

HOUSE BILL NO. 12

INTRODUCED BY D. KASTEN

BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE OFFICE OF BUDGET
AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "ENERGY COST SAVINGS"; CLARIFYING DEBT SERVICE FOR APPROPRIATIONS OF ENERGY COST SAVINGS; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS TO FUND THE STATE BUILDING ENERGY CONSERVATION PROGRAM AND CREATING A STATE DEBT; APPROVING ENERGY CONSERVATION PROJECTS FOR FISCAL YEARS 2004 AND 2005; APPROPRIATING BOND PROCEEDS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; PLEDGING THE CREDIT OF THE STATE OF MONTANA TO SECURE THE BONDS TO BE ISSUED; AMENDING SECTIONS 90-4-602 AND 90-4-614, 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) "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) "Department" means the department of environmental quality provided for in 2-15-3501.

(4) "Energy conservation program" means a program for the financing, acquisition, construction, and installation of energy saving equipment, systems, and improvements in state-owned buildings, structures, and facilities.

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

(6) "Energy cost savings" means the savings in utility costs to a state agency as a result of an energy conservation program.

~~(6)~~(7) "State agency" means:

- (a) each executive, legislative, or judicial branch department, office, or agency; and
- (b) the university system."

Section 2. Section 90-4-614, MCA, is amended to read:

"90-4-614. Appropriation of energy cost savings. (1) In preparing the executive budget each biennium, the governor shall include for each state agency participating in the state energy conservation program:

- (a) an estimate of the energy cost savings expected for that agency in each year of the biennium; and
- (b) a projection of the debt service on energy conservation program bonds that should be apportioned to that agency in each year of the biennium. Debt service is zero after the term of bond repayment.

(2) Each session, the legislature shall review the governor's submission pursuant to 90-4-606 and subsection (1) of this section and appropriate in the general appropriations act the following:

(a) authority for each participating state agency to transfer funds in an amount equal to the agency's projected debt service to the energy conservation program account established in 90-4-612; and

(b) authority for each participating state agency to transfer funds to the long-range building program fund in an amount equal to the difference between the estimated energy cost savings to the agency and the projected debt service apportioned to that agency.

(3) The current level utility appropriations of state agencies participating in the energy conservation program must be reduced by the sum of the amounts appropriated in subsections (2)(a) and (2)(b).

(4) Each participating state agency shall transfer upon request of the department the amounts appropriated in accordance with subsection (2)."

NEW SECTION. **Section 3. Appropriation of bond proceeds.** There is appropriated from bond proceeds authorized by Chapter 50, Laws of 1999, Chapter 240, Laws of 2001, and [section 5] \$400,000 to the department of environmental quality to fulfill its duties under 90-4-605 and 90-4-607. This appropriation is a biennial appropriation.

NEW SECTION. **Section 4. Approval of energy conservation projects -- definition.** (1) Pursuant to Title 90, chapter 4, part 6, the legislature approves for fiscal years 2004 and 2005 the following energy conservation projects:

- (a) Mitchell building, department of administration, Helena, Montana;
- (b) Spratt building, department of public health and human services, Warm Springs, Montana;

(c) health science building, University of Montana-Missoula, Montana;

(d) Montana mental health and nursing care center, department of public health and human services, Helena, Montana;

(e) men's prison, department of corrections, Deer Lodge, Montana; and

(f) Kalispell and Missoula headquarters buildings, department of fish, wildlife, and parks.

(2) In addition to the energy conservation projects referred to in subsection (1), the department of environmental quality may expend funds appropriated under [section 3] to respond to energy savings opportunities. Energy savings opportunities include coordination of energy improvement projects with the long-range building program capital improvement projects.

(3) For purposes of this section, an "energy savings opportunity" means an opportunity to improve energy use that will provide significant energy and cost savings to the state and that will be technically infeasible or uneconomical if the department of environmental quality is delayed in providing the necessary funds until specific legislative approval can be obtained.

(4) If the costs of the projects authorized in subsections (1) and (2) are substantially below the bond amount authorized in [section 5], the department of environmental quality may fund projects that would be proposed as part of the state building energy conservation package for fiscal years 2006 and 2007.

NEW SECTION. Section 5. Bond authorization. (1) The board of examiners may, pursuant to 90-4-611, issue and sell bonds of the state in an aggregate principal amount not to exceed \$2.5 million for fiscal years 2004 and 2005 for the projects approved in [section 4] and to fulfill the duties imposed by 90-4-605 and 90-4-607, as provided in [section 3]. The bonds are general obligations for which the full faith and credit and taxing powers of the state are pledged for payment of the principal and interest on the bonds. The bonds must be issued as provided by Title 17, chapter 5, part 8.

(2) The proceeds of the bonds, other than any premiums and accrued interest received, must be deposited in the energy conservation program account established by 90-4-612. Premiums and accrued interest must be deposited in the debt service fund established in 17-2-102. Proceeds of bonds deposited in the energy conservation program account may be used to pay the costs of issuing the bonds, to fulfill the duties authorized by 90-4-605 and 90-4-607, and to fund the projects approved in [section 4]. For the purposes of 17-5-803 and 17-5-804, the energy conservation program account constitutes a capital projects account. The bond proceeds must be available to the department of environmental quality and may be used for the purposes authorized in this section without further budgetary authorization.

NEW SECTION. **Section 6. Two-thirds vote required.** Because [section 5] authorizes the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for enactment of [section 5].

NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2003.

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