HOUSE BILL NO. 217

INTRODUCED BY J. FITZPATRICK

A BILL FOR AN ACT ENTITLED: “AN ACT TRANSFERRING THE STATE BUILDING ENERGY CONSERVATION PROGRAM FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO THE ARCHITECTURE AND ENGINEERING DIVISION OF THE DEPARTMENT OF ADMINISTRATION; ALLOWING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO RETAIN CERTAIN FEDERAL FUNDING; AMENDING SECTIONS 90-4-602, 90-4-605, 90-4-607, 90-4-615, ~~AND~~ 90-4-616, AND 90-4-617, 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~~ division incurred in the performance of its duties under the energy conservation program.

(3) ~~"Department"~~ "Division" means the ~~department of environmental quality~~ architecture and engineering division of the department of administration provided for in ~~2-15-3501~~ 17-7-201.

(4) "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.

(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 for the utilities for that building.

(8) "State agency" means:

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

(b) the university system; and

(c) a community college district."

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

"**90-4-605. Preparation of energy conservation program.** (1) The ~~department~~ division shall identify buildings that have a potential for energy savings, based on age, energy use, function, and condition of the building. ~~Upon~~ On request of the ~~department~~ division, a state agency shall provide the ~~department~~ division with information necessary to allow the ~~department~~ division 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~~ division shall select certain facilities for indepth energy analyses to identify the technical and financial feasibility of making energy conservation improvements to the facilities.

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

(b) The ~~department~~ division shall ~~notify the department of administration of~~ identify each project for which:

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

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

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

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

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

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

(c) a summary of the energy analyses conducted by the ~~department~~ division, 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.

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

**Section 3.** Section 90-4-607, MCA, is amended to read:

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

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

(2) perform comprehensive energy analyses on state-owned buildings, structures, and facilities, contracting with private engineers when necessary;

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

~~(a)~~(3) procure design and construction of cost-effective energy improvements; ~~and~~

~~(b)~~(4) transfer funds and authority to other agencies to procure, design, and construct cost-effective energy improvements; and

~~(4)~~(5) 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."

**SECTION 4.** 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 energy conservation projects in state buildings, facilities, or structures using appropriations from the energy conservation capital projects account or the general fund for the energy conservation program;

(b) interest earned on the account;

(c) interest earned on the energy conservation capital projects account created in 90-4-617; 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~~ division 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~~ division shall transfer to the energy conservation capital projects account the amount of funds in excess of $2 million."

**Section 5.** Section 90-4-616, MCA, is amended to read:

"**90-4-616. Transfer of energy savings from projects.** (1) In preparing the executive budget each biennium, for each state agency participating in the energy conservation program by using appropriations from the general fund or the energy conservation capital projects account created in 90-4-617, 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, subject to [section ~~5~~ 6], 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. Except as provided in [section ~~5~~ 6], ~~These~~ 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~~ On request of the ~~department~~ division, each participating state agency shall transfer the amounts approved pursuant to subsection (2)."

NEW SECTION. **Section 6. Grandfathering -- retention of funds.** (1) The department of environmental quality shall retain federal American Recovery and Reinvestment Act funds allocated in accordance with Chapter 478, Laws of 2009, to the state energy building conservation program, including:

(a) transfers after July 1, 2025, made by participating state agencies pursuant to 90-4-616 for the unpaid balance of projects funded with federal American Recovery and Reinvestment Act funds;

(b) interest payments pursuant to 90-4-616 on projects funded with federal American Recovery and Reinvestment Act funds; and

(c) interest earned on short-term investment pool investments of federal American Recovery and Reinvestment Act funds.

(2) The department of environmental quality may use the funds for activities consistent with applicable federal requirements and in accordance with guidance provided by the federal department of energy for the repurposing of funds.

**SECTION 7.** Section 90-4-617, MCA, is amended to read:

"**90-4-617. 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~~ division 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 8. Codification instruction.** [Section ~~5~~ 6] is 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 [section ~~5~~ 6].

COORDINATION SECTION. **SECTION 9. COORDINATION INSTRUCTION.** IF BOTH HOUSE BILL NO. 47 AND [THIS ACT] ARE PASSED AND APPROVED AND IF BOTH CONTAIN A SECTION THAT AMENDS 90-4-605, THEN THE SECTIONS AMENDING 90-4-605 ARE VOID AND 90-4-605 MUST BE AMENDED AS FOLLOWS:

"**90-4-605. PREPARATION OF ENERGY CONSERVATION PROGRAM.** (1) The ~~department~~ DIVISION shall identify buildings OR BUILDING SYSTEMS that have a potential for energy savings, based on age, energy use, function, and condition of the building. ~~Upon~~ ON request of the ~~department~~ DIVISION, a state agency shall provide the ~~department~~ DIVISION with information necessary to allow the ~~department~~ DIVISION 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~~ division shall select certain facilities for ~~indepth~~ in-depth energy analyses to identify the technical and financial feasibility of making energy conservation improvements to the facilities.

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

(b) The ~~department~~ division shall ~~notify the department of administration of~~ identify each project for which~~:~~

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

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

project.

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

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

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

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

(c) a summary of the energy analyses conducted by the ~~department~~ division, 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.

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

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

COORDINATION SECTION. **SECTION 10. COORDINATION INSTRUCTION.** IF BOTH HOUSE BILL NO. 47 AND [THIS ACT] ARE PASSED AND APPROVED AND IF BOTH CONTAIN A SECTION THAT AMENDS 90-4-607, THEN THE SECTIONS AMENDING 90-4-607 ARE VOID AND 90-4-607 MUST BE AMENDED AS FOLLOWS:

"**90-4-607. DUTIES OF ~~department~~ DIVISION.** In addition to the duties set forth in 90-4-605, the ~~department~~ DIVISION is authorized to:

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

(2) perform comprehensive energy analyses on state-owned buildings, structures, and facilities, contracting with private engineers when necessary;

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

~~(a)~~ (3) procure, design, and ~~construction of~~ construct cost-effective energy improvements; ~~and~~

~~(b)~~ (4) transfer funds and authority to other agencies to procure, design, and construct cost-effective energy improvements; and

~~(4)~~ (5) 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. Effective date.** [This act] is effective July 1, 2025.

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