



MONTANA LEGISLATIVE BRANCH

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DATE: February 16, 2006

TO: Legislative Finance Committee

FROM: Kris Wilkinson, Associate Fiscal Analyst

RE: Governor's Powers in an Energy Emergency

Staff was asked to respond to two questions relating to the Governor's powers in an energy emergency. Presented below is a discussion of the powers of the Governor in an energy emergency and the contingency plans for such an emergency.

What are the Governor's powers in an energy emergency under Title 90, Chapter 4, Part 3, MCA?

Representative Dan McGee requested the Code Commissioner perform an analysis of the emergency energy powers of the Governor, including the changes to those powers made by Senate Bill No. 521. This memorandum is attached.

What are the contingency plans for an energy emergency?

Montana adopted an Energy Emergency Contingency Plan in 1981. This plan was amended in 1989. The plan has not been updated since passage of Senate Bill 521. Senate Bill 521, which became effective May 5, 2001, added the price of energy as part of the definition of an energy emergency. The plan is designed to respond to energy shortages by establishing guidelines for implementing the Governor's Energy Supply Emergency Powers Act (Title 90, Chapter 4, Part 3, MCA).

The basic principles of the plan are:

- Preference for voluntary rather than mandatory measures.
- Prevention of unnecessary hardship and threats to health and safety.
- Minimizing the economic impact of the shortage.
- Reliance on state government and the energy industry to respond to relatively mild shortages.
- Emergency management of state energy resources by state and local governments.

The plan recognizes four phases corresponding to shortfall levels in electricity or petroleum fuels.

- Phase I is implemented prior to the shortage and uses voluntary conservation measures to increase the states' readiness for an energy shortage.
- Phase II addresses moderate shortages. Methods used to address these shortages include more detailed and extensive data collection, answering public inquires, monitoring federal action and establishing federal or regional liaisons.
- Phase III addresses severe shortages. If the supply situation seriously jeopardizes the life, health, or property of Montanans the Governor may declare an energy emergency and take action to alleviate the impact of the shortfall. This includes imposing mandatory demand-restraint measures on public and private sectors.
- Phase IV addresses critical shortages. In this phase extreme mandatory curtailment or rationing of energy supplies is considered. The plan envisions that rationing would take place at the national level with the Governor authorized to implement programs, controls, standards, priorities and quotas for production, allocation, conservation, and consumption of energy.

The plan does not address high supply price as it was implemented prior to the inclusion of the price of energy in the statutes relating to an energy emergency. Attached is the Table of Contents for the Energy Emergency Contingency Plan. The complete report (188 pages) is also available but is not attached due to the size of the document.