

SENATE BILL NO. 190

INTRODUCED BY M. PHILLIPS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE REGULATION OF CARBON
5 EMISSIONS IN MONTANA; REQUIRING THE BOARD OF ENVIRONMENTAL REVIEW TO ADOPT RULES
6 AND FEES FOR THE REPORTING AND QUANTIFICATION OF CARBON EMISSIONS; ESTABLISHING
7 CARBON REDUCTION TARGETS; ESTABLISHING A CARBON MANAGEMENT ACCOUNT; REQUIRING THE
8 BOARD TO REPORT TO THE ENVIRONMENTAL QUALITY COUNCIL AND PROVIDE POLICY
9 RECOMMENDATIONS; AMENDING SECTIONS 75-2-111 AND 75-2-221, MCA; AND PROVIDING AN
10 IMMEDIATE EFFECTIVE DATE."

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

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14 NEW SECTION. Section 1. Purpose -- legislative intent. (1) The legislature finds that because climate
15 change is adversely affecting Montana's people, economy, and environment, it is in the best interest of the public
16 that Montana participate in an international, cooperative effort to reduce global emissions of carbon.

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

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

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

- 24 (a) regional initiatives;
- 25 (b) federal regulatory actions;
- 26 (c) federal or regional cap and trade proposals, including but not limited to carbon tax proposals; and
- 27 (d) private sector requests for documentation of early actions to reduce carbon emissions.

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29 NEW SECTION. Section 2. Definitions. Unless the context requires otherwise, as used in [sections
30 1 through 6], the following definitions apply:

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

2 (2) (a) "Carbon dioxide equivalent" or "carbon" means a metric measure used to compare the emissions
3 from various greenhouse gases based on their global warming potential.

4 (b) One metric ton of carbon dioxide equivalent is equal to 1 metric ton of carbon dioxide or the amount
5 of another greenhouse gas with the same global warming potential as 1 metric ton of carbon dioxide.

6 (3) "Carbon emission source" or "source" means a person who:

7 (a) is a major stationary source that emits 25,000 metric tons or more of carbon dioxide equivalent
8 annually and is subject to regulation by the department in accordance with Title 75, chapter 2, parts 1 and 2;

9 (b) provides fuel to a category of sources that collectively generate carbon emissions at a level that
10 significantly impacts statewide carbon emissions; or

11 (c) imports electricity into Montana from a source that would be subject to the reporting requirements
12 pursuant to [sections 1 through 6] if the source was under the jurisdiction of the state.

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

14 (5) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,
15 perfluorocarbons, sulfur hexafluoride, and any other gas designated by the board of environmental review by rule.

16

17 **NEW SECTION. Section 3. Carbon reduction targets.** (1) Carbon emission sources as defined in
18 [section 2(3)(a)] located in Montana shall limit emissions of carbon to achieve the following emission reductions
19 for Montana:

20 (a) by July 1, 2022, reduce overall emissions of carbon in the state to 25% below 2010 levels;

21 (b) by 2030, reduce overall emissions of carbon in the state to 50% below 2010 levels; and

22 (c) by 2050, reduce overall emissions of carbon in the state by 100%.

23 (2) Before January 1, 2021, the department of environmental quality shall complete a carbon reduction
24 plan, describing actions necessary to achieve the emission reductions in subsection (1).

25 (3) In order to complete the plan required in subsection (2), the department shall:

26 (a) establish a monitoring and reporting program for emissions as required in [section 4]; and

27 (b) track progress toward meeting the emission reductions established in subsection (1).

28 (4) If the targets established in subsection (1) are not achieved, the department shall work with sources
29 to develop strategies to move the state toward the target.

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1 **NEW SECTION. Section 4. Carbon dioxide equivalent emission reporting -- rulemaking.** (1) Before
2 January 1, 2021, the board shall adopt rules that:

- 3 (a) further define greenhouse gas emission sources and categories of sources, if necessary;
4 (b) require the reporting and verification of carbon emissions in order to quantify emissions in Montana;
5 (c) adopt a schedule requiring the quantification and annual reporting of carbon emissions from carbon
6 emission sources;
7 (d) ensure rigorous and consistent accounting of carbon emissions and provide reporting tools and
8 formats to ensure the collection of necessary information, including third-party verification, as needed;
9 (e) ensure that carbon emission sources and the department provide for the maintenance of
10 comprehensive records of all reported emissions; and
11 (f) are consistent with comparable regional and national efforts.

12 (2) (a) Before January 1, 2021, the board shall adopt rules that establish a fee schedule to be paid to
13 the department by carbon emission sources required to report and verify emissions pursuant to rules established
14 under subsection (1).

15 (b) The fees must be sufficient to cover the reasonable costs, direct and indirect, of administering and
16 complying with the rules and requirements established pursuant to [sections 1 through 6].

17 (c) All fees collected pursuant to [sections 1 through 6] must be deposited in the carbon management
18 account provided for in [section 5].

19 (3) The board shall periodically review and update its emission reporting requirements and fees to
20 promote consistency among international, federal, and regional carbon emission reporting programs and
21 streamline reporting requirements on carbon emission sources.

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23 **NEW SECTION. Section 5. Carbon management account.** (1) There is a carbon management
24 account in the state special revenue fund provided for in 17-2-102.

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

- 26 (a) all revenue from the fees collected pursuant to rules established under [section 4]; and
27 (b) money received by the department in the form of legislative allocations, reimbursements, gifts, or
28 appropriations from any source that is intended to be used for the purposes of the account.

29 (3) The account may be used by the department only for administering and complying with the rules and
30 requirements established pursuant to [sections 1 through 6].

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2 **NEW SECTION. Section 6. Carbon reporting and review.** (1) By August 1, 2021, the department shall
3 report to the environmental quality council established in 5-16-101 pursuant to 5-11-210 on its activities and its
4 progress in performing the duties required pursuant to rules adopted under [section 4].

5 (2) The report must provide an overview of Montana's progress toward achieving the targets established
6 in [section 3]. The report must provide recommendations on whether the targets should be revised and
7 recommendations for the establishment of carbon taxes, tradeable emissions permit systems, or other
8 enforcement mechanisms. Recommendations must:

9 (a) be developed using the best available economic models, emission estimation techniques, and other
10 scientific methods; and

11 (b) include a discussion of the total potential costs and total potential economic and noneconomic
12 benefits of the proposals, including the impacts on Montana's economy, environment, and public health.

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14 **Section 7.** Section 75-2-111, MCA, is amended to read:

15 **"75-2-111. Powers of board.** The board shall, subject to the provisions of 75-2-207:

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

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

23 (b) a commercial operation relating to the activities or equipment referred to in subsection (1)(a) that
24 remains in a single location for less than 12 months and is not subject to the requirements of 42 U.S.C. 7475,
25 7503, or 7661a; or

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

28 (2) hold hearings relating to any aspect of or matter in the administration of this chapter at a place
29 designated by the board. The board may compel the attendance of witnesses and the production of evidence at
30 hearings. The board shall designate an attorney to assist in conducting hearings and shall appoint a reporter who

1 must be present at all hearings and take full stenographic notes of all proceedings, transcripts of which will be
2 available to the public at cost.

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

4 (4) by rule require access to records relating to emissions;

5 (5) by rule adopt a schedule of fees required for permits, permit applications, and registrations consistent
6 with this chapter;

7 (6) by rule adopt a schedule of fees required for carbon emission sources consistent with this chapter;

8 ~~(6)~~(7) have the power to issue orders under and in accordance with 42 U.S.C. 7419."
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10 **Section 8.** Section 75-2-221, MCA, is amended to read:

11 **"75-2-221. Deposit of air quality permitting and registration fees.** (1) ~~All~~ Except as provided in
12 [section 5], all money collected by the department pursuant to 75-2-111 and 75-2-220 must be deposited in an
13 account in the state special revenue fund to be appropriated by the legislature to the department for the
14 development and administration of the permitting and registration requirements of this chapter.

15 (2) Upon request, the expenditure by the department of funds in this account may be audited by a
16 qualified auditor at the end of each fiscal year. The cost of the audit must be paid by the person requesting the
17 audit."
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19 NEW SECTION. Section 9. Codification instruction. [Sections 1 through 6] are intended to be codified
20 as an integral part of Title 75, chapter 2, and the provisions of Title 75, chapter 2, apply to [sections 1 through 6].
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22 NEW SECTION. Section 10. Effective date. [This act] is effective on passage and approval.
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