

HOUSE BILL NO. 5

INTRODUCED BY J. SESSO

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO CAPITAL PROJECTS; INCLUDING ENERGY CONSERVATION PROJECTS AS CAPITAL PROJECTS; APPROPRIATING MONEY FOR CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2011; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE STATE GENERAL FUND TO THE LONG-RANGE BUILDING PROGRAM ACCOUNT; CREATING AN ENERGY CONSERVATION CAPITAL PROJECTS ACCOUNT; PROVIDING FOR TRANSFERS OF FUNDS FROM THE STATE GENERAL FUND TO THE ENERGY CONSERVATION REPAYMENT ACCOUNT AND THE ENERGY CONSERVATION CAPITAL PROJECTS ACCOUNT; AUTHORIZING COMMUNITY COLLEGES TO PARTICIPATE IN THE ENERGY CONSERVATION PROGRAM; REQUIRING PAYMENT OF INTEREST ON ENERGY CONSERVATION PROJECT COSTS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE STATE GENERAL FUND TO THE FISH WILDLIFE AND PARKS CAPITAL PROJECTS ACCOUNT; REQUIRING THE INCLUSION OF ENERGY SAVINGS IN THE EXECUTIVE BUDGET; AMENDING SECTIONS 17-7-111, 17-7-123, 90-4-602, AND 90-4-615, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Definitions.** For the purposes of [sections 1 through 10], unless otherwise stated, the following definitions apply:

(1) "Authority only" means approval provided by the legislature to expend money that does not require an appropriation, including grants, donations, auxiliary funds, proprietary funds, and university funds.

(2) "Capital project" means the acquisition of land or improvements or the planning, capital construction, renovation, furnishing, or major repair projects authorized in [sections 1 through 10].

(3) "LRBP" means the long-range building program account in the capital projects fund type.

(4) "Other funding sources" means money other than LRBP, state special revenue, or federal special revenue money that accrues to an agency under the provisions of law.

NEW SECTION. Section 2. Capital project appropriations and authorizations. The following money is appropriated for the indicated capital projects to the department of environmental quality for state building energy conservation funds and from all other indicated sources to the department of administration. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer the appropriations and/or authority among the necessary fund types for these projects:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
MONTANA SCHOOL FOR THE DEAF AND BLIND						
Energy and Facility Improvements	250,000			25,000		275,000
Other funds consist of state building energy conservation funds.						
DEPARTMENT OF ADMINISTRATION						
Renovation and Energy Improvements						
State Liquor Warehouse				2,210,000		2,210,000
Other funds consist of 460,000 of state building energy conservation funds and 1,750,000 of proprietary funds.						
Mechanical and Energy Projects						
Capitol Complex				1,533,000	1,600,000	3,133,000
Other funds consist of state building energy conservation funds.						
Authority-only funds consist of general services division internal service funds.						

Energy Related Deferred Maintenance, Statewide	3,150,000			3,150,000
Spending Authority, Utility Energy Conservation Funds			2,000,000	2,000,000

Authority-only funds consist of utility company grants, rebates and incentives.

Hazardous Materials Abatement, Statewide	400,000			400,000
Roof Repairs and Replacements, Statewide	1,310,000	700,000		2,010,000
Elevator and ADA Modifications, Capitol Complex			1,450,000	1,450,000

Authority-only funds consist of general services division internal service funds.

Repair/Preserve Building Envelopes, Statewide	1,500,000			1,500,000
Code/Deferred Maintenance, Statewide	2,000,000			2,000,000
Infrastructure Repairs, State Capitol	500,000		300,000	800,000

Authority-only funds consist of general services division internal service funds.

Campus Infrastructure, Statewide	1,000,000			1,000,000
Parking Lot Upgrades, Capitol Complex			250,000	250,000

Authority-only funds consist of general services division internal service funds.

Upgrade Fire Protection Systems, Statewide	800,000			800,000
Campus Master Planning, Statewide	200,000	100,000	200,000	500,000

Authority-only funds may include federal special revenue, auxiliary, donations, grants, and higher education funds.

DEPARTMENT OF CORRECTIONS

Energy Conservation Improvements	1,260,000		2,620,000	500,000	4,380,000
----------------------------------	-----------	--	-----------	---------	-----------

Other funds consist of state building energy conservation funds.

Authority-only funds may include federal special revenue, donations, grants, and proprietary funds.

Alternative Energy-Biomass Boiler, MT State Prison		250,000	740,000		990,000
--	--	---------	---------	--	---------

Other funds consist of state building energy conservation funds.

Emergency Power System, MT State Prison	500,000		500,000
Renovate Low Support, MT State Prison	1,660,000		1,660,000
New Building for Youth Transition Center, Great Falls	1,310,000		1,310,000
Improve Food Production	300,000		300,000

DEPARTMENT OF FISH, WILDLIFE, AND PARKS

Hatchery Maintenance	575,000	275,000	850,000
Administration Facilities Repair and Maintenance	1,390,000		1,390,000

DEPARTMENT OF MILITARY AFFAIRS

Energy Conservation Improvements		885,000	265,000	1,150,000
----------------------------------	--	---------	---------	-----------

Other funds consist of state building energy conservation funds.

Storm Water Improvements/Infrastructure, Phase 3, Fort Harrison		1,600,000		1,600,000
Paving Parking Lots, Statewide	100,000	100,000		200,000

MONTANA UNIVERSITIES AND COLLEGES

Code Compliance/Deferred Maintenance				
Montana University System	3,600,000		1,000,000	4,600,000

Authority-only funds may include federal special revenue, auxiliary, donations, grants, and higher education funds.

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Improve Medical Services, MT Developmental Center, Boulder				
	450,000			450,000

DEPARTMENT OF TRANSPORTATION

Equipment Storage Buildings, Statewide	1,175,000			1,175,000
--	-----------	--	--	-----------

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Energy/Major Repairs and Small Projects, Statewide 1,000,000

1,000,000

DEPARTMENT OF AGRICULTURE

Renovation and Energy Upgrades, State Grain Lab, Great Falls

525,000

525,000

NEW SECTION. **Section 3. Fund transfers.** (1) Subject to subsection (5), there is transferred from the state general fund \$2.6 million in fiscal year 2010 and \$2.6 million in fiscal year 2011 to the long-range building program account in the capital projects fund type for the projects enumerated in [sections 2 and 4].

(2) Subject to subsection (5), there is transferred from the state general fund \$10.4 million in fiscal year 2010 and \$2.957 million in fiscal year 2011 to the energy conservation capital projects account in the capital projects fund type for the projects enumerated in [sections 2 and 4].

(3) Subject to subsection (5), there is transferred from the state general fund \$1 million in fiscal year 2010 and \$500,000 in fiscal year 2011 to the energy conservation repayment account created in 90-4-615 to be available to the department of environmental quality by appropriation to fund the costs of the state building energy conservation program.

(4) Subject to subsection (5), there is transferred from the state general fund \$1 million in fiscal year 2010 and \$1 million in fiscal year 2011 to the fish, wildlife, and parks capital projects account in the capital projects fund type for the projects enumerated in [section 5].

(5) In order to maintain an adequate general fund ending balance, if at any time during the 2011 biennium, the office of budget and program planning projects a 2011 biennium unreserved general fund ending balance of less than \$125 million, the office of budget and program planning may direct the department of administration to reduce the fund transfers in subsections (1) through (4). The department of administration shall transfer the funds on a schedule approved by the office of budget and program planning that enables the statewide management goals for cash flow and for fund balance. If the projected unreserved general fund ending balance increases at a later point in the biennium, the fund transfers may be increased back up to the original authorized level. The office of budget and program planning may not direct fund transfers to be reduced below the level of encumbrance obligations made

against the appropriation at the time of the reduction.

NEW SECTION. Section 4. Capital improvements. (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide facilities. Funds not requiring legislative appropriation are included for the purpose of authorization:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Future Fisheries		1,150,000				1,150,000
Community Fishing Ponds		50,000				50,000
Clearwater Fish Barrier		825,000	25,000			850,000
Upland Game Bird Program		1,525,000				1,525,000
Wildlife Habitat Maintenance		1,010,000				1,010,000
Migratory Bird Stamp Program		620,000				620,000
Bighorn Sheep		150,000				150,000
Parks Program		3,040,000	2,000,000			5,040,000
Fishing Access Site Protection		900,000				900,000
Grant Programs/Federal Projects		320,000	1,500,000			1,820,000

(2) The following money is appropriated to the department of commerce, Montana heritage preservation and development commission, in the indicated amount for the purpose of making capital improvements to facilities located in Virginia City, Nevada City, and Reeder's Alley:

Agency/Project	LRBP Fund	State Special	Federal Special	Other Funding	Authority Only	Total
----------------	--------------	------------------	--------------------	------------------	-------------------	-------

	Revenue	Revenue	Sources	
Historic Preservation & Supporting Improvements, MHC Properties Statewide				
	750,000			750,000

(3) Authority is being granted to the university of Montana in the indicated amount for the purpose of making capital improvements to campus facilities. Authority-only funds may include federal special revenue, donations, grants, and higher education funds. All costs for the operations and maintenance of any new improvements constructed under this authorization must be paid by the university of Montana with nonstate revenue.

Agency/Project	LRBP	State	Federal	Other	Authority	Total
	Fund	Special	Special	Funding	Only	
		Revenue	Revenue	Sources		
General Spending Authority, UM-All Campuses					6,000,000	6,000,000

(4) The following money is appropriated to the department of military affairs in the indicated amount for the purpose of making capital improvements to statewide facilities. All costs for the operation and maintenance of any new improvements constructed with these funds must be paid by the department of military affairs with nonstate revenue.

Agency/Project	LRBP	State	Federal	Other	Authority	Total
	Fund	Special	Special	Funding	Only	
		Revenue	Revenue	Sources		
Federal Spending Authority			2,000,000			2,000,000

(5) The following money is appropriated to the department of transportation in the indicated amounts for the purpose of making capital improvements as indicated:

Agency/Project	LRBP	State	Federal	Other	Authority	Total
	Fund	Special	Special	Funding	Only	
		Revenue	Revenue	Sources		

Statewide Maintenance, Repair and Small Projects	2,625,000	2,625,000
US Highway 93 Projects	24,100,000	24,100,000

(6) The following money is appropriated to the department of environment quality in the indicated amounts for the purpose of making capital improvements as indicated:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Department of Public Health and Human Services Energy Projects, Statewide				1,589,000		1,589,000
Other funds consist of state building energy conservation funds.						
Energy Projects at Community Colleges, Statewide				600,000		600,000
Other funds consist of state building energy conservation funds.						
Cabinet Agency Energy Projects, Statewide				5,525,000		5,525,000
Other funds consist of state building energy conservation funds.						

NEW SECTION. Section 5. Land acquisition appropriations. The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for purposes of land acquisition, land leasing, easement purchase, or development agreements:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Fishing Access Site Acquisition		500,000	100,000			600,000
Habitat Montana		8,110,000				8,110,000
Hunting Access		2,500,000				2,500,000

Access Montana

2,000,000

2,000,000

Other funds consist of fish, wildlife, and parks capital projects funds.

NEW SECTION. Section 6. Transfer of appropriations -- definition. (1) The department of fish, wildlife, and parks and the department of transportation are authorized to transfer the appropriations and authority, as appropriate, in [sections 4 and 5] among the necessary fund types for these projects.

(2) (a) The department of environmental quality may transfer appropriations between projects in [section 2 or 4] to respond to energy-saving opportunities.

(b) For purposes of this subsection (2), "energy-saving opportunities" means opportunities to achieve energy cost savings that will be technically infeasible or uneconomical if the project is delayed until specific legislative approval can be obtained.

NEW SECTION. Section 7. Planning and design. The department of administration may proceed with the planning and design of capital projects prior to the receipt of other funding sources. The department may use interaccount loans in accordance with 17-2-107 to pay planning and design costs incurred before the receipt of funds from other funding sources.

NEW SECTION. Section 8. Capital projects -- contingent funds. If a capital project is financed, in whole or in part, with appropriations contingent upon the receipt of funds from other funding sources, the department of administration may not let the project for bid until the agency has submitted a financial plan for approval by the director of the department of administration. A financial plan may not be approved by the director if:

(1) the level of funding provided under the financial plan deviates substantially from the funding level provided in [sections 2 through 5] for that project; or

(2) the scope of the project is substantially altered or revised from the preliminary plans presented for that project in the 2011 biennium long-range building program presented to the 61st legislature.

NEW SECTION. Section 9. Review by department of environmental quality. The department of environmental quality shall review capital projects authorized in [sections 2 through 4] for potential inclusion in the state building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy improvements, that project must be submitted to the energy conservation program for funding consideration. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, and the amount will be dependent on the annual utility savings resulting from the facility improvement. Agencies must be notified of potential funding after the review.

NEW SECTION. Section 10. Legislative consent. The appropriations authorized in [sections 1 through 9] constitute legislative consent for the capital projects contained in [sections 1 through 9] within the meaning of 18-2-102.

Section 11. Section 17-7-111, MCA, is amended to read:

"17-7-111. Preparation of state budget -- agency program budgets -- form distribution and contents. (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state need information that is consistent and accurate. Necessary information includes detailed disbursements by fund type for each agency and program for the appropriate time period, recommendations for creating a balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

(b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall by agreement:

(i) establish necessary standards, formats, and other matters necessary to share information between the agencies and to ensure that information is consistent and accurate for the preparation of the state's budget; and

(ii) provide for the collection and provision of budgetary and financial information that is in addition to or different from the information otherwise required to be provided pursuant to this section.

(2) In the preparation of a state budget, the budget director shall, not later than the date specified in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget estimates by the budget director. These forms must be prescribed by the budget

director to procure the information required by subsection (3). The forms must be submitted to the budget director by the date provided in 17-7-112(2)(a) or the agency's budget is subject to preparation based upon estimates as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply with the provisions of this section or the instructions given for completing the forms.

(3) The agency budget request must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary of funds subject to appropriation or enterprise funds that transfer profits to the general fund or to an account subject to appropriation for the current base budget expenditures, including statutory appropriations, and for each present law adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress;

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the current biennium and estimated for the subsequent biennium;

(c) a statement of the agency mission and a statement of goals and objectives for each program of the agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and its programs and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals and objectives.

(d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;

(e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement category;

(f) for only agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the budget director. Each agency plan must include base budget reductions that reflect the required percentage reduction by fund type for the general fund and state special revenue fund types. Exempt from the calculations of the 5% target

amounts are legislative audit costs, administratively attached entities that hire their own staff under 2-15-121, and state special revenue accounts that do not transfer their investment earnings or fund balances to the general fund. The plan must include:

- (i) a prioritized list of services that would be eliminated or reduced;
- (ii) for each service included in the prioritized list, the savings that would result from the elimination or reduction; and
- (iii) the consequences or impacts of the proposed elimination or reduction of each service.

(g) a reference for each new information technology proposal stating whether the new proposal is included in the approved agency information technology plan as required in 2-17-523; ~~and~~

(h) energy cost saving information as required by [section 15]; and

~~(h)~~(i) other information the budget director feels is necessary for the preparation of a budget.

(4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

(a) detailed recommendations for the state long-range building program. Each recommendation must be presented by institution, agency, or branch, by funding source, with a description of each proposed project.

(b) a statewide project budget summary as provided in 2-17-526;

(c) the proposed pay plan schedule for all executive branch employees at the program level by fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401.

(d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and development grants program under Title 90, chapter 2, part 11, and the treasure state endowment program under Title 90, chapter 6, part 7.

(5) The board of regents shall submit, with its budget request for each university unit in accordance with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this subsection (5). The report must include the following information for each year of the biennium, contrasted with the same information for the last-completed fiscal year and the fiscal year in progress:

(a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

(b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding requirements for each bond indenture; and

(c) a schedule showing the total funds available from each bond indenture and its associated accounts, with a list of commitments and planned expenditures from such accounts, itemized by revenue source and project for each year of the current and ensuing bienniums.

(6) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the budget director when the values on the requested return, including estimated payments, are considered necessary by the budget director to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed."

Section 12. Section 17-7-123, MCA, is amended to read:

"17-7-123. Form of executive budget. (1) The budget submitted must set forth a balanced financial plan for funds subject to appropriation and enterprise funds that transfer profits to the general fund or to accounts subject to appropriation for each accounting entity and for the state government for each fiscal year of the ensuing biennium. The base level plan must consist of:

(a) a consolidated budget summary setting forth the aggregate figures of the budget in a manner that shows a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress. The consolidated budget summary must be supported by explanatory schedules or statements.

(b) budget and full-time equivalent personnel position comparisons by agency, program, and appropriated funds for the current and subsequent biennium;

- (c) the departmental mission and a statement of goals and objectives for the department;
 - (d) base budget disbursements for the completed fiscal year of the current biennium, estimated comparable disbursements for the current fiscal year, and the proposed present law base budget plus new proposals, if any, for each department and each program of the department;
 - (e) a statement containing recommendations of the governor for the ensuing biennium by program and disbursement category, including:
 - (i) explanations of appropriation and revenue measures included in the budget that involve policy changes;
 - (ii) matters not included as a part of the budget bill but included as a part of the executive budget, such as the state employee pay plan, programs funded through separate appropriations measures, and other matters considered necessary for comprehensive public and legislative consideration of the state budget; and
 - (iii) a summary of budget requests that include proposed expenditures on information technology resources. The summary must include funding, program references, and a decision package reference;
 - (f) a report on:
 - (i) enterprise funds not subject to the requirements of subsections (1)(a) through (1)(e), including retained earnings and contributed capital, projected operations and charges, and projected fund balances; and
 - (ii) fees and charges in the internal service fund type, including changes in the level of fees and charges, projected use of the fees and charges, and projected fund balances. Fees and charges in the internal service fund type must be approved by the legislature in the general appropriations act. Fees and charges in a biennium may not exceed the level approved by the legislature in the general appropriations act effective for that biennium.
 - (g) energy cost saving information as required by [section 15] and energy conservation program information as required by 90-4-606; and
 - ~~(g)~~(h) any other financial or budgetary material agreed to by the budget director and the legislative fiscal analyst.
- (2) The statement of departmental goals and objectives and the schedule for each fund required in 17-7-111(3)(b) of the executive budget are not required to be printed but must be available in the office of budget and program planning and on the internet."

Section 13. 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 alternative energy saving systems, as defined in 15-32-102, or equipment, systems, and improvements in state-owned buildings, structures, and facilities that save energy or water.

(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.

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

~~(7)~~(8) "State agency" means:

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

(b) the university system; ~~and~~

(c) a community college district."

Section 14. Section 90-4-615, MCA, is amended to read:

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

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

(a) the amount of energy costs saved as a result of ~~the acquisition, installation, and construction of energy saving equipment, systems, or improvements~~ energy conservation projects in state buildings, facilities, or structures using ~~general fund appropriations to~~ from the energy conservation capital projects account or the general fund for the energy conservation program ~~until total payments to the account for a project equal the cost of the~~

~~project, including the cost of the investment grade energy audit on the project and the design of the project; and~~

(b) interest earned on the account;

(c) interest earned on the energy conservation capital projects account created in [section 16]; and

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

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

(a) conducting energy analysis;

(b) data collection and analysis;

(c) program administration and oversight; and

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

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

NEW SECTION. Section 15. Transfer of energy savings from projects. (1) In preparing the executive budget each biennium, for each state agency participating in the state energy conservation program by using appropriations from the general fund or the energy conservation capital projects account created in [section 16], the governor shall include an estimate of the energy cost savings expected for that agency in each year of the biennium.

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

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

(4) Upon request of the department, each participating state agency shall transfer the amounts approved pursuant to subsection (2).

NEW SECTION. Section 16. Energy conservation capital projects account. (1) There is an energy conservation capital projects account in the capital projects fund type established in 17-2-102.

(2) There must be deposited in the account:

(a) money transferred from the energy conservation repayment account; and

(b) other amounts transferred to the account by the legislature.

(3) Money in the account is available to the department by appropriation and must be used to pay the costs of the acquisition, installation, and construction of energy saving equipment, systems, or improvements in state buildings, facilities, or structures.

NEW SECTION. Section 17. Reappropriation of energy conservation projects. The remaining balances on energy conservation projects previously approved by the legislature are reappropriated for the purposes of the original appropriation until the projects are completed.

NEW SECTION. Section 18. Codification instruction. [Sections 15 through 17] are intended to be codified as an integral part of Title 90, chapter 4, part 6, and the provisions of Title 90, chapter 4, part 6, apply to [sections 15 through 17].

NEW SECTION. Section 19. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 20. Effective date.** [This act] is effective on passage and approval.

- END -