

SENATE BILL NO. 236

INTRODUCED BY R. WEBB

1  
2  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY PROVIDING FOR LEGISLATIVE INVOLVEMENT IN  
5 THE DEVELOPMENT OF A STATE PLAN TO ADDRESS GREENHOUSE GAS EMISSIONS FROM EXISTING  
6 FOSSIL FUEL-FIRED ELECTRIC GENERATING UNITS; DIRECTING THE DEPARTMENT OF  
7 ENVIRONMENTAL QUALITY TO DEVELOP A STATE PLAN TO ADDRESS GREENHOUSE GAS EMISSIONS  
8 FROM EXISTING FOSSIL FUEL-FIRED ELECTRIC GENERATING UNITS; ESTABLISHING GUIDELINES FOR  
9 THE DEPARTMENT TO USE IN DEVELOPING A STATE PLAN; REQUIRING THE DEPARTMENT TO SUBMIT  
10 ITS PLAN TO THE LEGISLATURE; REQUIRING LEGISLATIVE APPROVAL OF THE DEPARTMENT'S STATE  
11 PLAN; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

12  
13 WHEREAS, reasonably priced, reliable sources of electric power generated in Montana are vital to the  
14 health, safety, and welfare of the residents of Montana and to the prosperity of Montana's economy; and

15 WHEREAS, Montana must ensure that a reliable supply of electric power is generated at a level  
16 consistent with the need for that electric power for the protection of public health, safety, and the environment;  
17 and

18 WHEREAS, coal-fired electric generation power plants are developed primarily through the free  
19 enterprise system and require a significant commitment of funds and resources from shareholders, and the  
20 potential decision to deactivate or retire coal-fired electric generation power plants will have a long-term impact  
21 on Montana's economy; and

22 WHEREAS, Montana's coal-fired electric generation power plants that sell into the wholesale power  
23 markets strengthen competition, enhance the reliability of the bulk power and transmission systems, and are vital  
24 to public interest; and

25 WHEREAS, the premature deactivation or retirement of coal-fired electric generation facilities significantly  
26 affects Montana's economy, environment, and electric reliability and the general health, safety, and welfare of  
27 Montana's residents, businesses, and industries; and

28 WHEREAS, all electric power generators, but primarily coal-fired electric generation facilities, have been  
29 subjected to ongoing and unmitigated negative market conditions that have resulted in the premature deactivation  
30 and retirement of high-capacity resources in Montana; and

1 WHEREAS, over the past 7 years, the United States Environmental Protection Agency has promulgated  
2 a myriad of environmental regulations that have significantly increased costs to coal-fired electric generation  
3 facilities, making them less competitive in the wholesale power markets; and

4 WHEREAS, the United States Environmental Protection Agency recently proposed another regulation  
5 governing carbon dioxide emissions from existing coal-fired electric generation facilities; and

6 WHEREAS, since Montana, at the end of 2012, held over one-fourth of the nation's estimated  
7 recoverable coal reserves at producing mines and was the eighth largest coal-producing state, producing 3.6%  
8 of U.S. coal in 2012 and distributing coal to nine other states, the United States Environmental Protection  
9 Agency's proposed greenhouse gas regulations covering existing sources will have a significant, profound, and  
10 long-lasting impact on Montana's economy; and

11 WHEREAS, the United States Environmental Protection Agency's proposed greenhouse gas regulation  
12 covering existing sources will also affect those communities that host coal-fired power plants, the employees at  
13 those facilities, and residential, commercial, and industrial consumers in Montana who depend on the reliable  
14 provision of electricity at an economical price; and

15 WHEREAS, Montana may respond to the proposed United States Environmental Protection Agency's  
16 greenhouse gas regulation covering existing sources by developing and submitting to the United States  
17 Environmental Protection Agency a plan for how Montana will meet the United States Environmental Protection  
18 Agency's goals of reducing carbon dioxide emissions; and

19 WHEREAS, due to the extraordinary impact that the United States Environmental Protection Agency's  
20 proposed greenhouse gas regulation covering existing sources will have in Montana, it is the responsibility of the  
21 Montana Legislature, working together with the Department of Environmental Quality, the Montana Public Service  
22 Commission, and other important stakeholders, to be directly involved in the development of Montana's plan.

23

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

25

26 **NEW SECTION. Section 1. Definitions.** As used in [sections 1 through 3], unless the context requires  
27 otherwise, the following definitions apply:

28 (1) "Department" means the department of environmental quality provided for in 2-15-3501.

29 (2) "State plan" means the state plan authorized by the United States environmental protection agency  
30 under regulations included in the proposed rulemaking under docket EPA-HQ-OAR-2013-0602 and published

1 in Volume 79, No. 117, of the Federal Register by the United States environmental protection agency under the  
2 authority of 40 CFR, part 60, and all subsequent final rulemaking and regulation published in the Federal Register  
3 by the United States environmental protection agency under the authority of 40 CFR, part 60, to address  
4 greenhouse gas emissions from existing fossil fuel-fired electric generating units.

5  
6 **NEW SECTION. Section 2. Development of state plan.** (1) In developing a state plan to comply with  
7 the requirements of the United States environmental protection agency's proposed regulation of carbon dioxide  
8 emissions for existing fossil fuel-fired electric generating units, the department shall:

9 (a) compel the production and examination of documents and other evidence necessary for the  
10 discharging of duties imposed under this section;

11 (b) within and no later than 1 year after the date the United States environmental protection agency final  
12 regulation addressed in docket EPA-HQ-OAR-2013-0602 is published in the Federal Register, conduct at least  
13 four public hearings in geographically dispersed locations across Montana, including locations that would be  
14 directly economically affected by the state plan;

15 (c) accept testimony and consider, as part of the deliberations on the state plan, all written and any other  
16 testimony provided by the public; and

17 (d) solicit, document, consider, and address comments from the public service commission on a state  
18 plan.

19 (2) In developing a state plan, the department shall consider:

20 (a) whether measures the United States environmental protection agency used to calculate carbon  
21 dioxide reduction goals, as well as other measures that were not part of the United States environmental  
22 protection agency's goal-setting process, should be relied on in developing a state plan;

23 (b) participation in multistate programs that already exist, or whether a new multistate carbon dioxide  
24 reduction program should be created;

25 (c) whether Montana should invest in energy efficiency programs to assist in meeting the United States  
26 environmental protection agency's goal;

27 (d) developing partnerships with other states; and

28 (e) when, if applicable, individual generation units or facilities shall make required reductions to comply  
29 with a state plan.

30 (3) In developing a state plan, the department shall analyze and determine the extent to which to

1 incorporate:

2 (a) demand-side energy efficiency programs;

3 (b) changes in Montana's renewable portfolio standard established pursuant to Title 69, chapter 3, part

4 20;

5 (c) efficiency improvements at existing affected generation units or facilities;

6 (d) cofiring or switching to natural gas use at existing affected generation units or facilities;

7 (e) transmission efficiency improvements;

8 (f) energy storage technologies;

9 (g) the retirement or deactivation of existing affected generation units or facilities;

10 (h) the expansion of other energy sources, including but not limited to nuclear;

11 (i) market-based trading programs; and

12 (j) energy conservation programs.

13 (4) A state plan must include:

14 (a) recommendations on how best to avoid stranded investments in existing affected generation units or  
15 facilities;

16 (b) prioritization of the components of the state plan based on a least-cost compliance approach to benefit  
17 consumers of electricity; and

18 (c) consideration of the necessity and value of a diverse generation fleet to ensure electric reliability in  
19 Montana.

20

21 **NEW SECTION. Section 3. Legislative approval of state plan.** (1) Except as provided in subsection  
22 (4), the department may not submit a state plan to the United States environmental protection agency that is not  
23 approved by the legislature.

24 (2) The department shall submit the state plan to the legislature by the 15th legislative day of the first  
25 regular session after the state plan is complete.

26 (3) If either chamber of the legislature disapproves a state plan submitted in accordance with subsection  
27 (2) before adjournment sine die, the department shall:

28 (a) determine the reasons for disapproval and modify the state plan;

29 (b) submit a revised state plan to the legislature in accordance with this section; and

30 (c) if necessary, request an extension of time from the United States environmental protection agency

1 to submit a state plan in accordance with [sections 1 through 3].

2 (4) If the legislature does not approve a state plan in accordance with subsections (2) and (3) by June  
3 30, 2019, the department may submit the state plan to the United States environmental protection agency.

4  
5 **NEW SECTION. Section 4. Notification to tribal governments.** The secretary of state shall send a  
6 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
7 Chippewa tribe.

8  
9 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3] are intended to be codified  
10 as an integral part of Title 75, chapter 2, and the provisions of Title 75, chapter 2, apply to [sections 1 through 3].

11  
12 **NEW SECTION. Section 6. Effective dates -- contingency.** (1) Except as provided in subsection (2),  
13 [this act] is effective on passage and approval.

14 (2) [Section 3] is effective on the date the United States environmental protection agency final regulation  
15 addressed in docket EPA-HQ-OAR-2013-0602 is published in the Federal Register.

16 (3) The department of environmental quality shall provide a copy of the final regulation provided for in  
17 subsection (2) to the code commissioner.

18  
19 **NEW SECTION. Section 7. Termination.** [This act] terminates June 30, 2019.

20 - END -