

HOUSE BILL NO. 765

Introduced: 02/12/83

Referred to Committee on Business & Industry: 02/12/83

Hearing: 2/17/83

Report: 02/21/83, Do Pass, As Amended

2nd Reading: 02/23/83, Do Not Pass

Bill Killed

1 House BILL NO. 765
 2 INTRODUCED BY Kader To George Vincent Kemmis
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE CERTAIN GAS
 5 AND ELECTRIC UTILITIES TO PURCHASE COST-EFFECTIVE ENERGY
 6 CONSERVATION; TO REQUIRE THE PUBLIC SERVICE COMMISSION TO
 7 INCLUDE CONSERVATION IN A UTILITY'S RATE BASE; AMENDING
 8 SECTION 15-32-107, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. Section 1. Definitions. As used in
 12 [sections 1 through 6], the following definitions apply:

13 (1) "Avoided costs" means the incremental costs, as
 14 determined by the commission, to an electric or natural gas
 15 utility of energy or capacity, or both, which, but for the
 16 purchase of conservation, the utility would generate or
 17 supply itself or purchase from another source.

18 (2) "Commission" means the public service commission
 19 provided for in Title 69, chapter 1, part 1.

20 (3) "Conservation" means a measure that supplies
 21 energy by increasing the energy efficiency of building
 22 shells, equipment, or processes.

23 (4) "Cost-effective", as applied to conservation,
 24 means a conservation measure whose cost per unit of energy
 25 conserved over the economic life of the measure is less than

1 50% of the utility's avoided cost.

2 (5) "Utility" means a person or firm that during the
 3 second calendar year preceding [the effective date of this
 4 act] had:

5 (a) sales of natural gas in Montana, for purposes
 6 other than resale, that exceeded 10 billion cubic feet; or

7 (b) sales of electric power in Montana, for purposes
 8 other than resale, that exceeded 500 million kilowatt hours.

9 NEW SECTION. Section 2. Utility purchase of
 10 conservation -- approval by commission. (1) A utility shall
 11 purchase conservation by investing in cost-effective
 12 conservation measures to be used by its customers within its
 13 service area.

14 (2) The conservation purchases provided for in
 15 subsection (1) are subject to approval by the commission.

16 (3) Cost-effective conservation measures approved by
 17 the commission must, at the customer's discretion, be
 18 installed by either:

19 (a) a person not primarily engaged in the generation
 20 or sale of electricity or the supplying or sale of natural
 21 gas; or

22 (b) the customer himself, in which case, the utility
 23 may reimburse for only the cost of materials necessary to
 24 install the conservation measure.

25 NEW SECTION. Section 3. Eligible conservation.

INTRODUCED BILL
 -2- HIB 765

1 Conservation purchases are eligible under [sections 1
2 through 6] if they are made for construction or installation
3 that is begun after [the effective date of this act] and
4 before January 1, 1993, and which, at the time they are
5 placed in the rate base, are determined by the commission to
6 be cost-effective.

7 **NEW_SECTION.** Section 4. Commission to include
8 conservation in rate base. In order to encourage the
9 purchase of conservation by a utility, the commission shall
10 include conservation purchases or investments eligible under
11 [section 3] and in compliance with criteria adopted under
12 [section 5] in a utility's rate base.

13 **NEW_SECTION.** Section 5. Criteria for allowable
14 cost-effective conservation -- inspections. (1) The
15 commission shall establish criteria, including engineering
16 and cost-effectiveness criteria, for conservation that may
17 be placed into a utility's rate base under [sections 1
18 through 6]. The commission may require a utility to conduct
19 onsite energy audits at the request of a utility's customer
20 to establish the engineering and potential for
21 cost-effective conservation measures.

22 (2) The commission or the utility, or both, may
23 conduct onsite inspections to insure that conservation
24 measures are installed in compliance with the commission's
25 requirements.

1 **NEW_SECTION.** Section 6. Prohibition against utility
2 claiming conservation tax credit. A utility whose
3 conservation is placed in the rate base under [sections 1
4 through 6] may not claim the tax credit allowed in
5 15-32-107.

6 Section 7. Section 15-32-107, MCA, is amended to read:
7 "15-32-107. Loans by utilities and financial
8 institutions -- tax credit for interest differential. (1) A
9 public utility providing electricity or natural gas may
10 install or pay for the installation of energy conservation
11 materials or recognized nonfossil forms of energy generation
12 systems in a dwelling. The utility may agree with the
13 occupant of the dwelling that the occupant shall reimburse
14 the utility for its expenditure in periodic installment
15 payments added to the occupant's regular bill for
16 electricity or natural gas. The utility may charge interest
17 not exceeding the equivalent of 7% per year on the declining
18 balance of the sum advanced for the installation of energy
19 conservation materials and recognized nonfossil forms of
20 energy generation systems.

21 (2) A financial institution, as defined in 32-6-103,
22 may offer and make loans at an interest rate not less than 2
23 percentage points below the discount rate on 90-day
24 commercial paper in effect at the federal reserve bank in
25 the ninth federal reserve district.

1 (3) ~~A Except as provided in subsection (6), a public~~
 2 utility or a financial institution lending money under this
 3 section may compute the difference between interest it
 4 actually receives on such transactions and the interest
 5 which would have been received at the prevailing average
 6 interest rate for home improvement loans, as prescribed in
 7 rules made by the public service commission. The utility may
 8 apply the difference so computed as a credit against its tax
 9 liability for the electrical energy producer's license tax
 10 under 15-51-101 or for the corporation license tax under
 11 chapter 31, part 1. The public service commission shall
 12 regulate rates in such a manner that a utility making loans
 13 under this section may not make a profit as the result of
 14 this section. The financial institution may apply the
 15 difference so computed as a credit against its tax liability
 16 for the corporation license tax under chapter 31, part 1.

17 (4) A utility may not claim a tax credit under this
 18 section exceeding \$500,000 in any tax year. A financial
 19 institution may not claim a tax credit under this section
 20 exceeding \$2,000 in any tax year.

21 (5) The public service commission may make rules to
 22 implement this section as it shall apply to public utilities
 23 only.

24 ~~(5) A public utility whose purchases of conservation~~
 25 ~~are placed in the rate base as provided in sections 1~~

1 ~~through 6) may not receive a tax credit under subsection~~
 2 ~~(3).~~

3 NEW SECTION. Section 8. Codification instruction.
 4 Sections 1 through 6 are intended to be codified as an
 5 integral part of Title 69, chapter 3.

-End-

STATE OF MONTANA

REQUEST NO. 416-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 765 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 765 requires certain gas and electric utilities to purchase cost-effective energy conservation; and requires the Public Service Commission to include conservation in a utility's rate base.

ASSUMPTIONS:

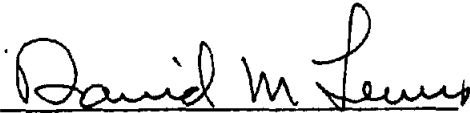
- 1) Hire a Mechanical Engineer at Grade 14 plus benefits at 20% to establish engineering criteria for conservation measures and make a small number of onsite inspections to insure that conservation measures have been properly installed.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>	<u>Total Biennium</u>
Mechanical Engineer	\$ 24,118	\$ 24,118	\$ 48,236
Operating Expenses	4,000	4,240	8,240
Equipment	1,200	0-	1,200
Total Expenditures	<u>\$ 29,318</u>	<u>\$ 28,358</u>	<u>\$ 57,676</u>

The bill should reduce the amount of the credits from low interest conservation loans made by utilities. In FY 82, the amount of credits granted against the electrical energy producer's tax and the corporate license tax liabilities was approximately \$211,000. The amount of future credits should decline from this level as previous loans are paid.

FISCAL NOTE 14:V/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-18-83

1 STATEMENT OF INTENT

2 HOUSE BILL 765

3 House Business and Industry Committee

4
5 A statement of intent is necessary for this bill
6 because it directs the Public Service Commission to adopt
7 rules governing the installation of cost-effective
8 conservation measures and the reflection of those measures
9 in a utility's rate base. The commission must adopt criteria
10 and standards for:

11 (1) allowable conservation measures from an
12 engineering standpoint;

13 (2) cost-effectiveness;

14 (3) on-site energy audits;

15 (4) conservation corresponding to end-use of energy
16 that a utility provides;

17 (5) inspections;

18 (6) inclusion of conservation in a utility's rate
19 base;

20 (7) other procedures necessary to implement this act.

21 In adopting cost-effectiveness and engineering
22 criteria, the commission is directed to consult with the
23 Department of Natural Resources and Conservation and with
24 Montana's representatives to the Northwest Power Council.

25 It is not the intent of the legislature to allow grants

1 from the Bonneville Power Administration for purposes of
2 conservation to be placed in the rate base.

Approved by Committee
on Business and Industry

HOUSE BILL NO. 765

INTRODUCED BY KADAS, FABREGA,

VINCENT, KEMMIS

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE CERTAIN GAS AND ELECTRIC UTILITIES TO PURCHASE COST-EFFECTIVE ENERGY CONSERVATION; TO REQUIRE THE PUBLIC SERVICE COMMISSION TO INCLUDE CONSERVATION IN A UTILITY'S RATE BASE; AMENDING SECTION 15-32-107, MCA."

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

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

(1) "Avoided costs" means the incremental costs, as determined by the commission, to an electric or natural gas utility of energy or capacity, or both, which, but for the purchase of conservation, the utility would generate or supply itself or purchase from another source.

(2) "Commission" means the public service commission provided for in title 69, chapter 1, part 1.

(3) "Conservation" means a measure ~~OR COMBINATION OF MEASURES~~ that supplies energy ~~IN A RESIDENTIAL BUILDING~~ by increasing the energy efficiency of building shells, equipment, or processes.

(4) "Cost-effective", as applied to conservation,

means a conservation measure whose cost per unit of energy conserved over the economic life of the measure is less than 50% of the utility's avoided cost.

~~(5) "RESIDENTIAL BUILDING" MEANS A BUILDING USED FOR RESIDENTIAL OCCUPANCY THAT:~~

~~(A) WAS FULLY CONSTRUCTED AND HABITABLE AS OF [THE EFFECTIVE DATE OF THIS ACT];~~

~~(B) HAS A SYSTEM FOR HEATING, COOLING, OR BOTH THAT USES A FUEL SUPPLIED BY THE UTILITY; AND~~

~~(C) CONTAINS AT LEAST ONE, BUT NOT MORE THAN FOUR SEPARATELY OR CENTRALLY HEATED DWELLING UNITS, OR CONTAINS MORE THAN FOUR SEPARATELY HEATED, OR COOLED, OR BOTH HEATED AND COOLED UNITS.~~

~~(5)(b)~~ "Utility" means a person or firm that during the second calendar year preceding [the effective date of this act] had:

(a) sales of natural gas in Montana, for purposes other than resale, that exceeded 10 billion cubic feet; or

(b) sales of electric power in Montana, for purposes other than resale, that exceeded 500 million kilowatt hours.

NEW SECTION. Section 2. Utility purchase of conservation -- approval by commission. (1) A utility shall purchase conservation by investing in cost-effective conservation measures to be used by its RESIDENTIAL customers within its service area.

(2) The conservation purchases provided for in subsection (1) are subject to approval by the commission.

(3) Cost-effective conservation measures approved by the commission must, at the customer's discretion, be installed by either:

(a) a person not primarily engaged in the generation or sale of electricity or the supplying or sale of natural gas; or

(b) the customer himself, in which case, the utility may reimburse for only the cost of materials necessary to install the conservation measure. ~~LABOR COSTS MAY BE USED TO PURCHASE FURTHER CONSERVATION MEASURES. THE CUSTOMER MAY NOT PAY HIMSELF LABOR COSTS.~~

~~NEW SECTION. Section 3. Eligible conservation. (1) Conservation purchases are eligible under [sections 1 through 6] if they are made for construction or installation that is begun after [the effective date of this act] and before January 1, 1993, and which, at the time they are placed in the rate base, are determined by the commission to be cost-effective.~~

~~(2) A BUILDING SHELL, PIECE OF EQUIPMENT, OR PROCESS THAT HAS BEEN RETROFITTED UNDER [THIS ACT] WITH A CONSERVATION MEASURE OR MEASURES MAY NOT BE RETROFITTED AGAIN UNDER THE PROVISIONS OF [THIS ACT].~~

~~NEW SECTION. Section 4. Commission to include~~

conservation in rate base. (1) In order to encourage the purchase of conservation by a utility, the commission shall include conservation purchases or investments eligible under [section 3] and in compliance with criteria adopted under [section 5] in a utility's rate base.

~~(2) THE COMMISSION SHALL PRESCRIBE AMORTIZATION PERIODS FOR CONSERVATION THAT IS INCLUDED IN A UTILITY'S RATE BASE.~~

~~NEW SECTION. Section 5. Criteria for allowable cost-effective conservation -- inspections. (1) The commission shall establish criteria, including engineering and cost-effectiveness criteria, for conservation that may be placed into a utility's rate base under [sections 1 through 6]. The commission may require a utility to conduct OR TO CONTRACT FOR onsite energy audits at the request of a utility's customer to establish the engineering and potential for cost-effective conservation measures.~~

(2) The commission or the utility, or both, may conduct onsite inspections to insure that conservation measures are installed in compliance with the commission's requirements.

~~(3) THE COMMISSION SHALL LIMIT THE APPLICATION OF CONSERVATION MEASURES TO CORRESPOND TO THE EXISTING END-USE OF ENERGY THAT A UTILITY PROVIDES TO A CUSTOMER AT THE TIME THE ENERGY AUDIT IS CONDUCTED.~~

1 ~~NEW SECTION.~~ Section 6. Prohibition against utility
2 claiming conservation tax credit. A utility whose
3 conservation is placed in the rate base under [sections 1
4 through 6] may not claim the tax credit allowed in
5 15-32-107.

6 Section 7. Section 15-32-107, MCA, is amended to read:

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21 (2) A financial institution, as defined in 32-6-103,
22 may offer and make loans at an interest rate not less than 2
23 percentage points below the discount rate on 90-day
24 commercial paper in effect at the federal reserve bank in
25 the ninth federal reserve district.

1 (3) * ~~Except as provided in subsection (6),~~ a public
2 utility or a financial institution lending money under this
3 section may compute the difference between interest it
4 actually receives on such transactions and the interest
5 which would have been received at the prevailing average
6 interest rate for home improvement loans, as prescribed in
7 rules made by the public service commission. The utility may
8 apply the difference so computed as a credit against its tax
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19 institution may not claim a tax credit under this section
20 exceeding \$2,000 in any tax year.

21 (5) The public service commission may make rules to
22 implement this section as it shall apply to public utilities
23 only.

24 ~~(6) A public utility whose purchases of conservation~~
25 ~~are placed in the rate base as provided in [sections 1~~

1 through 6] may not receive a tax credit under subsection
2 (31)." (31)"

3 **NEW SECTION.** Section 8. Codification Instruction.
4 Sections 1 through 6 are intended to be codified as an
5 integral part of Title 69, chapter 3.

-End-