

1 *Hooper* *House* BILL NO. *667*  
 2 INTRODUCED BY *Kenneth Bradley Johnson, Dennis*  
 3 *Missault Stolt Gunderson Kille Palmer Grand*  
 4 *Shelden*

5 A BILL FOR AN ACT ENTITLED: "AN ACT DECLARING THE  
 6 LEGISLATURE'S CONCERN ABOUT THE ABSENCE OF COMPREHENSIVE  
 7 LONG TERM ENERGY POLICIES; DIRECTING THE GOVERNOR TO CONDUCT  
 8 VARIOUS STUDIES RELATING TO STATE AND FEDERAL ENERGY  
 9 POLICIES; PROVIDING FOR A SUSPENSION OF ACTION ON CERTAIN  
 10 APPLICATIONS UNTIL COMPREHENSIVE ENERGY POLICIES HAVE BEEN  
 11 DEVELOPED; AND ESTABLISHING TERMS TO TERMINATE OR REINSTATE  
 12 THE SUSPENSION OF ACTION ON CERTAIN APPLICATIONS; AND  
 13 PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE."

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

15 Section 1. Short title. This act shall be known and  
 16 may be cited as "The Montana Energy Policy Planning Act of  
 17 1975".

18 Section 2. Legislative findings and declarations of  
 19 purpose. (1) Acknowledging the state's obligation to help  
 20 the nation achieve a lasting solution to its energy  
 21 problems, the legislature finds:

22 (a) that in a finite world, such a solution must  
 23 include a resolute policy of energy conservation and  
 24 nonpolluting, non-depleting energy development,

25 (b) that while plans and programs for dealing with

1 immediate energy shortages are being developed, long-term  
 2 comprehensive policies to reduce the rate of growth in  
 3 energy demand and to shift the burden of that demand toward  
 4 clean sources have not been developed,

5 (c) that in place of such long-term comprehensive  
 6 policies, national reliance has been placed upon the rapid  
 7 development of remaining fossil fuels,

8 (d) that such development may threaten the health,  
 9 safety and welfare of the people of Montana and cause  
 10 irreversible impairment of the state's environment, its  
 11 agriculture, and the well-being of its future inhabitants,

12 (e) that the state's obligation to the nation with  
 13 regard to energy may and should be met not only by supplying  
 14 the nation with fossil fuels but also by developing and  
 15 instituting an exemplary long-term energy policy.

16 (2) On the basis of these findings, and in an effort  
 17 to advance the state's constitutional policy of restoring,  
 18 protecting, and enhancing environmental quality, and to  
 19 assure the long-term productivity of the state's economy,  
 20 the legislature declares:

21 (a) that after the effective date of this act, action  
 22 on certain siting applications shall be suspended as an  
 23 exercise of the police power in the interests of public  
 24 health, safety, and general welfare until comprehensive  
 25 long-term national energy policies have been adopted, and

1 (b) that the state shall develop an energy policy to  
2 reduce substantially its own reliance on fossil fuels.

3 Section 3. Definitions. Unless the context clearly  
4 requires otherwise, in this act:

5 (1) "Department" means the department of state lands  
6 provided for in Title 82A, chapter 11.

7 (2) "Application" means an application for a permit  
8 under the Strip Mine Siting Act to commence preparatory work  
9 associated with the initiation of a new strip mine or an  
10 application for a permit under the Montana Strip Mining and  
11 Reclamation Act to commence preparatory work associated with  
12 the initiation of a new strip mine as provided for in  
13 section 50-1606.

14 Section 4. Suspension of action. The department may  
15 not grant or otherwise take any action on an application  
16 until:

17 (1) the report required under section 6 of this act  
18 has been completed,

19 (2) the legislature of the state of Montana has had an  
20 opportunity to respond to the report required under section  
21 6 of this act with appropriate legislation,

22 (3) the governor has determined on the basis of this  
23 report that the federal government has adopted and  
24 implemented long-term comprehensive policies and that the  
25 federal effort to reduce reliance on depleting or polluting

1 energy development is comparable to the Montana effort,

2 (4) the governor has recommended on the basis of this  
3 determination that the suspension be terminated, and

4 (5) the legislature has concurred in this  
5 recommendation.

6 Section 5. Adequacy of federal policies. (1) The  
7 governor may not recommend termination of the suspension of  
8 action on applications as provided for in section 4 of this  
9 act unless he finds that the federal government has adopted:

10 (a) comprehensive policies and programs to promote the  
11 conservation of energy, encourage recycling and resource  
12 recovery, and promote the development of renewable energy  
13 sources,

14 (b) adequate timetables and target dates to reduce the  
15 rate of growth in energy demand, and

16 (c) coal leasing policies which reasonably correspond  
17 to these timetables and target dates.

18 (2) If the governor finds that a provision or  
19 application of the Utility Siting Act, the Strip Mine Siting  
20 Act, the Montana Water Use Act, or the Montana Strip Mining  
21 and Reclamation Act has been superseded or invalidated by  
22 congressional action or omission or that a provision or  
23 application of the statutes governing air and water  
24 pollution, in Title 69, chapter 39, and Title 69, chapter  
25 48, has been weakened by congressional action or omission,

1 the governor may suspend action on applications until such  
2 time as the federal action has been repealed, reversed, or  
3 otherwise withdrawn.

4 Section 6. Assessment of energy policies. (1) The  
5 governor shall prepare and submit directly to the  
6 forty-fifth Montana legislature a full report which shall  
7 include:

8 (a) a description and evaluation of existing national  
9 energy policy, including:

10 (i) statutory, regulatory, and administrative policies  
11 to promote the conservation of energy,

12 (ii) statutory, regulatory, and administrative policies  
13 for the development of non-depleting, nonpolluting energy  
14 sources and technologies,

15 (iii) federal coal leasing policy, and

16 (iv) any other federal energy policies affecting  
17 Montana's environment, economy, social structure, or  
18 government,

19 (b) a description and evaluation of existing state  
20 energy policy, including:

21 (i) statutory, regulatory, and administrative policies  
22 to promote the conservation of energy, and

23 (ii) statutory, regulatory, and administrative policies  
24 for the development of non-depleting, nonpolluting energy  
25 sources,

1 (c) a comparison of the state and national efforts to  
2 reduce reliance on depleting or polluting energy sources,

3 (d) recommendations for a comprehensive state energy  
4 policy, including:

5 (i) alternative timetables for reduction of growth  
6 rate in statewide energy demand,

7 (ii) legislative, administrative, and regulatory  
8 actions to accomplish these reductions. Actions to be  
9 considered shall include but not be limited to: energy use  
10 taxes; a system of peak-load metering; tax and other  
11 incentives to improve energy efficiency of homes, offices,  
12 and industrial plant and equipment; changes in building  
13 codes and lighting standards to promote energy conservation;  
14 and energy performance standards or tax incentives for  
15 energy efficiency in automobiles and appliances,

16 (iii) consideration of the distribution and  
17 equalization of the costs and benefits of any conservation  
18 policies among income groups and among various sectors of  
19 the economy,

20 (iv) recommendations for expansion of the state's role  
21 in research and development of non-depleting, nonpolluting  
22 energy sources and technologies,

23 (v) legislative, administrative, and regulatory  
24 actions to coordinate the siting of any new mines or energy  
25 conversion facilities,

1 (e) a description and evaluation of the procedures  
2 followed by federal and state agencies in gathering,  
3 analyzing and interpreting energy statistics, data, and  
4 information relating to the management and conservation of  
5 energy and energy resources.

6 Section 7. Public access to information. The governor  
7 shall make public, on a continuing basis, any statistical  
8 and economic analyses, data, information and whatever  
9 reports and summaries are necessary to keep the public fully  
10 and currently informed as to the assessment required under  
11 section 6 of this act.

12 Section 8. Funding. The governor is authorized to use  
13 all private and federal funds available to undertake the  
14 studies required by this act.

15 Section 9. Severability. If a part of this act is  
16 invalid, all valid parts that are severable from the invalid  
17 part remain in effect. If a part of this act is invalid in  
18 one or more of its applications, the part remains in effect  
19 in all valid applications that are severable from the  
20 invalid application.

21 Section 10. Effective date. This act is effective on  
22 passage and approval.

-End-

Approved by Committee  
on Natural Resources

HOUSE BILL NO. 667

INTRODUCED BY KEMMIS, BRADLEY, JOHNSON, DRISCOLL,

DUSSAULT, STOLTZ, GUNDERSON, KIMBLE, PALMER,

BRAND, SHELDEN, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT DECLARING THE LEGISLATURE'S CONCERN ABOUT THE ABSENCE OF COMPREHENSIVE LONG-TERM ENERGY POLICIES; DIRECTING THE GOVERNOR TO CONDUCT VARIOUS STUDIES RELATING TO STATE AND FEDERAL ENERGY POLICIES; PROVIDING FOR A SUSPENSION OF ACTION ON CERTAIN APPLICATIONS UNTIL COMPREHENSIVE ENERGY POLICIES HAVE BEEN DEVELOPED; AND ESTABLISHING TERMS TO TERMINATE OR REINSTATE THE SUSPENSION OF ACTION ON CERTAIN APPLICATIONS; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Short title. This act shall be known and may be cited as "The Montana Energy Policy Planning Act of 1975".

Section 2. Legislative findings and declarations of purpose. (1) Acknowledging the state's obligation to help the nation achieve a lasting solution to its energy problems, the legislature finds:

(a) that in a finite world, such a solution must include a resolute policy of energy conservation and

nongpolluting, nondepleting energy development,

(b) that while plans and programs for dealing with immediate energy shortages are being developed, long-term comprehensive policies to reduce the rate of growth in energy demand and to shift the burden of that demand toward clean sources have not been developed,

(c) that in place of such long-term comprehensive policies, national reliance has been placed upon the rapid development of remaining fossil fuels,

(d) that such development may threaten the health, safety and welfare of the people of Montana and cause irreversible impairment of the state's environment, its agriculture, and the well-being of its future inhabitants,

(e) that the state's obligation to the nation with regard to energy may and should be met not only by supplying the nation with fossil fuels but also by developing and instituting an exemplary long-term energy policy.

(2) On the basis of these findings, and in an effort to advance the state's constitutional policy of restoring, protecting, and enhancing environmental quality, and to assure the long-term productivity of the state's economy, the legislature declares:

(a) that after the effective date of this act, action on certain siting applications shall be suspended as an exercise of the police power in the interests of public

1 health, safety, and general welfare until comprehensive  
2 long-term national energy policies have been adopted, and

3 (b) that the state shall develop an energy policy to  
4 reduce substantially its own reliance on fossil fuels.

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20 has been completed,

21 (2) the legislature of the state of Montana has had an  
22 opportunity to respond to the report required under section  
23 6 of this act with appropriate legislation,

24 (3) the governor has determined on the basis of this  
25 report that the federal government has adopted and

1 implemented long-term comprehensive policies and that the  
2 federal effort to reduce reliance on depleting or polluting  
3 energy development is comparable to the Montana effort,

4 (4) the governor has recommended on the basis of this  
5 determination that the suspension be terminated, and

6 (5) the legislature has concurred in this  
7 recommendation.

8 Section 5. Adequacy of federal policies. (1) The  
9 governor may not recommend termination of the suspension of  
10 action on applications as provided for in section 4 of this  
11 act unless he finds that the federal government has adopted:

12 (a) comprehensive policies and programs to promote the  
13 conservation of energy, encourage recycling and resource  
14 recovery, and promote the development of renewable energy  
15 sources,

16 (b) adequate timetables and target dates to reduce the  
17 rate of growth in energy demand, and

18 (c) coal leasing policies which reasonably correspond  
19 to these timetables and target dates.

20 ~~(2) If the governor finds that a provision or~~  
21 ~~application of the Utility Siting Act, the Strip Mine Siting~~  
22 ~~Act, the Montana Water Use Act, or the Montana Strip Mining~~  
23 ~~and Reclamation Act has been superseded or invalidated by~~  
24 ~~congressional action or omission or that a provision or~~  
25 ~~application of the statutes governing air and water~~

~~1 pollution,--in--Title--69,--chapter--39,--and--Title--69,--chapter  
2 48,--has--been--weakened--by--congressional--action--or--omission,  
3 the--governor--may--suspend--action--on--applications--until--such  
4 time--as--the--federal--action--has--been--repealed,--reversed,--or  
5 otherwise--withdrawn.~~

6 Section 6. Assessment of energy policies. (1) The  
7 governor shall prepare and submit directly to the  
8 forty-fifth Montana legislature a full report which shall  
9 include:

10 (a) a description and evaluation of existing national  
11 energy policy, including:

12 (i) statutory, regulatory, and administrative policies  
13 to promote the conservation of energy,

14 (ii) statutory, regulatory, and administrative policies  
15 for the development of nondepleting, nonpolluting energy  
16 sources and technologies,

17 (iii) federal coal leasing policy, and

18 (iv) any other federal energy policies affecting  
19 Montana's environment, economy, social structure, or  
20 government,

21 (b) a description and evaluation of existing state  
22 energy policy, including:

23 (i) statutory, regulatory, and administrative policies  
24 to promote the conservation of energy, and

25 (ii) statutory, regulatory, and administrative policies

1 for the development of nondepleting, nonpolluting energy  
2 sources,

3 (c) a comparison of the state and national efforts to  
4 reduce reliance on depleting or polluting energy sources,

5 (d) recommendations for a comprehensive state energy  
6 policy, including:

7 (i) alternative timetables for reduction of growth  
8 rate in statewide energy demand,

9 (ii) legislative, administrative, and regulatory  
10 actions to accomplish these reductions. Actions to be  
11 considered shall include but not be limited to: energy use  
12 taxes; a system of peak-load metering; tax and other  
13 incentives to improve energy efficiency of homes, offices,  
14 and industrial plant and equipment; changes in building  
15 codes and lighting standards to promote energy conservation;  
16 and energy performance standards or tax incentives for  
17 energy efficiency in automobiles and appliances,

18 (iii) consideration of the distribution and  
19 equalization of the costs and benefits of any conservation  
20 policies among income groups and among various sectors of  
21 the economy,

22 (iv) recommendations for expansion of the state's role  
23 in research and development of non-depleting, nonpolluting  
24 energy sources and technologies,

25 (v) legislative, administrative, and regulatory

1 actions to coordinate the siting of any new mines or energy  
 2 conversion facilities,

3 (e) a description and evaluation of the procedures  
 4 followed by federal and state agencies in gathering,  
 5 analyzing and interpreting energy statistics, data, and  
 6 information relating to the management and conservation of  
 7 energy and energy resources.

8 Section 7. Public access to information. The governor  
 9 shall make public, on a continuing basis, any statistical  
 10 and economic analyses, data, information and whatever  
 11 reports and summaries are necessary to keep the public fully  
 12 and currently informed as to the assessment required under  
 13 section 6 of this act.

14 Section 8. Funding. The governor is authorized to use  
 15 all private and federal funds available to undertake the  
 16 studies required by this act.

17 SECTION 9. CONVERSION FACILITIES. THIS ACT DOES NOT  
 18 APPLY TO APPLICATIONS TO MINE COAL OR LIGNITE FOR USE BY A  
 19 FACILITY FOR WHICH A CERTIFICATE OF ENVIRONMENTAL  
 20 COMPATIBILITY AND PUBLIC NEED IS GRANTED PURSUANT TO THE  
 21 MONTANA UTILITY SITING ACT OF 1973.

22 Section 10. Severability. If a part of this act is  
 23 invalid, all valid parts that are severable from the invalid  
 24 part remain in effect. If a part of this act is invalid in  
 25 one or more of its applications, the part remains in effect

1 in all valid applications that are severable from the  
 2 invalid application.

3 Section 11. Effective date. This act is effective on  
 4 passage and approval.

-End-