.

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

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

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

4 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;  
5 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314;  
6 10-4-301; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;  
7 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;  
8 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;  
9 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202;  
10 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;  
11 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;  
12 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108;  
13 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;  
14 [section 4]; and 90-9-306.

15 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
16 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
17 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana  
18 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state  
19 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory  
20 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion  
21 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is  
22 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014;  
23 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  
24 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January  
25 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last  
26 recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6,  
27 Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

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29 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 6] are intended to be codified  
30 as an integral part of Title 90, chapter 4, and the provisions of Title 90, chapter 4, apply to [sections 1 through 6].

