

ENVIRONMENTAL PROTECTION AGENCY REGULATION STUDY - BACKGROUND MEMORANDUM

STUDY OVERVIEW

In 2015 Senate Bill No. 2372 (attached as an [appendix](#)), the Legislative Assembly provided for a Legislative Management study of the impacts and costs of the federal Environmental Protection Agency (EPA) regulations on carbon dioxide emissions for new and existing electric generation units. As introduced, the bill created a new subsection to North Dakota Century Code Section 23-25-04.1 relating to air pollution analyses for air pollution permits. The intent of the bill was to prevent federal regulators from requiring the use of noncommercial technologies in North Dakota power plants as a part of the compliance process for the federal Clean Air Act. Based on concerns from state agencies regarding unintended consequences of the bill, the Senate amended the bill to provide for the study. The study must include consideration of the cost of regulations on the industry and ratepayers as well as the status of technologies designed to reduce carbon dioxide emissions. The responsibility of this study was assigned to the Energy Development and Transmission Committee.

BACKGROUND INFORMATION Environmental Protection Agency

The Environmental Protection Agency was established in 1970 for the purpose of protecting human health and the environment by developing and enforcing regulations. The agency, in consultation with state, tribal, and local governments, has the responsibility of maintaining national standards under environmental laws enacted by Congress. Some of the EPA's permitting, monitoring, and enforcing processes have been delegated to state and tribal regulatory agencies. The major areas of EPA regulation include air, water, land, endangered species, and hazardous waste.

The Environmental Protection Agency has developed numerous regulations related to carbon dioxide emissions, including the recently proposed clean power plan. According to the EPA's website, the clean power plan was introduced in June 2014 for the purpose of reducing carbon pollution from power plants. The Environmental Protection Agency anticipates issuing final rules for the clean power plan in the summer of 2015. The compliance period is anticipated to begin in the summer of 2020.

North Dakota Century Code

The State Department of Health is responsible for administering the state's air pollution control regulations pursuant to Chapter 23-25. The regulations cover a variety of sources of air pollution including asbestos, lead-based paint, and odorous air contaminants. Century Code does not specifically address the regulation of carbon dioxide emissions. However, pursuant to Sections 23-25-03.2 and 23-25-03.3, the State Department of Health may not adopt sulfur dioxide ambient air quality standards or requirements for the adoption of air quality rules that are more strict than federal standards.

STUDY PLAN

The following is a proposed study plan for the committee's consideration of its study of EPA regulations related to carbon dioxide emissions:

1. Receive information from state agencies, including the State Department of Health, the Public Service Commission, and the Attorney General, regarding the regulation of carbon dioxide emissions.
2. Receive information from the Lignite Energy Council regarding the regulation of carbon dioxide emissions and the status of technologies designed to reduce carbon dioxide emissions.
3. Receive information from representatives of the electric generation industry regarding carbon dioxide emissions and the status of technologies designed to reduce carbon dioxide emissions.
4. Receive testimony from interested persons regarding the study.
5. Develop recommendations and any bill drafts necessary to implement the recommendations.
6. Prepare a final report for submission to the Legislative Management.

ATTACH:1