

1 SENATE BILL NO. 190

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6

7 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE BOARD OF ENVIRONMENTAL REVIEW TO
8 ADOPT RULES AND FEES FOR THE REPORTING AND QUANTIFICATION OF GREENHOUSE GAS
9 EMISSIONS; ESTABLISHING A GREENHOUSE GAS MANAGEMENT ACCOUNT; REQUIRING THE BOARD
10 TO REPORT TO THE ENVIRONMENTAL QUALITY COUNCIL AND PROVIDE A PROPOSAL FOR REDUCING
11 AND CAPPING EMISSIONS IN MONTANA; AMENDING SECTIONS 75-2-111 AND 75-2-221, MCA; AND
12 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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16 NEW SECTION. Section 1. Purpose -- legislative intent. (1) The legislature finds that because climate
17 change is adversely affecting Montana's people, economy, and environment, it is in the best interest of the public
18 that Montana participate in an international, cooperative effort to reduce global emissions of greenhouse gases.

19 (2) Because of uncertainty about how or whether greenhouse gas emissions will be regulated and
20 reduced at the federal level, it is incumbent on the state to develop a plan to reduce emissions, independent of
21 any federal effort.

22 (3) The legislature further recognizes the risks entailed in a unilateral effort to reduce emissions, but finds
23 that the risks of inaction are of greater significance.

24 (4) It is the intent of the legislature that Montana develop a plan for the reduction of the state's
25 greenhouse gas emissions and be prepared and in the best position possible to evaluate and respond to any
26 other carbon mitigation activities that may be forthcoming, including:

27 (a) regional initiatives;

28 (b) federal regulatory actions;

29 (c) federal or regional cap and trade proposals, including but not limited to carbon tax proposals; and

30 (d) private sector requests for documentation of early actions to reduce greenhouse gas emissions.

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2 **NEW SECTION. Section 2. Definitions.** Unless the context requires otherwise, as used in [sections
3 1 through 5], the following definitions apply:

4 (1) "Board" means the board of environmental review provided for in 2-15-3502.

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

6 (3) "Greenhouse gas" includes the following gases:

7 (a) carbon dioxide;

8 (b) methane;

9 (c) nitrous oxide;

10 (d) hydrofluorocarbons;

11 (e) black carbon;

12 (f) perfluorocarbons; and

13 (g) sulfur hexafluoride.

14 (4) "Greenhouse gas emission source" or "source" means a person who:

15 (a) generates greenhouse gas emissions at a level significant enough to impact statewide greenhouse
16 gas emissions;

17 (b) provides fuel to a category of sources that collectively generate greenhouse gas emissions at a level
18 that significantly impacts statewide greenhouse gas emissions; or

19 (c) imports electricity into Montana from a source that would be subject to the reporting requirements
20 pursuant to [sections 1 through 5] if the source was under the jurisdiction of the state.

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22 **NEW SECTION. Section 3. Greenhouse gas emission reporting -- rulemaking.** (1) Before January
23 1, 2018, the board shall adopt rules that:

24 (a) further define greenhouse gas emission sources and categories of sources;

25 (b) require the reporting and verification of greenhouse gas emissions in order to quantify emissions in
26 Montana;

27 (c) adopt a schedule requiring the quantification and annual reporting of greenhouse gas emissions from
28 greenhouse gas emission sources;

29 (d) ensure rigorous and consistent accounting of greenhouse gas emissions and provide reporting tools
30 and formats to ensure the collection of necessary information, including third-party verification, as needed;

1 (e) ensure that greenhouse gas emission sources and the department provide for the maintenance of
2 comprehensive records of all reported greenhouse gas emissions; and

3 (f) are consistent with comparable regional and national efforts.

4 (2) (a) Before January 1, 2018, the board shall adopt rules that establish a fee schedule to be paid to
5 the department by greenhouse gas emission sources required to report and verify emissions pursuant to rules
6 established under subsection (1).

7 (b) The fees must be sufficient to cover the reasonable costs, direct and indirect, of administering and
8 complying with the rules and requirements established pursuant to [sections 1 through 5].

9 (c) All fees collected pursuant to [sections 1 through 5] must be deposited in the greenhouse gas
10 management account provided for in [section 4].

11 (3) The board shall periodically review and update its emission reporting requirements and fees to
12 promote consistency among international, federal, and regional greenhouse gas emission reporting programs
13 and streamline reporting requirements on greenhouse gas emission sources.

14
15 **NEW SECTION. Section 4. Greenhouse gas management account.** (1) There is a greenhouse gas
16 management account in the state special revenue fund provided for in 17-2-102.

17 (2) There must be deposited in the account:

18 (a) all revenue from the fees collected pursuant to rules established under [section 3]; and

19 (b) money received by the department in the form of legislative allocations, reimbursements, gifts, or
20 appropriations from any source that is intended to be used for the purposes of the account.

21 (3) The account may be used by the department only for administering and complying with the rules and
22 requirements established pursuant to [sections 1 through 5].

23
24 **NEW SECTION. Section 5. Greenhouse gas reporting and review.** (1) By August 1, 2018, the
25 department shall report to the environmental quality council established in 5-16-101 on its activities and its
26 progress in performing the duties required pursuant to rules adopted under [section 3].

27 (2) The report must include a proposal to cap greenhouse gas emissions. The proposal must be
28 developed using the best available economic models, emission estimation techniques, and other scientific
29 methods and must include but is not limited to the identification of:

30 (a) a feasibly attainable target for a real, permanent, quantifiable, and enforceable reduction in statewide

1 greenhouse gas emissions;

2 (b) strategies by which greenhouse gas emissions from all sources or categories of sources can be
3 reduced, including, for each strategy, an estimate of the cost per unit of reduction of greenhouse gases;

4 (c) the mix of strategies that minimizes the total economic cost of attaining the target reduction in
5 statewide greenhouse gas emissions;

6 (d) the policies required to implement the least-cost mix of strategies. These policies may include but
7 are not limited to the enactment of carbon taxes and tradable emissions permit systems.

8 (e) the total potential costs and total potential economic and noneconomic benefits of a proposal to cap
9 greenhouse gas emissions, including the impacts on Montana's economy, environment, and public health.

10

11 **Section 6.** Section 75-2-111, MCA, is amended to read:

12 **"75-2-111. Powers of board.** The board shall, subject to the provisions of 75-2-207:

13 (1) adopt, amend, and repeal rules for the administration, implementation, and enforcement of this
14 chapter, for issuing orders under and in accordance with 42 U.S.C. 7419, and for fulfilling the requirements of 42
15 U.S.C. 7420 and regulations adopted pursuant to that section, except that, for purposes other than agricultural
16 open burning, the board may not adopt permitting requirements or any other rule relating to:

17 (a) any agricultural activity or equipment that is associated with the use of agricultural land or the
18 planting, production, processing, harvesting, or storage of agricultural crops by an agricultural producer and that
19 is not subject to the requirements of 42 U.S.C. 7475, 7503, or 7661a;

20 (b) a commercial operation relating to the activities or equipment referred to in subsection (1)(a) that
21 remains in a single location for less than 12 months and is not subject to the requirements of 42 U.S.C. 7475,
22 7503, or 7661a; or

23 (c) forestry equipment and its associated engine used for forestry practices that remain in a single
24 location for less than 12 months and are not subject to the requirements of 42 U.S.C. 7475, 7503, or 7661a;

25 (2) hold hearings relating to any aspect of or matter in the administration of this chapter at a place
26 designated by the board. The board may compel the attendance of witnesses and the production of evidence at
27 hearings. The board shall designate an attorney to assist in conducting hearings and shall appoint a reporter who
28 must be present at all hearings and take full stenographic notes of all proceedings, transcripts of which will be
29 available to the public at cost.

30 (3) issue orders necessary to effectuate the purposes of this chapter;

1 (4) by rule require access to records relating to emissions;
 2 (5) by rule adopt a schedule of fees required for permits, permit applications, and registrations consistent
 3 with this chapter;
 4 (6) by rule adopt a schedule of fees required for greenhouse gas emission sources consistent with this
 5 chapter;
 6 ~~(6)~~(7) have the power to issue orders under and in accordance with 42 U.S.C. 7419."

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 8 **Section 7.** Section 75-2-221, MCA, is amended to read:

9 **"75-2-221. Deposit of air quality permitting and registration fees.** (1) ~~All~~ Except as provided in
 10 [section 4], all money collected by the department pursuant to 75-2-111 and 75-2-220 must be deposited in an
 11 account in the state special revenue fund to be appropriated by the legislature to the department for the
 12 development and administration of the permitting and registration requirements of this chapter.

13 (2) Upon request, the expenditure by the department of funds in this account may be audited by a
 14 qualified auditor at the end of each fiscal year. The cost of the audit must be paid by the person requesting the
 15 audit."

16
 17 NEW SECTION. Section 8. Codification instruction. [Sections 1 through 5] are intended to be codified
 18 as an integral part of Title 75, chapter 2, and the provisions of Title 75, chapter 2, apply to [sections 1 through 5].

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

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