

HOUSE BILL NO. 750

INTRODUCED BY QUILICI, VINCENT, GRADY, MARKS, LYNCH,  
PECK, MENAHAN, KADAS, THOFT, JACOBSON, HARP, WALKER,  
BOYLAN, O'KEEFE, PIPINICH, SPAETH, NISBET, HARPER,  
SWYSGOOD, COCCHIARELLA, SQUIRES, STANG, PAVLOVICH,  
DAILY, WHALEN, DEMARS, KOEHNKE, BLOTKAMP, AAFEDT,  
DRISCOLL, JOHNSON, MERCER, WEEDING, BECK, WILLIAMS,  
RAPP-SVRCEK, VAN VALKENBURG, MANNING, YELLOWTAIL,  
KEATING, HOFMAN, MAZUREK, JENKINS, NOBLE,  
MEYER, THAYER

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

IN THE HOUSE

FEBRUARY 20, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
FEBRUARY 22, 1989	FIRST READING.
MARCH 7, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 8, 1989	PRINTING REPORT.
MARCH 9, 1989	SECOND READING, DO PASS.
MARCH 10, 1989	ENGROSSING REPORT.
MARCH 11, 1989	THIRD READING, PASSED. AYES, 91; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FINANCE & CLAIMS.
	FIRST READING.

MARCH 20, 1989

ON MOTION BY CHIEF SPONSOR, SENATORS  
WEEDING, BECK, WILLIAMS, RAPP-SVRCEK,  
VAN VALKENBURG, WALKER, MANNING,  
YELLOWTAIL, KEATING, HOFMAN, MAZUREK,  
JENKINS, NOBLE, MEYER, AND THAYER  
ADDED AS SPONSORS.

MARCH 21, 1989

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 23, 1989

SECOND READING, CONCURRED IN.

MARCH 28, 1989

THIRD READING, CONCURRED IN.  
AYES, 50; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 29, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *750*  
 2 INTRODUCED BY *Twilley Vincent Rudy Mark Lynch*  
 3 *Paul Menahan James H. Hackett*  
 4 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES  
 5 *HARP* *Boyer* *Thibe* *Spach*  
 6 *Nigist* *Stang* *Carlsmith* *Whalen* *Donna* *Koch*  
 7 *Blotkum* *De Haeck* *Orsini* *Johnson*  
 8 BUILDING ENERGY CONSERVATION PROGRAM; ESTABLISHING A STATE  
 9 BUILDING ENERGY CONSERVATION PROGRAM ACCOUNT; ASSIGNING  
 10 RESPONSIBILITY TO THE DEPARTMENT OF NATURAL RESOURCES AND  
 11 CONSERVATION; PROVIDING FOR THE ISSUANCE OF GENERAL  
 12 OBLIGATION BONDS TO FUND THE PROGRAM; APPROVING ENERGY  
 13 CONSERVATION PROJECTS FOR THE 1990-91 BIENNIUM IN THE AMOUNT  
 14 OF \$3 MILLION; STATUTORILY APPROPRIATING TO THE DEPARTMENT  
 15 OF NATURAL RESOURCES AND CONSERVATION ALL MONEY RECEIVED  
 16 UNDER THE PROGRAM; PLEDGING THE CREDIT OF THE STATE OF  
 17 MONTANA TO SECURE THE BONDS TO BE ISSUED; AMENDING SECTION  
 18 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

#### STATEMENT OF INTENT

19 This bill requires a statement by the department of  
 20 natural resources and conservation that the estimated annual  
 21 energy savings to be derived from the installation of the  
 22 energy saving improvements are expected to equal or exceed  
 23 the annual debt service to be paid on the bonds issued to  
 24 fund the improvements. In developing this savings statement,  
 25

1 the department shall determine which energy improvements  
 2 yield sufficient return on investment to be included in the  
 3 financing package. In making this determination, the  
 4 department should consider the projected savings of the  
 5 improvement, the impact on project cash flow, the expected  
 6 useful life of the improvement and the facility, the state's  
 7 long-range plans for the facility, the potential impacts on  
 8 the utility system, and any additional monetary and  
 9 nonmonetary benefits to be derived from the improvement.

10 The department shall consult with the utility or  
 11 utilities that serve the facilities on which the  
 12 improvements are to be made. If a fuel switching measure is  
 13 proposed, the department must demonstrate that the benefits  
 14 to the state exceed the costs to the utility and its  
 15 customers.

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

18 NEW SECTION. **Section 1.** Short title. [Sections 1  
 19 through 8] may be cited as the "State Building Energy  
 20 Conservation Act".

21 NEW SECTION. **Section 2.** Definitions. (1) "Board"  
 22 means the board of examiners provided for in 2-15-1007.

23 (2) "Cost" includes the expenses related to planning,  
 24 design, construction, and installation of energy  
 25 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 natural resources and conservation provided for in 2-15-3301.

(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) "State agency" means:

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

(b) the university system.

**NEW SECTION. Section 3. Preparation of energy conservation program.** (1) Before June 30 of each odd-numbered year, state agencies shall submit to the department, on forms provided by the department, a list of any facilities operated by that agency that have a potential for energy savings, based on age, energy use, function, and condition of the building. Agencies may request assistance from the department to identify these facilities.

(2) Based on the criteria in subsection (1), the department shall select certain facilities for in-depth

energy analyses to identify the technical and financial feasibility of making energy conservation improvements to the facilities.

(3) During the energy analyses, the department shall consult with the utilities that serve the selected facilities to discuss potential impacts on the utilities and their customers of making energy conservation improvements to these facilities.

(4) Upon completion of the energy analyses, the department shall submit to the governor its findings and a prioritized list of projects recommended for funding under the energy conservation program. The department shall rank projects in terms of cost-effectiveness to the state.

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

(a) a listing of all requests submitted by state agencies;

(b) a summary of the department's review of agency requests;

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

(d) a description of measures taken by the department to address the issues that were raised in the consultation

1 with the affected utilities; and

2 (e) if a fuel switching measure is proposed, an  
3 analysis of the costs to the affected utility and its  
4 customers and of the benefits to the state of the fuel  
5 switching measure.

6 (6) If a fuel switching measure is proposed, the  
7 department shall demonstrate through the analysis required  
8 by subsection (5)(e) that the benefits to the state exceed  
9 the costs to the utility and its customers.

10 (7) The department shall submit the report required by  
11 subsection (5) to the governor before September 1 of each  
12 even-numbered year.

13 NEW SECTION. **Section 4.** Submission to the  
14 legislature. During the first week of the regular  
15 legislative session, the governor shall submit to the  
16 legislature for its approval the proposed projects to be  
17 funded by the energy conservation program for the next  
18 biennium. In his recommendation, the governor shall  
19 include:

- 20 (1) the report prepared by the department;
- 21 (2) a description of the improvements to be financed;
- 22 (3) the estimated cost of each project and the total  
23 cost of the program; and
- 24 (4) the proposed method of financing the improvement.
- 25 If energy conservation program bonds are proposed to be

1 issued to finance the program improvements, the governor  
2 shall include within his report a written statement by the  
3 department that the estimated annual energy savings to be  
4 derived from the installation of the energy saving equipment  
5 or improvements, upon completion, are expected to equal or  
6 exceed the annual debt service to be paid on the energy  
7 conservation program bonds proposed to be issued to fund the  
8 costs of such equipment or improvements.

9 NEW SECTION. **Section 5.** Duties of department. In  
10 addition to the duties set forth in [section 3], the  
11 department is authorized to:

- 12 (1) analyze state utility data to identify high  
13 potential energy conservation projects;
- 14 (2) perform comprehensive energy analyses on  
15 state-owned buildings, structures, and facilities,  
16 contracting with private engineers when necessary;
- 17 (3) to administratively transfer funds to the  
18 department of administration to procure design and  
19 construction of cost-effective energy improvements;
- 20 (4) train facility maintenance staff in energy saving  
21 techniques and maintenance of energy improvements, monitor  
22 energy conservation projects to ensure that cost savings are  
23 realized and are adequate to cover the debt service if bonds  
24 have been issued to fund the improvements.

25 NEW SECTION. **Section 6.** Authority to issue energy

1 conservation program bonds. (1) When authorized by the vote  
2 of two-thirds of the members of each house of the  
3 legislature, at the request of the department, and pursuant  
4 to [sections 1 through 8], the board may issue and sell  
5 bonds or bond anticipation notes of the state in a manner it  
6 considers necessary and proper to finance the energy  
7 conservation program and to pay costs associated with the  
8 sale and issuance of the bonds. Bonds may be issued to  
9 provide funds for the payment or redemption of energy  
10 conservation building program bonds issued under this  
11 section.

12 (2) The full faith and credit and taxing powers of the  
13 state are pledged for the prompt and full payment of all  
14 bonds so issued and interest and redemption premiums payable  
15 on the bonds according to their terms.

16 NEW SECTION. Section 7. Form -- principal and  
17 interest -- fiscal agent -- deposit of proceeds. (1) Each  
18 series of energy conservation program bonds may be issued by  
19 the board at the request of the department, in denominations  
20 and forms, whether payable to bearer or registered as to  
21 principal or as to both principal and interest, with  
22 provisions for conversion or exchange and for the issuance  
23 of notes in anticipation of the execution and delivery of  
24 definitive bonds, bearing interest at a rate or rates,  
25 maturing at times not exceeding 15 years from date of issue,

1 subject to redemption at earlier times and prices and upon  
2 notice, and payable at the office of such fiscal agent of  
3 the state, as the board shall determine subject to the  
4 provisions of this section and [section 6].

5 (2) In all other respects, the board is authorized to  
6 prescribe the form and terms of the bonds and shall do  
7 whatever is lawful and necessary for their issuance and  
8 payment. The bonds and any interest coupons must be signed  
9 by the members of the board, and the bonds must be issued  
10 under the great seal of the state of Montana. The bonds and  
11 coupons may be executed with facsimile signatures and seal  
12 in the manner and subject to the limitations prescribed by  
13 law. The state treasurer shall keep a record of all such  
14 bonds issued and sold.

15 (3) The board may employ a fiscal agent to assist in  
16 the performance of its duties under [sections 1 through 8].

17 (4) There is created an energy conservation program  
18 account within the state special revenue fund established in  
19 17-2-102.

20 (5) All proceeds of bonds and notes issued under  
21 [section 6] must be deposited in the energy conservation  
22 program account, except that any premiums and accrued  
23 interest received must be deposited in the debt service fund  
24 established in 17-2-102.

25 NEW SECTION. Section 8. Use of energy conservation

1 program account. The energy conservation program account  
 2 must be segregated by the treasurer from all other money in  
 3 that or any other fund in the state treasury and used only  
 4 to pay costs of the energy conservation program. The  
 5 department may transfer all money authorized by the  
 6 legislature for its administrative expenditures from the  
 7 energy conservation program account to a special revenue  
 8 fund. This money is statutorily appropriated as provided in  
 9 17-7-502.

10 NEW SECTION. Section 9. Approval of projects.  
 11 Notwithstanding the provisions of [sections 3 and 4], the  
 12 legislature approves the energy conservation projects listed  
 13 below and the described amounts as the energy conservation  
 14 program for the 1990-91 biennium:

15	<u>Facility</u>	<u>Cost</u>
16	Montana State Hospital at Warm Springs	\$801,146
17	Montana State Hospital at Galen	853,788
18	Center for the Aged	125,000
19	School for the Deaf and Blind	<u>125,000</u>
20	Total	\$1,904,934

21 NEW SECTION. Section 10. Authorization of bonds --  
 22 appropriation of proceeds. (1) At the request of the  
 23 department, the board may issue and sell bonds of the state  
 24 in an aggregate principal amount not exceeding \$3 million to  
 25 provide money for the 1990-91 biennium energy conservation

1 program. The bonds are general obligations for which the  
 2 full faith and credit and taxing powers of the state are  
 3 pledged for payment of the principal and interest. The bonds  
 4 must be issued as provided by Title 17, chapter 5, part 8.

5 (2) The proceeds of the bonds, other than any premiums  
 6 and accrued interest received, must be deposited in the  
 7 energy conservation program account. Any premium and accrued  
 8 interest must be deposited to the debt service fund  
 9 established in 17-2-102. Proceeds of bonds deposited in the  
 10 energy conservation program account may be used to pay the  
 11 costs of issuing the bonds and to pay costs of the energy  
 12 conservation program, including the funding of the 1990-91  
 13 biennium energy conservation projects approved by the  
 14 legislature. For purposes of 17-5-803 and 17-5-804, the  
 15 energy conservation program account constitutes a capital  
 16 projects account. Such proceeds must be available to the  
 17 department and may be used for the purposes authorized in  
 18 [sections 1 through 8] without further budgetary  
 19 authorization.

20 **Section 11.** Section 17-7-502, MCA, is amended to read:  
 21 "17-7-502. Statutory appropriations -- definition --  
 22 requisites for validity. (1) A statutory appropriation is an  
 23 appropriation made by permanent law that authorizes spending  
 24 by a state agency without the need for a biennial  
 25 legislative appropriation or budget amendment.

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987; and [section 8].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due,

that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"

**NEW SECTION. Section 12.** Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 90, chapter 4, and the provisions of Title 90, chapter 4, apply to [sections 1 through 8].

**NEW SECTION. Section 13.** Coordination instruction. If House Bill No. 563 is not passed and approved, [this act] is void.

**NEW SECTION. Section 14.** 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



1 severable from the invalid applications.

2       NEW SECTION. **Section 15.** Requirements for approval of  
3 state debt -- nonseverability. Because [section 10]  
4 authorizes the creation of a state debt, a vote of  
5 two-thirds of the members of each house is required for  
6 enactment of [section 10]. If [section 10] is not approved  
7 by the required vote, [this act] is void.

8       NEW SECTION. **Section 16.** Effective date. [This act]  
9 is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB750, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB750 would create a state building energy conservation program in the Department of Natural Resources, provide for the issuance of general obligation bonds, approve energy conservation projects for the 1991 biennium, appropriate money received under the program to the department and pledge the credit of the state to secure the bonds.

ASSUMPTIONS:

1. The initial bond issue will be \$2.23 million.
2. State general obligation bonds will be sold at an interest rate of 7.5% for ten years in FY91.
3. Annual debt service to retire the bonds will be \$325,000.
4. There will be no fiscal impact to the state in the 1991 biennium because the first debt service payment will be due in FY92.
5. Annual energy savings in state buildings will be \$334,000 and will increase as fuel prices rise.
6. No additional staffing will be required to administer this program at DNRC.

FISCAL IMPACT: None in the 1991 biennium

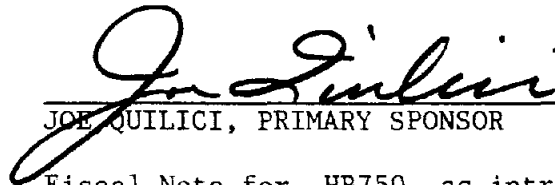
LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

There will be modest short-run cost savings to the state because the reduction in utility bills will exceed the debt service payments for the bonds. Once the debt is retired, the state will benefit from the permanent reduction in utility bills.



DATE 3/6/89

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

  
JOE QUILICI, PRIMARY SPONSOR

DATE 3/09/89

Fiscal Note for HB750, as introduced

**HB 750**

APPROVED BY COMM. ON  
NATURAL RESOURCES

1 *HOUSE* BILL NO. *750*  
2 INTRODUCED BY *Sen. Vincent*  
3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES  
4 *HARP* AND CONSERVATION  
5 *Stang*  
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A STATE  
7 BUILDING ENERGY CONSERVATION PROGRAM; ESTABLISHING A STATE  
8 BUILDING ENERGY CONSERVATION PROGRAM ACCOUNT; ASSIGNING  
9 RESPONSIBILITY TO THE DEPARTMENT OF NATURAL RESOURCES AND  
10 CONSERVATION; PROVIDING FOR THE ISSUANCE OF GENERAL  
11 OBLIGATION BONDS TO FUND THE PROGRAM; APPROVING ENERGY  
12 CONSERVATION PROJECTS FOR THE 1990-91 BIENNIUM IN THE AMOUNT  
13 OF \$3 MILLION; STATUTORILY APPROPRIATING TO THE DEPARTMENT  
14 OF NATURAL RESOURCES AND CONSERVATION ALL MONEY RECEIVED  
15 UNDER THE PROGRAM; PLEDGING THE CREDIT OF THE STATE OF  
16 MONTANA TO SECURE THE BONDS TO BE ISSUED; AMENDING SECTION  
17 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

#### STATEMENT OF INTENT

20 This bill requires a statement by the department of  
21 natural resources and conservation that the estimated annual  
22 energy savings to be derived from the installation of the  
23 energy saving improvements are expected to equal or exceed  
24 the annual debt service to be paid on the bonds issued to  
25 fund the improvements. In developing this savings statement,

1 the department shall determine which energy improvements  
2 yield sufficient return on investment to be included in the  
3 financing package. In making this determination, the  
4 department should consider the projected savings of the  
5 improvement, the impact on project cash flow, the expected  
6 useful life of the improvement and the facility, the state's  
7 long-range plans for the facility, the potential impacts on  
8 the utility system, and any additional monetary and  
9 nonmonetary benefits to be derived from the improvement.

10 The department shall consult with the utility or  
11 utilities that serve the facilities on which the  
12 improvements are to be made. If a fuel switching measure is  
13 proposed, the department must demonstrate that the benefits  
14 to the state exceed the costs to the utility and its  
15 customers.

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

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19 through 8] may be cited as the "State Building Energy  
20 Conservation Act".

21 NEW SECTION. **Section 2.** Definitions. (1) "Board"  
22 means the board of examiners provided for in 2-15-1007.

23 (2) "Cost" includes the expenses related to planning,  
24 design, construction, and installation of energy  
25 conservation improvements and any administrative expenses of

1 the department incurred in the performance of its duties  
2 under the energy conservation program.

3 (3) "Department" means the department of natural  
4 resources and conservation provided for in 2-15-3301.

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

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

12 (6) "State agency" means:

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

15 (b) the university system.

16 **NEW SECTION. Section 3. Preparation of energy**  
17 **conservation program.** (1) Before June 30 of each  
18 odd-numbered year, state agencies shall submit to the  
19 department, on forms provided by the department, a list of  
20 any facilities operated by that agency that have a potential  
21 for energy savings, based on age, energy use, function, and  
22 condition of the building. Agencies may request assistance  
23 from the department to identify these facilities.

24 (2) Based on the criteria in subsection (1), the  
25 department shall select certain facilities for in-depth

1 energy analyses to identify the technical and financial  
2 feasibility of making energy conservation improvements to  
3 the facilities.

4 (3) During the energy analyses, the department shall  
5 consult with the utilities that serve the selected  
6 facilities to discuss potential impacts on the utilities and  
7 their customers of making energy conservation improvements  
8 to these facilities.

9 (4) Upon completion of the energy analyses, the  
10 department shall submit to the governor its findings and a  
11 prioritized list of projects recommended for funding under  
12 the energy conservation program. The department shall rank  
13 projects in terms of cost-effectiveness to the state.

14 (5) The department shall compile a report that must  
15 include the following:

16 (a) a listing of all requests submitted by state  
17 agencies;

18 (b) a summary of the department's review of agency  
19 requests;

20 (c) a summary of the energy analyses conducted by the  
21 department, including the estimated cost of each proposed  
22 project and the estimated energy cost savings of each  
23 proposed project;

24 (d) a description of measures taken by the department  
25 to address the issues that were raised in the consultation

with the affected utilities; and

(e) if a fuel switching measure is proposed, an analysis of the costs to the affected utility and its customers and of the benefits to the state of the fuel switching measure.

(6) If a fuel switching measure is proposed, the department shall demonstrate through the analysis required by subsection (5)(e) that the benefits to the state exceed the costs to the utility and its customers.

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

**NEW SECTION. Section 4. Submission to the legislature.** During the first week of the regular legislative session, the governor shall submit to the legislature for its approval the proposed projects to be funded by the energy conservation program for the next biennium. In his recommendation, the governor shall include:

(1) the report prepared by the department;

(2) a description of the improvements to be financed;

(3) the estimated cost of each project and the total cost of the program; and

(4) the proposed method of financing the improvement.

If energy conservation program bonds are proposed to be

issued to finance the program improvements, the governor shall include within his report a written statement by the department that the estimated annual energy savings to be derived from the installation of the energy saving equipment or improvements, upon completion, are expected to equal or exceed the annual debt service to be paid on the energy conservation program bonds proposed to be issued to fund the costs of such equipment or improvements.

**NEW SECTION. Section 5. Duties of department.** In addition to the duties set forth in [section 3], the department 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) to administratively transfer funds to the department of administration to procure design and construction of cost-effective energy improvements;

(4) train facility maintenance staff in energy saving techniques and maintenance of energy improvements, 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 6. Authority to issue energy**

1 conservation program bonds. (1) When authorized by the vote  
2 of two-thirds of the members of each house of the  
3 legislature, at the request of the department, and pursuant  
4 to [sections 1 through 8], the board may issue and sell  
5 bonds or bond anticipation notes of the state in a manner it  
6 considers necessary and proper to finance the energy  
7 conservation program and to pay costs associated with the  
8 sale and issuance of the bonds. Bonds may be issued to  
9 provide funds for the payment or redemption of energy  
10 conservation building program bonds issued under this  
11 section.

12 (2) The full faith and credit and taxing powers of the  
13 state are pledged for the prompt and full payment of all  
14 bonds so issued and interest and redemption premiums payable  
15 on the bonds according to their terms.

16 NEW SECTION. Section 7. Form -- principal and  
17 interest -- fiscal agent -- deposit of proceeds. (1) Each  
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19 the board at the request of the department, in denominations  
20 and forms, whether payable to bearer or registered as to  
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22 provisions for conversion or exchange and for the issuance  
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24 definitive bonds, bearing interest at a rate or rates,  
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1 subject to redemption at earlier times and prices and upon  
2 notice, and payable at the office of such fiscal agent of  
3 the state, as the board shall determine subject to the  
4 provisions of this section and [section 6].

5 (2) In all other respects, the board is authorized to  
6 prescribe the form and terms of the bonds and shall do  
7 whatever is lawful and necessary for their issuance and  
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11 coupons may be executed with facsimile signatures and seal  
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13 law. The state treasurer shall keep a record of all such  
14 bonds issued and sold.

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16 the performance of its duties under [sections 1 through 8].

17 (4) There is created an energy conservation program  
18 account within the state special revenue fund established in  
19 17-2-102.

20 (5) All proceeds of bonds and notes issued under  
21 [section 6] must be deposited in the energy conservation  
22 program account, except that any premiums and accrued  
23 interest received must be deposited in the debt service fund  
24 established in 17-2-102.

25 NEW SECTION. Section 8. Use of energy conservation

1 program account. The energy conservation program account  
 2 must be segregated by the treasurer from all other money in  
 3 that or any other fund in the state treasury and used only  
 4 to pay costs of the energy conservation program. The  
 5 department may transfer all money authorized by the  
 6 legislature for its administrative expenditures from the  
 7 energy conservation program account to a special revenue  
 8 fund. This money is statutorily appropriated as provided in  
 9 17-7-502.

10 NEW SECTION. Section 9. Approval of projects.  
 11 Notwithstanding the provisions of [sections 3 and 4], the  
 12 legislature approves the energy conservation projects listed  
 13 below and the described amounts as the energy conservation  
 14 program for the 1990-91 biennium:

15	<u>Facility</u>	<u>Cost</u>
16	Montana State Hospital at Warm Springs	\$801,146
17	Montana State Hospital at Galen	853,788
18	Center for the Aged	125,000
19	School for the Deaf and Blind	<u>125,000</u>
20	Total	\$1,904,934

21 NEW SECTION. Section 10. Authorization of bonds --  
 22 appropriation of proceeds. (1) At the request of the  
 23 department, the board may issue and sell bonds of the state  
 24 in an aggregate principal amount not exceeding \$3 million to  
 25 provide money for the 1990-91 biennium energy conservation

1 program. The bonds are general obligations for which the  
 2 full faith and credit and taxing powers of the state are  
 3 pledged for payment of the principal and interest. The bonds  
 4 must be issued as provided by Title 17, chapter 5, part 8.

5 (2) The proceeds of the bonds, other than any premiums  
 6 and accrued interest received, must be deposited in the  
 7 energy conservation program account. Any premium and accrued  
 8 interest must be deposited to the debt service fund  
 9 established in 17-2-102. Proceeds of bonds deposited in the  
 10 energy conservation program account may be used to pay the  
 11 costs of issuing the bonds and to pay costs of the energy  
 12 conservation program, including the funding of the 1990-91  
 13 biennium energy conservation projects approved by the  
 14 legislature. For purposes of 17-5-803 and 17-5-804, the  
 15 energy conservation program account constitutes a capital  
 16 projects account. Such proceeds must be available to the  
 17 department and may be used for the purposes authorized in  
 18 [sections 1 through 8] without further budgetary  
 19 authorization.

20 **Section 11.** Section 17-7-502, MCA, is amended to read:  
 21 "17-7-502. Statutory appropriations -- definition --  
 22 requisites for validity. (1) A statutory appropriation is an  
 23 appropriation made by permanent law that authorizes spending  
 24 by a state agency without the need for a biennial  
 25 legislative appropriation or budget amendment.

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987; and [section 8].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due,

that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"

**NEW SECTION. Section 12.** Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 90, chapter 4, and the provisions of Title 90, chapter 4, apply to [sections 1 through 8].

**NEW SECTION. Section 13.** Coordination instruction. If House Bill No. 563 is not passed and approved, [this act] is void.

**NEW SECTION. Section 14.** 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



1 severable from the invalid applications.

2 NEW SECTION. **Section 15.** Requirements for approval of  
3 state debt -- nonseverability. Because [section 10]  
4 authorizes the creation of a state debt, a vote of  
5 two-thirds of the members of each house is required for  
6 enactment of [section 10]. If [section 10] is not approved  
7 by the required vote, [this act] is void.

8 NEW SECTION. **Section 16.** Effective date. [This act]  
9 is effective on passage and approval.

-End-

1 *HOUSE* BILL NO. 750  
 2 INTRODUCED BY *Paula Vincent*  
 3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES  
 4 *HARP* *Boya* *Sparks*  
 5 *Wright* *Harmon* *Carroll* *Quinn*  
 6 *Stang* *Carlson* *Whalen* *Worley*  
 7 *Blotner* *McAfee*  
 8 BUILDING ENERGY CONSERVATION PROGRAM; ESTABLISHING A STATE  
 9 RESPONSIBILITY TO THE DEPARTMENT OF NATURAL RESOURCES AND  
 10 CONSERVATION; PROVIDING FOR THE ISSUANCE OF GENERAL  
 11 OBLIGATION BONDS TO FUND THE PROGRAM; APPROVING ENERGY  
 12 CONSERVATION PROJECTS FOR THE 1990-91 BIENNIUM IN THE AMOUNT  
 13 OF \$3 MILLION; STATUTORILY APPROPRIATING TO THE DEPARTMENT  
 14 OF NATURAL RESOURCES AND CONSERVATION ALL MONEY RECEIVED  
 15 UNDER THE PROGRAM; PLEDGING THE CREDIT OF THE STATE OF  
 16 MONTANA TO SECURE THE BONDS TO BE ISSUED; AMENDING SECTION  
 17 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

#### 18 STATEMENT OF INTENT

19 This bill requires a statement by the department of  
 20 natural resources and conservation that the estimated annual  
 21 energy savings to be derived from the installation of the  
 22 energy saving improvements are expected to equal or exceed  
 23 the annual debt service to be paid on the bonds issued to  
 24 fund the improvements. In developing this savings statement,

1 the department shall determine which energy improvements  
 2 yield sufficient return on investment to be included in the  
 3 financing package. In making this determination, the  
 4 department should consider the projected savings of the  
 5 improvement, the impact on project cash flow, the expected  
 6 useful life of the improvement and the facility, the state's  
 7 long-range plans for the facility, the potential impacts on  
 8 the utility system, and any additional monetary and  
 9 nonmonetary benefits to be derived from the improvement.

10 The department shall consult with the utility or  
 11 utilities that serve the facilities on which the  
 12 improvements are to be made. If a fuel switching measure is  
 13 proposed, the department must demonstrate that the benefits  
 14 to the state exceed the costs to the utility and its  
 15 customers.

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

17 NEW SECTION. Section 1. Short title. [Sections 1  
 18 through 8] may be cited as the "State Building Energy  
 19 Conservation Act".

20 NEW SECTION. Section 2. Definitions. (1) "Board"  
 21 means the board of examiners provided for in 2-15-1007.

22 (2) "Cost" includes the expenses related to planning,  
 23 design, construction, and installation of energy  
 24 conservation improvements and any administrative expenses of

25 THIRD READING

HB 750

1 the department incurred in the performance of its duties  
2 under the energy conservation program.

3 (3) "Department" means the department of natural  
4 resources and conservation provided for in 2-15-3301.

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

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

12 (6) "State agency" means:

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

15 (b) the university system.

16 NEW SECTION. Section 3. Preparation of energy  
17 conservation program. (1) Before June 30 of each  
18 odd-numbered year, state agencies shall submit to the  
19 department, on forms provided by the department, a list of  
20 any facilities operated by that agency that have a potential  
21 for energy savings, based on age, energy use, function, and  
22 condition of the building. Agencies may request assistance  
23 from the department to identify these facilities.

24 (2) Based on the criteria in subsection (1), the  
25 department shall select certain facilities for in-depth

1 energy analyses to identify the technical and financial  
2 feasibility of making energy conservation improvements to  
3 the facilities.

4 (3) During the energy analyses, the department shall  
5 consult with the utilities that serve the selected  
6 facilities to discuss potential impacts on the utilities and  
7 their customers of making energy conservation improvements  
8 to these facilities.

9 (4) Upon completion of the energy analyses, the  
10 department shall submit to the governor its findings and a  
11 prioritized list of projects recommended for funding under  
12 the energy conservation program. The department shall rank  
13 projects in terms of cost-effectiveness to the state.

14 (5) The department shall compile a report that must  
15 include the following:

16 (a) a listing of all requests submitted by state  
17 agencies;

18 (b) a summary of the department's review of agency  
19 requests;

20 (c) a summary of the energy analyses conducted by the  
21 department, including the estimated cost of each proposed  
22 project and the estimated energy cost savings of each  
23 proposed project;

24 (d) a description of measures taken by the department  
25 to address the issues that were raised in the consultation

1 with the affected utilities; and

2 (e) if a fuel switching measure is proposed, an  
3 analysis of the costs to the affected utility and its  
4 customers and of the benefits to the state of the fuel  
5 switching measure.

6 (6) If a fuel switching measure is proposed, the  
7 department shall demonstrate through the analysis required  
8 by subsection (5)(e) that the benefits to the state exceed  
9 the costs to the utility and its customers.

10 (7) The department shall submit the report required by  
11 subsection (5) to the governor before September 1 of each  
12 even-numbered year.

13 NEW SECTION. Section 4. Submission to the  
14 legislature. During the first week of the regular  
15 legislative session, the governor shall submit to the  
16 legislature for its approval the proposed projects to be  
17 funded by the energy conservation program for the next  
18 biennium. In his recommendation, the governor shall  
19 include:

- 20 (1) the report prepared by the department;
  - 21 (2) a description of the improvements to be financed;
  - 22 (3) the estimated cost of each project and the total  
23 cost of the program; and
  - 24 (4) the proposed method of financing the improvement.
- 25 If energy conservation program bonds are proposed to be

1 issued to finance the program improvements, the governor  
2 shall include within his report a written statement by the  
3 department that the estimated annual energy savings to be  
4 derived from the installation of the energy saving equipment  
5 or improvements, upon completion, are expected to equal or  
6 exceed the annual debt service to be paid on the energy  
7 conservation program bonds proposed to be issued to fund the  
8 costs of such equipment or improvements.

9 NEW SECTION. Section 5. Duties of department. In  
10 addition to the duties set forth in [section 3], the  
11 department is authorized to:

- 12 (1) analyze state utility data to identify high  
13 potential energy conservation projects;
- 14 (2) perform comprehensive energy analyses on  
15 state-owned buildings, structures, and facilities,  
16 contracting with private engineers when necessary;
- 17 (3) to administratively transfer funds to the  
18 department of administration to procure design and  
19 construction of cost-effective energy improvements;
- 20 (4) train facility maintenance staff in energy saving  
21 techniques and maintenance of energy improvements, monitor  
22 energy conservation projects to ensure that cost savings are  
23 realized and are adequate to cover the debt service if bonds  
24 have been issued to fund the improvements.

25 NEW SECTION. Section 6. Authority to issue energy

1 conservation program bonds. (1) When authorized by the vote  
2 of two-thirds of the members of each house of the  
3 legislature, at the request of the department, and pursuant  
4 to [sections 1 through 8], the board may issue and sell  
5 bonds or bond anticipation notes of the state in a manner it  
6 considers necessary and proper to finance the energy  
7 conservation program and to pay costs associated with the  
8 sale and issuance of the bonds. Bonds may be issued to  
9 provide funds for the payment or redemption of energy  
10 conservation building program bonds issued under this  
11 section.

12 (2) The full faith and credit and taxing powers of the  
13 state are pledged for the prompt and full payment of all  
14 bonds so issued and interest and redemption premiums payable  
15 on the bonds according to their terms.

16 NEW SECTION. Section 7. Form -- principal and  
17 interest -- fiscal agent -- deposit of proceeds. (1) Each  
18 series of energy conservation program bonds may be issued by  
19 the board at the request of the department, in denominations  
20 and forms, whether payable to bearer or registered as to  
21 principal or as to both principal and interest, with  
22 provisions for conversion or exchange and for the issuance  
23 of notes in anticipation of the execution and delivery of  
24 definitive bonds, bearing interest at a rate or rates,  
25 maturing at times not exceeding 15 years from date of issue,

1 subject to redemption at earlier times and prices and upon  
2 notice, and payable at the office of such fiscal agent of  
3 the state, as the board shall determine subject to the  
4 provisions of this section and [section 6].

5 (2) In all other respects, the board is authorized to  
6 prescribe the form and terms of the bonds and shall do  
7 whatever is lawful and necessary for their issuance and  
8 payment. The bonds and any interest coupons must be signed  
9 by the members of the board, and the bonds must be issued  
10 under the great seal of the state of Montana. The bonds and  
11 coupons may be executed with facsimile signatures and seal  
12 in the manner and subject to the limitations prescribed by  
13 law. The state treasurer shall keep a record of all such  
14 bonds issued and sold.

15 (3) The board may employ a fiscal agent to assist in  
16 the performance of its duties under [sections 1 through 8].

17 (4) There is created an energy conservation program  
18 account within the state special revenue fund established in  
19 17-2-102.

20 (5) All proceeds of bonds and notes issued under  
21 [section 6] must be deposited in the energy conservation  
22 program account, except that any premiums and accrued  
23 interest received must be deposited in the debt service fund  
24 established in 17-2-102.

25 NEW SECTION. Section 8. Use of energy conservation

1 program account. The energy conservation program account  
 2 must be segregated by the treasurer from all other money in  
 3 that or any other fund in the state treasury and used only  
 4 to pay costs of the energy conservation program. The  
 5 department may transfer all money authorized by the  
 6 legislature for its administrative expenditures from the  
 7 energy conservation program account to a special revenue  
 8 fund. This money is statutorily appropriated as provided in  
 9 17-7-502.

10 NEW SECTION. Section 9. Approval of projects.  
 11 Notwithstanding the provisions of [sections 3 and 4], the  
 12 legislature approves the energy conservation projects listed  
 13 below and the described amounts as the energy conservation  
 14 program for the 1990-91 biennium:

15	<u>Facility</u>	<u>Cost</u>
16	Montana State Hospital at Warm Springs	\$801,146
17	Montana State Hospital at Galen	853,788
18	Center for the Aged	125,000
19	School for the Deaf and Blind	<u>125,000</u>
20	Total	\$1,904,934

21 NEW SECTION. Section 10. Authorization of bonds --  
 22 appropriation of proceeds. (1) At the request of the  
 23 department, the board may issue and sell bonds of the state  
 24 in an aggregate principal amount not exceeding \$3 million to  
 25 provide money for the 1990-91 biennium energy conservation

1 program. The bonds are general obligations for which the  
 2 full faith and credit and taxing powers of the state are  
 3 pledged for payment of the principal and interest. The bonds  
 4 must be issued as provided by Title 17, chapter 5, part 8.

5 (2) The proceeds of the bonds, other than any premiums  
 6 and accrued interest received, must be deposited in the  
 7 energy conservation program account. Any premium and accrued  
 8 interest must be deposited to the debt service fund  
 9 established in 17-2-102. Proceeds of bonds deposited in the  
 10 energy conservation program account may be used to pay the  
 11 costs of issuing the bonds and to pay costs of the energy  
 12 conservation program, including the funding of the 1990-91  
 13 biennium energy conservation projects approved by the  
 14 legislature. For purposes of 17-5-803 and 17-5-804, the  
 15 energy conservation program account constitutes a capital  
 16 projects account. Such proceeds must be available to the  
 17 department and may be used for the purposes authorized in  
 18 [sections 1 through 8] without further budgetary  
 19 authorization.

20 **Section 11.** Section 17-7-502, MCA, is amended to read:  
 21 "17-7-502. Statutory appropriations -- definition --  
 22 requisites for validity. (1) A statutory appropriation is an  
 23 appropriation made by permanent law that authorizes spending  
 24 by a state agency without the need for a biennial  
 25 legislative appropriation or budget amendment.

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987; and [section 8].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due,

that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"

NEW SECTION. Section 12. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 90, chapter 4, and the provisions of Title 90, chapter 4, apply to [sections 1 through 8].

NEW SECTION. Section 13. Coordination instruction. If House Bill No. 563 is not passed and approved, [this act] is void.

NEW SECTION. Section 14. 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

1 severable from the invalid applications.

2 NEW SECTION. **Section 15.** Requirements for approval of  
3 state debt -- nonseverability. Because [section 10]  
4 authorizes the creation of a state debt, a vote of  
5 two-thirds of the members of each house is required for  
6 enactment of [section 10]. If [section 10] is not approved  
7 by the required vote, [this act] is void.

8 NEW SECTION. **Section 16.** Effective date. [This act]  
9 is effective on passage and approval.

-End-



## 1 HOUSE BILL NO. 750

2 INTRODUCED BY QUILICI, VINCENT, GRADY, MARKS, LYNCH,  
3 PECK, MENAHAN, KADAS, THOFT, JACOBSON, HARP, WALKER,  
4 BOYLAN, O'KEEFE, PIPINICH, SPAETH, NISBET, HARPER,  
5 SWYSGOOD, COCCHIARELLA, SQUIRES, STANG, PAVLOVICH,  
6 DAILY, WHALEN, DEMARS, KOEHNKE, BLOTKAMP, AAFEDT,  
7 DRISCOLL, JOHNSON, MERCER, WEEDING, BECK, WILLIAMS,  
8 RAPP-SVRCEK, VAN VALKENBURG, MANNING, YELLOWTAIL,  
9 KEATING, HOFMAN, MAZUREK, JENKINS, NOBLE,

10 MEYER, THAYER

11 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES  
12 AND CONSERVATION  
13

14 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A STATE  
15 BUILDING ENERGY CONSERVATION PROGRAM; ESTABLISHING A STATE  
16 BUILDING ENERGY CONSERVATION PROGRAM ACCOUNT; ASSIGNING  
17 RESPONSIBILITY TO THE DEPARTMENT OF NATURAL RESOURCES AND  
18 CONSERVATION; PROVIDING FOR THE ISSUANCE OF GENERAL  
19 OBLIGATION BONDS TO FUND THE PROGRAM; APPROVING ENERGY  
20 CONSERVATION PROJECTS FOR THE 1990-91 BIENNIUM IN THE AMOUNT  
21 OF \$3 MILLION; STATUTORILY APPROPRIATING TO THE DEPARTMENT  
22 OF NATURAL RESOURCES AND CONSERVATION ALL MONEY RECEIVED  
23 UNDER THE PROGRAM; PLEDGING THE CREDIT OF THE STATE OF  
24 MONTANA TO SECURE THE BONDS TO BE ISSUED; AMENDING SECTION  
25 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

## 1 STATEMENT OF INTENT

2  
3 This bill requires a statement by the department of  
4 natural resources and conservation that the estimated annual  
5 energy savings to be derived from the installation of the  
6 energy saving improvements are expected to equal or exceed  
7 the annual debt service to be paid on the bonds issued to  
8 fund the improvements. In developing this savings statement,  
9 the department shall determine which energy improvements  
10 yield sufficient return on investment to be included in the  
11 financing package. In making this determination, the  
12 department should consider the projected savings of the  
13 improvement, the impact on project cash flow, the expected  
14 useful life of the improvement and the facility, the state's  
15 long-range plans for the facility, the potential impacts on  
16 the utility system, and any additional monetary and  
17 nonmonetary benefits to be derived from the improvement.

18 The department shall consult with the utility or  
19 utilities that serve the facilities on which the  
20 improvements are to be made. If a fuel switching measure is  
21 proposed, the department must demonstrate that the benefits  
22 to the state exceed the costs to the utility and its  
23 customers.

24  
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Short title.** [Sections 1 through 8] may be cited as the "State Building Energy Conservation Act".

**NEW SECTION. Section 2. Definitions.** (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 natural resources and conservation provided for in 2-15-3301.

(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) "State agency" means:

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

(b) the university system.

**NEW SECTION. Section 3. Preparation of energy conservation program.** (1) Before June 30 of each

odd-numbered year, state agencies shall submit to the department, on forms provided by the department, a list of any facilities operated by that agency that have a potential for energy savings, based on age, energy use, function, and condition of the building. Agencies may request assistance from the department to identify these facilities.

(2) Based on the criteria in subsection (1), the department shall select certain facilities for in-depth energy analyses to identify the technical and financial feasibility of making energy conservation improvements to the facilities.

(3) During the energy analyses, the department shall consult with the utilities that serve the selected facilities to discuss potential impacts on the utilities and their customers of making energy conservation improvements to these facilities.

(4) Upon completion of the energy analyses, the department shall submit to the governor its findings and a prioritized list of projects recommended for funding under the energy conservation program. The department shall rank projects in terms of cost-effectiveness to the state.

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

(a) a listing of all requests submitted by state agencies;

(b) a summary of the department's review of agency requests;

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

(d) a description of measures taken by the department to address the issues that were raised in the consultation with the affected utilities; and

(e) if a fuel switching measure is proposed, an analysis of the costs to the affected utility and its customers and of the benefits to the state of the fuel switching measure.

(6) If a fuel switching measure is proposed, the department shall demonstrate through the analysis required by subsection (5)(e) that the benefits to the state exceed the costs to the utility and its customers.

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

**NEW SECTION. Section 4.** Submission to the legislature. During the first week of the regular legislative session, the governor shall submit to the legislature for its approval the proposed projects to be funded by the energy conservation program for the next

biennium. In his recommendation, the governor shall include:

(1) the report prepared by the department;

(2) a description of the improvements to be financed;

(3) the estimated cost of each project and the total cost of the program; and

(4) the proposed method of financing the improvement.

If energy conservation program bonds are proposed to be issued to finance the program improvements, the governor shall include within his report a written statement by the department that the estimated annual energy savings to be derived from the installation of the energy saving equipment or improvements, upon completion, are expected to equal or exceed the annual debt service to be paid on the energy conservation program bonds proposed to be issued to fund the costs of such equipment or improvements.

**NEW SECTION. Section 5.** Duties of department. In addition to the duties set forth in [section 3], the department 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) to administratively transfer funds to the

1 department of administration to procure design and  
2 construction of cost-effective energy improvements;

3 (4) train facility maintenance staff in energy saving  
4 techniques and maintenance of energy improvements, monitor  
5 energy conservation projects to ensure that cost savings are  
6 realized and are adequate to cover the debt service if bonds  
7 have been issued to fund the improvements.

8 NEW SECTION. Section 6. Authority to issue energy  
9 conservation program bonds. (1) When authorized by the vote  
10 of two-thirds of the members of each house of the  
11 legislature, at the request of the department, and pursuant  
12 to [sections 1 through 8], the board may issue and sell  
13 bonds or bond anticipation notes of the state in a manner it  
14 considers necessary and proper to finance the energy  
15 conservation program and to pay costs associated with the  
16 sale and issuance of the bonds. Bonds may be issued to  
17 provide funds for the payment or redemption of energy  
18 conservation building program bonds issued under this  
19 section.

20 (2) The full faith and credit and taxing powers of the  
21 state are pledged for the prompt and full payment of all  
22 bonds so issued and interest and redemption premiums payable  
23 on the bonds according to their terms.

24 NEW SECTION. Section 7. Form -- principal and  
25 interest -- fiscal agent -- deposit of proceeds. (1) Each

1 series of energy conservation program bonds may be issued by  
2 the board at the request of the department, in denominations  
3 and forms, whether payable to bearer or registered as to  
4 principal or as to both principal and interest, with  
5 provisions for conversion or exchange and for the issuance  
6 of notes in anticipation of the execution and delivery of  
7 definitive bonds, bearing interest at a rate or rates,  
8 maturing at times not exceeding 15 years from date of issue,  
9 subject to redemption at earlier times and prices and upon  
10 notice, and payable at the office of such fiscal agent of  
11 the state, as the board shall determine subject to the  
12 provisions of this section and [section 6].

13 (2) In all other respects, the board is authorized to  
14 prescribe the form and terms of the bonds and shall do  
15 whatever is lawful and necessary for their issuance and  
16 payment. The bonds and any interest coupons must be signed  
17 by the members of the board, and the bonds must be issued  
18 under the great seal of the state of Montana. The bonds and  
19 coupons may be executed with facsimile signatures and seal  
20 in the manner and subject to the limitations prescribed by  
21 law. The state treasurer shall keep a record of all such  
22 bonds issued and sold.

23 (3) The board may employ a fiscal agent to assist in  
24 the performance of its duties under [sections 1 through 8].

25 (4) There is created an energy conservation program

1 account within the state special revenue fund established in  
2 17-2-102.

3 (5) All proceeds of bonds and notes issued under  
4 [section 6] must be deposited in the energy conservation  
5 program account, except that any premiums and accrued  
6 interest received must be deposited in the debt service fund  
7 established in 17-2-102.

8 NEW SECTION. Section 8. Use of energy conservation  
9 program account. The energy conservation program account  
10 must be segregated by the treasurer from all other money in  
11 that or any other fund in the state treasury and used only  
12 to pay costs of the energy conservation program. The  
13 department may transfer all money authorized by the  
14 legislature for its administrative expenditures from the  
15 energy conservation program account to a special revenue  
16 fund. This money is statutorily appropriated as provided in  
17 17-7-502.

18 NEW SECTION. Section 9. Approval of projects.  
19 Notwithstanding the provisions of [sections 3 and 4], the  
20 legislature approves the energy conservation projects listed  
21 below and the described amounts as the energy conservation  
22 program for the 1990-91 biennium:

23	<u>Facility</u>	<u>Cost</u>
24	Montana State Hospital at Warm Springs	\$801,146
25	Montana State Hospital at Galen	853,788

1	Center for the Aged	125,000
2	School for the Deaf and Blind	<u>125,000</u>
3	Total	\$1,904,934

4 NEW SECTION. Section 10. Authorization of bonds --  
5 appropriation of proceeds. (1) At the request of the  
6 department, the board may issue and sell bonds of the state  
7 in an aggregate principal amount not exceeding \$3 million to  
8 provide money for the 1990-91 biennium energy conservation  
9 program. The bonds are general obligations for which the  
10 full faith and credit and taxing powers of the state are  
11 pledged for payment of the principal and interest. The bonds  
12 must be issued as provided by Title 17, chapter 5, part 8.

13 (2) The proceeds of the bonds, other than any premiums  
14 and accrued interest received, must be deposited in the  
15 energy conservation program account. Any premium and accrued  
16 interest must be deposited to the debt service fund  
17 established in 17-2-102. Proceeds of bonds deposited in the  
18 energy conservation program account may be used to pay the  
19 costs of issuing the bonds and to pay costs of the energy  
20 conservation program, including the funding of the 1990-91  
21 biennium energy conservation projects approved by the  
22 legislature. For purposes of 17-5-803 and 17-5-804, the  
23 energy conservation program account constitutes a capital  
24 projects account. Such proceeds must be available to the  
25 department and may be used for the purposes authorized in

1 [sections 1 through 8] without further budgetary  
2 authorization.

3 **Section 11.** Section 17-7-502, MCA, is amended to read:

4 "17-7-502. Statutory appropriations -- definition --  
5 requisites for validity. (1) A statutory appropriation is an  
6 appropriation made by permanent law that authorizes spending  
7 by a state agency without the need for a biennial  
8 legislative appropriation or budget amendment.

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

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

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

17 (3) The following laws are the only laws containing  
18 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
19 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;  
20 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;  
21 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;  
22 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;  
23 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;  
24 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;  
25 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501;

1 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101;  
2 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136;  
3 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103;  
4 section 13, House Bill No. 861, Laws of 1985; and section 1,  
5 Chapter 454, Laws of 1987; and [section 8].

6 (4) There is a statutory appropriation to pay the  
7 principal, interest, premiums, and costs of issuing, paying,  
8 and securing all bonds, notes, or other obligations, as due,  
9 that have been authorized and issued pursuant to the laws of  
10 Montana. Agencies that have entered into agreements  
11 authorized by the laws of Montana to pay the state  
12 treasurer, for deposit in accordance with 17-2-101 through  
13 17-2-107, as determined by the state treasurer, an amount  
14 sufficient to pay the principal and interest as due on the  
15 bonds or notes have statutory appropriation authority for  
16 such payments. (In subsection (3): pursuant to sec. 15, Ch.  
17 607, L. 1987, the inclusion of 15-65-121 terminates June 30,  
18 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion  
19 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.  
20 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.  
21 1987, terminates July 1, 1988.)"

22 **NEW SECTION. Section 12.** Codification instruction.  
23 [Sections 1 through 8] are intended to be codified as an  
24 integral part of Title 90, chapter 4, and the provisions of  
25 Title 90, chapter 4, apply to [sections 1 through 8].

1        NEW SECTION.    **Section 13.** Coordination instruction. If  
2 House Bill No. 563 is not passed and approved, [this act] is  
3 void.

4        NEW SECTION.    **Section 14.** Severability. If a part of  
5 [this act] is invalid, all valid parts that are severable  
6 from the invalid part remain in effect. If a part of [this  
7 act] is invalid in one or more of its applications, the part  
8 remains in effect in all valid applications that are  
9 severable from the invalid applications.

10       NEW SECTION.    **Section 15.** Requirements for approval of  
11 state debt -- nonseverability. Because [section 10]  
12 authorizes the creation of a state debt, a vote of  
13 two-thirds of the members of each house is required for  
14 enactment of [section 10]. If [section 10] is not approved  
15 by the required vote, [this act] is void.

16       NEW SECTION.    **Section 16.** Effective date. [This act]  
17 is effective on passage and approval.

-End-