

SENATE BILL 389

Introduced by Towe, et al.

2/13	Introduced
2/13	Referred to Public Health, Welfare & Safety
2/13	First Reading
2/13	Fiscal Note Requested
2/18	Fiscal Note Received
2/20	Fiscal Note Printed
3/08	Hearing
3/29	Committee Report--Bill Passed as Amended
3/29	2nd Reading Passed
3/30	3rd Reading Passed

	Transmitted to House
3/31	Referred to Natural Resources
3/31	First Reading
4/07	Hearing
4/12	Tabled in Committee

1 Senate BILL NO. 389
2 INTRODUCED BY
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AMBIENT
5 AIR QUALITY STANDARDS FOR SULFUR DIOXIDE; REQUIRING A STUDY
6 OF THE EFFECT OF SULFUR DIOXIDE ON HEALTH AND THE
7 ENVIRONMENT; REQUIRING MONITORING OF AMBIENT AIR
8 CONCENTRATIONS OF SULFUR DIOXIDE; REQUIRING THE BOARD OF
9 HEALTH AND ENVIRONMENTAL SCIENCES TO ASSESS A FEE ON
10 FACILITIES THAT EMIT SULFUR DIOXIDE; AND AMENDING SECTION
11 75-2-206, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill in order to provide guidance to the board of health and environmental sciences in adopting rules pursuant to [sections 3 and 4].

[Section 3(1)] provides the department with the authority to require continuous sulfur dioxide emission monitoring for any facility that emits more than 250 tons of sulfur dioxide annually or for each emission point or stack within a facility that emits 50 or more tons of sulfur dioxide annually. In deciding whether to require continuous emission monitoring at a particular facility or emission point, the department shall consider:

(1) the location of the facility or emission point

relative to sulfur dioxide high-impact areas;

(2) how close the facility or emission point is to exceeding emission standards; and

(3) uncertainty about the effect of sulfur dioxide on susceptible populations adjacent to the facility or emission point.

In adopting the fee on the emission of sulfur dioxide required by [section 4], the board shall establish a formula that proportionately increases the amount of the fee each year until 1998, when the sulfur dioxide fee plus the annual fee required under 75-2-211 must equal the minimum fee prescribed under the federal Clean Air Act. Assuming an initial base fee of \$9 per ton, the initial sulfur dioxide fee should be set at \$3 per ton of sulfur dioxide actually emitted, for a total fee of \$12 per ton. In the first year, the minimum total fee on the emission of sulfur dioxide may not be less than \$12 per ton.

[Section 1] is intended to replace Rule 16.8.820, Administrative Rules of Montana. For the purpose of determining compliance with the standards in [section 1], sulfur dioxide must be measured by the pararosaniline method as more fully described in Title 40, Part 50 (Appendix A) Code of Federal Regulations (1979), or by an updated method required by federal law.

In conducting the health study required pursuant to

75-2-206, the department shall focus upon the effect of sulfur dioxide on sensitive populations in high-impact areas located near major industrial sources of sulfur dioxide. An example of such a high-impact area is the Lockwood area, near Billings. The department should also address the potential for cumulative effects and the result of prolonged exposure to sulfur dioxide. Attainment for sulfur dioxide emissions should not disqualify an area from status as a high-impact area for the purposes of this study.

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

NEW SECTION. Section 1. Ambient air quality standards for sulfur dioxide. A person may not cause or contribute to concentrations of sulfur dioxide in the ambient air that exceed any of the following standards:

(1) 0.50 parts per million, 1-hour average, not to be exceeded more than once per year;

(2) 0.10 parts per million, 24-hour average, not to be exceeded more than once per year; and

(3) 0.02 parts per million, annual average, not to be exceeded at any time.

Section 2. Section 75-2-206, MCA, is amended to read:

"75-2-206. Study of effects of sulfur dioxide on health and environment. (1) ~~To the extent that funds are available,~~ The department shall conduct an ongoing study in

certain areas of Montana where there are major industrial sources of sulfur dioxide. The study shall must concentrate on the effects on--human--health--and--the--environment--of ambient--sulfur--dioxide--concentrations--separately--and--in conjunction--with--particulates-- of sulfur dioxide in high-impact areas on human health, particularly respiratory effects to sensitive populations and the potential for cumulative effects from prolonged exposure. The purposes of the study are to guide decisionmaking about air quality management in high-impact areas and to determine whether existing sulfur dioxide standards are adequate to protect the health of sensitive populations.

(2) ~~Notwithstanding--other--funding--sources--to--pay Funding for the study, the board may accept funds and grants from private and public sources is from the fee on the emission of sulfur dioxide provided for in [section 4]."~~

NEW SECTION. Section 3. Sulfur dioxide -- additional monitoring requirements. (1) The department may adopt rules to require continuous sulfur dioxide emission monitoring for:

(a) any facility that, including all emission points and stacks within the facility, emits more than 250 tons of sulfur dioxide annually; or

(b) each emission point or stack within a facility that emits 50 or more tons of sulfur dioxide annually.

(2) In areas with major industrial sources of sulfur dioxide, the department shall ensure that monitoring occurs for ambient air concentrations of sulfur dioxide at 5-minute intervals and in a manner that detects concentrations of sulfur dioxide up to 5 parts per million.

(3) The department shall annually prepare and make public a report on sulfur dioxide monitoring data and on other information related to sulfur dioxide emissions for each major emitting facility and urban community.

NEW SECTION. **Section 4.** Fee on emission of sulfur dioxide. The board by rule shall assess a sulfur dioxide fee on a facility that emits sulfur dioxide. The sulfur dioxide emission fee must be paid when the facility obtains an air quality permit obtained pursuant to 75-2-211. The sulfur dioxide fee must be:

(1) assessed in addition to the annual fee required under 75-2-211;

(2) assessed on each ton of sulfur dioxide that is actually emitted;

(3) set initially at a minimum of \$3 per ton, and increased proportionately each year until 1998 according to a formula developed by the board. By 1998, the sulfur dioxide fee plus the annual fee required under 75-2-211 must equal the minimum fee prescribed by the federal Clean Air Act, 42 U.S.C. 7401, et seq.; and

(4) adjusted annually after 1998 to account for changes to the consumer price index, as required by the federal Clean Air Act, 42 U.S.C. 7401, et seq.

NEW SECTION. **Section 5.** Codification instruction. [Sections 1, 3, and 4] are intended to be codified as an integral part of Title 75, chapter 2, part 2, and the provisions of Title 75, chapter 2, part 2, apply to [sections 1, 3, and 4].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

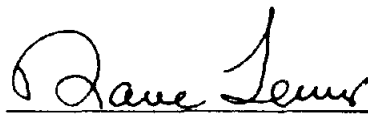
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0389, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act establishing ambient air quality standards for sulfur dioxide; requiring a study of the effect of sulfur dioxide on health and the environment; requiring monitoring of ambient air concentrations of sulfur dioxide; requiring the Board of Health and Environmental Sciences to assess a fee on facilities that emit sulfur dioxide; and amending section 75-2-206, MCA.

ASSUMPTIONS:

1. The estimates of state special revenue (fees) to be collected from a \$3 per ton of sulfur dioxide (SO₂) assessment are shown in the table below and were calculated based upon actual SO₂ emissions from regulated sources (industries) in 1991. Actual SO₂ emissions from these industries in FY94 and FY95 will vary somewhat from 1991 levels, resulting in fluctuations in the revenue collected.
2. The DHES Air Quality Bureau could not assess revenues in future years because they are to be based upon a formula to be developed by the Board of Health and Environmental Sciences. The minimum fee prescribed by the Federal Clean Air Act in 1998 would be the present fee of \$28.39/ton of emissions plus increases/decreases due to changes in the consumer price index between now and 1998.
3. The study of the effects of sulfur dioxide on human health required in Section 2 of the bill would probably have to cover the Billings-Laurel area, East Helena and Colstrip. Sources in the Columbia Falls, Sidney, Great Falls and Butte areas generally emit greater than 1000 tons per year of SO₂ and these areas might also require study. The revenue to be collected with the initial \$3 per ton fee would not be adequate to study SO₂ health effects in all of these areas. DHES would start with a screening effort to be followed by more detailed studies as more dollars become available in future years.
4. The requirement that the DHES monitor SO₂ concentrations in the ambient air at levels up to 5 parts per million (ppm) in areas with major industrial sources would impact the current ambient SO₂ monitoring program in Billings, East Helena and Colstrip. Because the current EPA reference method requires operation of SO₂ monitors on a 0-1 ppm scale, monitoring to 5 ppm would require a second SO₂ monitor at each monitoring site. In East Helena and Colstrip, ASARCO and the Montana Power Company, respectively, operate the SO₂ monitoring stations; in these cases, DHES would be requesting or telling these companies to do the 5 ppm monitoring, or be forced to invest in new equipment and staff to do the monitoring directly. In Billings, SO₂ monitoring is done jointly with area industry and DHES would be forced to pick up the 5 ppm requirement if industry refused. For purposes of this fiscal note, DHES estimated the purchase of two additional SO₂ monitors for the existing state-operated monitoring sites in the Billings area (\$15,000 each). There would also be an increase in workload for the Yellowstone County Air Pollution Control Agency which operates the SO₂ monitors.
5. It is assumed that the additional fees allocated in this bill would be added into the appropriations authority for DHES to collect air permit fees, thereby increasing the state special revenue authority for the Air Quality Bureau by the amount noted.

(Continued)

 2-18-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/20/93
THOMAS E. (TOM) TOWE, PRIMARY SPONSOR DATE

Fiscal Note for SB0389, as introduced

SB389

6. The revised state ambient standards will place the Billings area industries in an immediate noncompliance status and require additional state and industrial resources to develop and implement control strategies. These resources are in addition to those already in the DHES budget to implement Federal Clean Air Act requirements.

FISCAL IMPACT:

Expenditures:

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	0	0	0	0	0	0
Personal Services	0	0	0	0	0	0
Operating Expenses	0	174,575	174,575	0	204,575	204,575
Capital Outlay	0	30,000	30,000	0	0	0
Grants to Counties	<u>0</u>	<u>10,000</u>	<u>10,000</u>	<u>0</u>	<u>10,000</u>	<u>10,000</u>
Total	0	214,575	214,575	0	214,575	214,575

Funding:

State Special Revenue (Fees)	0	214,575	214,575	0	214,575	214,575
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: Additional county air pollution agency staff would be needed to operate the Billings area SO₂ monitors (also see "Grants to Counties" above).

TECHNICAL NOTES: The language in Section 4 of the bill may preclude the collection of fees from "grandfathered" sources of SO₂ which will not be required to obtain permits for several years (i.e., need for new operating permit in 2 to 3 years). Further, this language makes it unclear whether the fee is to be paid only at time of permit issuance, or annually. If the fee is only to be paid at permit issuance, the revenue estimates in this fiscal note will drop substantially.

SB 389

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

SENATE BILL NO. 389

INTRODUCED BY TOWE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING--AMBIENT
AIR--QUALITY-STANDARDS-FOR-SULFUR-DIOXIDE; REQUIRING A-STUDY
OF--THE--EFFECT--OF--SULFUR--DIOXIDE--ON--HEALTH---AND---THE
ENVIRONMENT HEALTH STUDIES IN THE BILLINGS AND LAUREL AREA
WHERE THERE ARE MAJOR INDUSTRIAL SOURCES OF SULFUR DIOXIDE;
REQUIRING MONITORING OF AMBIENT AIR CONCENTRATIONS OF SULFUR
DIOXIDE; REQUIRING--THE--BOARD--OF-HEALTH-AND-ENVIRONMENTAL
SCIENCES-TO-ASSESS-A-FEE-ON--FACILITIES--THAT--EMIT--SULFUR
DIOXIDE PROVIDING AIR QUALITY STANDARDS FOR SULFUR DIOXIDE
TO BE IMPLEMENTED IN 1997; AND AMENDING SECTION 75-2-206,
MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill in order
to provide guidance to the board of health and environmental
sciences in adopting rules pursuant to [sections-3-and-4
SECTION 2].

[Section 3(1) 2] provides the department with the
authority to require continuous sulfur dioxide emission
monitoring for any facility that emits more than 250 tons of
sulfur--dioxide-annually-or-for-each-emission-point-or-stack
within a facility that emits--50--or--more--tons--of--sulfur

dioxide--annually; CONSISTENT WITH SUBCHAPTER V OF THE
FEDERAL CLEAN AIR ACT, 42 U.S.C. 7661, ET SEQ. In deciding
whether to require continuous emission monitoring at a
particular facility or emission point WITHIN A FACILITY, the
department shall consider:

(1) the location of the facility or emission point
relative to sulfur dioxide high-impact areas;

(2) how close the facility or emission point is to
exceeding emission standards; and

(3) uncertainty about the effect of sulfur dioxide on
susceptible populations adjacent to the facility or emission
point.

in-adopting-the-fee-on-the-emission--of--sulfur--dioxide
required-by-{section-4}, the board shall establish a formula
that--proportionately--increases--the-amount-of-the-fee-each
year-until-1998, when the sulfur-dioxide-fee-plus-the-annual
fee-required-under--75-2-211--must--equal--the--minimum--fee
prescribed--under--the--federal--Clean--Air-Act; Assuming an
initial-base-fee-of-\$9-per-ton, the initial--sulfur--dioxide
fee--should--be-set-at-\$3-per-ton-of-sulfur-dioxide-actually
emitted, for a total fee-of-\$12-per-ton, in the first--year,
the--minimum-total-fee-on-the-emission-of-sulfur-dioxide-may
not-be-less-than-\$12-per-ton.

{Section--1}--is--intended--to--replace--Rule--16-8-820,
Administrative--Rules--of--Montana;--For--the--purpose--of

determining--compliance--with--the--standards--in--{section--1}, sulfur-dioxide--must--be--measured--by--the--pararosaniline--method as--more--fully--described--in--Title--40,--Part--50--{Appendix--A} Code--of--Federal--Regulations--{1979},--or--by--an--updated--method required--by--federal--law.

In--conducting--the--health--study--required--pursuant--to 75-2-206,--the--department--shall--focus--upon--the--effect--of sulfur-dioxide--on--sensitive--populations--in--high--impact--areas located--near--major--industrial--sources--of--sulfur-dioxide.--An example--of--such--a--high--impact--area--is--the--Hockwood--area, near--Billings.--The--department--should--also--address--the potential--for--cumulative--effects--and--the--result--of--prolonged exposure--to--sulfur-dioxide.--Attainment--for--sulfur--dioxide emissions--should--not--disqualify--an--area--from--status--as--a high--impact--area--for--the--purposes--of--this--study.

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

NEW SECTION. ~~Section 1.~~ Ambient air quality standards for sulfur dioxide. A person may not cause or contribute to concentrations of sulfur dioxide in the ambient air that exceed any of the following standards:

{1}--0.50--parts--per--million,--1-hour--average,--not--to--be exceeded--more--than--once--per--year;

{2}--0.10--parts--per--million,--24-hour--average,--not--to--be exceeded--more--than--once--per--year;--and

{3}--0.02--parts--per--million,--annual--average,--not--to--be exceeded--at--any--time.

Section 1. Section 75-2-206, MCA, is amended to read:

"75-2-206. Study of effects of sulfur dioxide on health and environment. (1) ~~To the extent that funds are available,~~ the board The department AIR POLLUTION CONTROL ADVISORY COUNCIL ESTABLISHED IN 2-15-2106 shall conduct an ongoing study in certain areas of Montana where there are major industrial sources of sulfur dioxide. The study shall must concentrate on the effects on human health and the environment of ambient sulfur dioxide concentrations separately and in conjunction with particulates, of sulfur dioxide in high impact areas on human health, particularly respiratory effects to sensitive populations and the potential for cumulative effects from prolonged exposure. The purposes of the study are to guide decisionmaking about air quality management in high impact areas and to determine whether existing sulfur dioxide standards are adequate to protect the health of sensitive populations, WITH THE CONCURRENCE OF THE DEPARTMENT, COMMISSION STUDIES IN THE BILLINGS AND LAUREL AREA WHERE THERE ARE MAJOR INDUSTRIAL SOURCES OF SULFUR DIOXIDE. THE STUDIES MUST BE CONDUCTED BY CREDIBLE, UNBIASED CONSULTANTS WHO ARE EXPERIENCED IN THE KIND OF STUDIES DESCRIBED IN THIS SECTION. THE STUDIES MUST INCLUDE:

(A) A LITERATURE SEARCH AND ANALYSIS REGARDING THE EFFECTS OF SULFUR DIOXIDE ON HUMAN HEALTH, INCLUDING SENSITIVE POPULATIONS. THE LITERATURE SEARCH AND ANALYSIS MUST INCLUDE:

(I) A REVIEW AND ANALYSIS OF STUDIES BY THE ENVIRONMENTAL PROTECTION AGENCY CONCERNING THE HEALTH EFFECTS OF SULFUR DIOXIDE;

(II) A REVIEW AND ANALYSIS OF SULFUR DIOXIDE HEALTH-RELATED STUDIES CONDUCTED IN THE BILLINGS AND LAUREL AREA; AND

(III) A REVIEW AND ANALYSIS OF OTHER STUDIES CONCERNING THE HEALTH EFFECTS OF SULFUR DIOXIDE;

(B) A REVIEW AND ANALYSIS OF THE FEASIBILITY OF CONDUCTING SCIENTIFICALLY VALID, EPIDEMIOLOGICAL HEALTH STUDIES IN THE BILLINGS AND LAUREL AREA; AND

(C) A STUDY TO DETERMINE WHETHER ADDITIONAL ENHANCED AMBIENT MONITORING IS USEFUL IN ADEQUATELY PROTECTING HUMAN HEALTH. THE PURPOSE OF THIS STUDY IS TO DETERMINE THE ADEQUACY OF EXISTING AMBIENT MONITORING IN THE BILLINGS AND LAUREL AREA AND MUST ADDRESS THE NEED FOR MONITORING FOR AMBIENT AIR CONCENTRATIONS OF SULFUR DIOXIDE AT 5-MINUTE INTERVALS AND IN A MANNER THAT DETECTS CONCENTRATIONS OF SULFUR DIOXIDE UP TO 5 PARTS PER MILLION.

(2) THE AIR POLLUTION CONTROL ADVISORY COUNCIL SHALL REPORT THE RESULTS OF THESE STUDIES TO THE 1995 LEGISLATURE.

BASED ON THOSE RESULTS, THE 1995 LEGISLATURE SHALL DETERMINE:

(A) WHETHER FURTHER STUDY ON THE HEALTH EFFECTS OF SULFUR DIOXIDE IN THE BILLINGS AND LAUREL AREA IS NECESSARY;

(B) WHETHER THE STUDIES IN SUBSECTION (1)(B) WOULD PRODUCE CREDIBLE RESULTS; AND

(C) WHETHER ADDITIONAL ENHANCED AMBIENT MONITORING IS NECESSARY TO ADEQUATELY PROTECT HUMAN HEALTH.

(3) IF THE 1995 LEGISLATURE DETERMINES THAT FURTHER HEALTH STUDIES ARE WARRANTED AS PROVIDED IN SUBSECTION (2), THEN IT SHALL PROVIDE FOR THOSE STUDIES, THE RESULTS OF WHICH THE AIR POLLUTION CONTROL ADVISORY COUNCIL SHALL REPORT TO THE 1997 LEGISLATURE.

(4) WITH THE ADVICE OF THE AIR POLLUTION CONTROL ADVISORY COUNCIL, THE DEPARTMENT SHALL CONDUCT A STUDY OF THE CURRENT 1-HOUR STANDARD APPLICABLE IN MONTANA, INCLUDING THE NUMBER OF ALLOWABLE OCCURRENCES THAT EXCEED THE STANDARDS, AND RECOMMEND TO THE 1997 LEGISLATURE WHAT STANDARD AND NUMBER OF OCCURRENCES THAT EXCEED THE STANDARDS SHOULD BE APPLICABLE TO THE BILLINGS AND LAUREL AIRSHED.

{2}{5} Notwithstanding--other--funding--sources--to-pay Funding for the study,--the-board-may-accept-funds-and-grants from-private-and-public-sources is--from--the--fee--on--the emission--of--sulfur--dioxide--provided--for--in--{section-4} STUDIES MUST BE PROVIDED PURSUANT TO 75-2-211(5)."

NEW SECTION. Section 2. Sulfur dioxide -- additional monitoring requirements. (1) The department may, UPON ADEQUATE OPPORTUNITY FOR A HEARING INVOLVING AFFECTED INDUSTRIES, adopt rules to require continuous sulfur dioxide emission monitoring CONSISTENT WITH SUBCHAPTER V OF THE FEDERAL CLEAN AIR ACT, 42 U.S.C. 7661, ET SEQ. for:

(a) ~~any facility that, including all emission points and stacks within the facility, emits more than 250 tons of sulfur dioxide annually; or~~

(b) ~~each emission point or stack within a facility that emits 50 or more tons of sulfur dioxide annually.~~

(2) ~~in areas with major industrial sources of sulfur dioxide, the department shall ensure that monitoring occurs for ambient air concentrations of sulfur dioxide at 5-minute intervals and in a manner that detects concentrations of sulfur dioxide up to 5 parts per million.~~

(3) (2) The department shall annually prepare and make public a report on sulfur dioxide monitoring data and on other information related to sulfur dioxide emissions for each major emitting facility and urban community.

NEW SECTION. Section 4. Fee on emission of sulfur dioxide. The board by rule shall assess a sulfur dioxide fee on a facility that emits sulfur dioxide. The sulfur dioxide emission fee must be paid when the facility obtains an air quality permit obtained pursuant to 75-2-211. The sulfur

dioxide fee must be:

(1) ~~assessed in addition to the annual fee required under 75-2-211;~~

(2) ~~assessed on each ton of sulfur dioxide that is actually emitted;~~

(3) ~~set initially at a minimum of \$3 per ton, and increased proportionately each year until 1998 according to a formula developed by the board. By 1998, the sulfur dioxide fee plus the annual fee required under 75-2-211 must equal the minimum fee prescribed by the federal Clean Air Act, 42 U.S.C. 7401, et seq., and~~

(4) ~~adjusted annually after 1998 to account for changes to the consumer price index, as required by the federal Clean Air Act, 42 U.S.C. 7401, et seq.~~

NEW SECTION. SECTION 3. AIR QUALITY STANDARDS IN 1997 -- MODELING STUDIES -- REPORT. (1) EXCEPT AS PROVIDED IN SUBSECTION (3), THE FOLLOWING AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE BECOME EFFECTIVE ON JULY 1, 1997:

(A) 0.10 PARTS PER MILLION, 24-HOUR AVERAGE, NOT TO BE EXCEEDED MORE THAN ONCE PER YEAR; AND

(B) 0.02 PARTS PER MILLION, ANNUAL AVERAGE, NOT TO BE EXCEEDED AT ANY TIME.

(2) UPON APPROVAL BY THE ENVIRONMENTAL PROTECTION AGENCY OF A REVISED STATE IMPLEMENTATION PLAN FOR SULFUR DIOXIDE IN THE BILLINGS AND LAUREL AREA, THE DEPARTMENT

1 SHALL:

2 (A) CONDUCT MODELING STUDIES TO ANALYZE AMBIENT SULFUR
 3 DIOXIDE EMISSIONS FROM MAJOR INDUSTRIAL SOURCES. FINDINGS
 4 BASED UPON THE MODELING STUDIES MUST BE THE BASIS FOR
 5 NEGOTIATIONS WITH EACH SOURCE. THE DEPARTMENT SHALL THEN, IN
 6 CONSULTATION WITH THE AFFECTED SOURCE AND AFTER A PUBLIC
 7 HEARING, ESTABLISH A GOAL FOR EACH SOURCE TO ATTAIN
 8 COMPLIANCE WITH THE STANDARDS CONTAINED IN SUBSECTION (1)
 9 AND A FEASIBLE TIMEFRAME NECESSARY TO MEET THAT GOAL.

10 (B) MAKE A STATUS REPORT TO THE 1997 LEGISLATURE.

11 (3) THE STANDARDS CONTAINED IN SUBSECTION (1) REPLACE
 12 EXISTING STANDARDS ON JULY 1, 1997, UNLESS:

13 (A) THE AIR POLLUTION CONTROL ADVISORY COUNCIL MAKES A
 14 FINDING, WITH THE CONCURRENCE OF THE DEPARTMENT, THAT THE
 15 HEALTH STUDIES COMPLETED PURSUANT TO 75-2-206 DEMONSTRATE
 16 THAT THE EXISTING STANDARDS ARE ADEQUATE TO PROTECT HUMAN
 17 HEALTH;

18 (B) THE DEPARTMENT MAKES A FINDING THAT THE AFFECTED
 19 SOURCES HAVE MADE SUFFICIENT CHANGES TO PROVIDE AN ADEQUATE
 20 MARGIN OF SAFETY FOR THE HEALTH AND WELFARE OF CITIZENS IN
 21 THE BILLINGS AND LAUREL AREA; OR

22 (C) THE 55TH LEGISLATURE BY STATUTE IMPOSES EXISTING OR
 23 OTHER AMBIENT AIR STANDARDS.

24 NEW SECTION. Section 4. Codification instruction.

25 [Sections 17--37--and-4 2 AND 3] are intended to be codified

1 as an integral part of Title 75, chapter 2, part 2, and the
 2 provisions of Title 75, chapter 2, part 2, apply to
 3 [sections 17-37-and-4 2 AND 3].

4 NEW SECTION. SECTION 5. COORDINATION INSTRUCTION. IF
 5 HOUSE BILL NO. 318 IS PASSED AND APPROVED, THEN THE
 6 REFERENCE TO "75-2-211(5)" IN [SECTION 1 OF THIS ACT] IS
 7 VOID AND THE CODE COMMISSIONER IS INSTRUCTED TO CHANGE THIS
 8 REFERENCE TO "[SECTION 12 OF HOUSE BILL NO. 318]".

-End-

SENATE BILL NO. 389

INTRODUCED BY TOWE, WINSLOW

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING--AMBIENT AIR--QUALITY-STANDARDS-FOR-SULFUR-DIOXIDE; REQUIRING A-STUDY OF--THE--EFFECT--OF--SULFUR--DIOXIDE--ON--HEALTH---AND---THE ENVIRONMENT HEALTH STUDIES IN THE BILLINGS AND LAUREL AREA WHERE THERE ARE MAJOR INDUSTRIAL SOURCES OF SULFUR DIOXIDE; REQUIRING MONITORING OF AMBIENT AIR CONCENTRATIONS OF SULFUR DIOXIDE; REQUIRING--THE--BOARD--OF-HEALTH-AND-ENVIRONMENTAL SCIENCES-TO-ASSESS-A-FEE--ON--FACILITIES--THAT--EMIT--SULFUR DIOXIDE PROVIDING AIR QUALITY STANDARDS FOR SULFUR DIOXIDE TO BE IMPLEMENTED IN 1997; AND AMENDING SECTION 75-2-206, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill in order to provide guidance to the board of health and environmental sciences in adopting rules pursuant to [sections-3-and-4 SECTION 2].

[Section 3(1) 2] provides the department with the authority to require continuous sulfur dioxide emission monitoring for-any-facility-that-emits-more-than-250-tons-of sulfur--dioxide-annually-or-for-each-emission-point-or-stack within-a-facility-that-emits--50--or--more--tons--of--sulfur

dioxide--annually. CONSISTENT WITH SUBCHAPTER V OF THE FEDERAL CLEAN AIR ACT, 42 U.S.C. 7661, ET SEQ. In deciding whether to require continuous emission monitoring at a particular facility or emission point WITHIN A FACILITY, the department shall consider:

(1) the location of the facility or emission point relative to sulfur dioxide high-impact areas;

(2) how close the facility or emission point is to exceeding emission standards; and

(3) uncertainty about the effect of sulfur dioxide on susceptible populations adjacent to the facility or emission point.

In-adopting-the-fee-on-the-emission--of--sulfur--dioxide required-by-{section-4}, the-board-shall-establish-a-formula that--proportionately--increases--the-amount-of-the-fee--each year-until-1998, when-the-sulfur-dioxide-fee-plus-the-annual fee-required-under--75-2-211--must--equal--the--minimum--fee prescribed--under--the--federal--Clean--Air--Act. Assuming-an initial-base-fee-of-\$9-per-ton, the-initial--sulfur--dioxide fee--should--be-set-at-\$3-per-ton-of-sulfur-dioxide-actually emitted, for-a-total-fee-of-\$12-per-ton--In-the-first--year, the--minimum-total-fee-on-the-emission-of-sulfur-dioxide-may not-be-less-than-\$12-per-ton.

{Section--1}--is--intended--to--replace--Rule--16-8-820, Administrative--Rules--of--Montana--For--the--purpose--of

determining--compliance--with--the--standards--in--{section-1},
sulfur-dioxide-must-be-measured-by-the-pararosaniline-method
as-more-fully-described-in-Title-40, Part--50--{Appendix--A}
Code--of-Federal-Regulations--{1979}, or-by-an-updated-method
required-by-federal-law.

In-conducting-the-health-study-required-pursuant-to
75-2-206, the-department-shall-focus-upon-the-effect-of
sulfur-dioxide-on-sensitive-populations-in-high-impact-areas
located-near-major-industrial-sources-of-sulfur-dioxide. An
example-of-such-a-high-impact-area-is-the-Bozwood-area,
near-Billings. The-department-should-also-address-the
potential-for-cumulative-effects-and-the-result-of-prolonged
exposure-to-sulfur-dioxide. Attainment-for-sulfur-dioxide
emissions-should-not-disqualify-an-area-from-status-as-a
high-impact-area-for-the-purposes-of-this-study.

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

NEW SECTION. Section 1. Ambient air quality standards--
for--sulfur-dioxide. A person may not cause or contribute to
concentrations of sulfur dioxide in the ambient air that
exceed any of the following standards:

{1}--0.50 parts-per-million, 1-hour average, not-to-be
exceeded more than once per year;

{2}--0.10 parts-per-million, 24-hour average, not-to-be
exceeded more than once per year; and

{3}--0.02 parts-per-million, annual average, not-to-be
exceeded at any time.

Section 1. Section 75-2-206, MCA, is amended to read:

"75-2-206. Study of effects of sulfur dioxide on health
and environment. (1) To the extent that funds are available,
the board The department AIR POLLUTION CONTROL ADVISORY
COUNCIL ESTABLISHED IN 2-15-2106 shall conduct an ongoing
study in certain areas of Montana where there are major
industrial sources of sulfur dioxide. The study shall must
concentrate on the effects on human health and the
environment of ambient sulfur dioxide concentrations
separately and in conjunction with particulates, of sulfur
dioxide in high impact areas on human health, particularly
respiratory effects to sensitive populations and the
potential for cumulative effects from prolonged exposure.
The purposes of the study are to guide decisionmaking about
air quality management in high impact areas and to determine
whether existing sulfur dioxide standards are adequate to
protect the health of sensitive populations, WITH THE
CONCURRENCE OF THE DEPARTMENT, COMMISSION STUDIES IN THE
BILLINGS AND LAUREL AREA WHERE THERE ARE MAJOR INDUSTRIAL
SOURCES OF SULFUR DIOXIDE. THE STUDIES MUST BE CONDUCTED BY
CREDIBLE, UNBIASED CONSULTANTS WHO ARE EXPERIENCED IN THE
KIND OF STUDIES DESCRIBED IN THIS SECTION. THE STUDIES MUST
INCLUDE:

1 (A) A LITERATURE SEARCH AND ANALYSIS REGARDING THE
 2 EFFECTS OF SULFUR DIOXIDE ON HUMAN HEALTH, INCLUDING
 3 SENSITIVE POPULATIONS. THE LITERATURE SEARCH AND ANALYSIS
 4 MUST INCLUDE:
 5 (I) A REVIEW AND ANALYSIS OF STUDIES BY THE
 6 ENVIRONMENTAL PROTECTION AGENCY CONCERNING THE HEALTH
 7 EFFECTS OF SULFUR DIOXIDE;
 8 (II) A REVIEW AND ANALYSIS OF SULFUR DIOXIDE
 9 HEALTH-RELATED STUDIES CONDUCTED IN THE BILLINGS AND LAUREL
 10 AREA; AND
 11 (III) A REVIEW AND ANALYSIS OF OTHER STUDIES CONCERNING
 12 THE HEALTH EFFECTS OF SULFUR DIOXIDE;
 13 (B) A REVIEW AND ANALYSIS OF THE FEASIBILITY OF
 14 CONDUCTING SCIENTIFICALLY VALID, EPIDEMIOLOGICAL HEALTH
 15 STUDIES IN THE BILLINGS AND LAUREL AREA; AND
 16 (C) A STUDY TO DETERMINE WHETHER ADDITIONAL ENHANCED
 17 AMBIENT MONITORING IS USEFUL IN ADEQUATELY PROTECTING HUMAN
 18 HEALTH. THE PURPOSE OF THIS STUDY IS TO DETERMINE THE
 19 ADEQUACY OF EXISTING AMBIENT MONITORING IN THE BILLINGS AND
 20 LAUREL AREA AND MUST ADDRESS THE NEED FOR MONITORING FOR
 21 AMBIENT AIR CONCENTRATIONS OF SULFUR DIOXIDE AT 5-MINUTE
 22 INTERVALS AND IN A MANNER THAT DETECTS CONCENTRATIONS OF
 23 SULFUR DIOXIDE UP TO 5 PARTS PER MILLION.
 24 (2) THE AIR POLLUTION CONTROL ADVISORY COUNCIL SHALL
 25 REPORT THE RESULTS OF THESE STUDIES TO THE 1995 LEGISLATURE.

1 BASED ON THOSE RESULTS, THE 1995 LEGISLATURE SHALL
 2 DETERMINE:
 3 (A) WHETHER FURTHER STUDY ON THE HEALTH EFFECTS OF
 4 SULFUR DIOXIDE IN THE BILLINGS AND LAUREL AREA IS NECESSARY;
 5 (B) WHETHER THE STUDIES IN SUBSECTION (1)(B) WOULD
 6 PRODUCE CREDIBLE RESULTS; AND
 7 (C) WHETHER ADDITIONAL ENHANCED AMBIENT MONITORING IS
 8 NECESSARY TO ADEQUATELY PROTECT HUMAN HEALTH.
 9 (3) IF THE 1995 LEGISLATURE DETERMINES THAT FURTHER
 10 HEALTH STUDIES ARE WARRANTED AS PROVIDED IN SUBSECTION (2),
 11 THEN IT SHALL PROVIDE FOR THOSE STUDIES, THE RESULTS OF
 12 WHICH THE AIR POLLUTION CONTROL ADVISORY COUNCIL SHALL
 13 REPORT TO THE 1997 LEGISLATURE.
 14 (4) WITH THE ADVICE OF THE AIR POLLUTION CONTROL
 15 ADVISORY COUNCIL, THE DEPARTMENT SHALL CONDUCT A STUDY OF
 16 THE CURRENT 1-HOUR STANDARD APPLICABLE IN MONTANA, INCLUDING
 17 THE NUMBER OF ALLOWABLE OCCURRENCES THAT EXCEED THE
 18 STANDARDS, AND RECOMMEND TO THE 1997 LEGISLATURE WHAT
 19 STANDARD AND NUMBER OF OCCURRENCES THAT EXCEED THE STANDARDS
 20 SHOULD BE APPLICABLE TO THE BILLINGS AND LAUREL AIRSHED.
 21 (2)(5) Notwithstanding--other--funding--sources--to--pay
 22 Funding for the study--the board may accept funds and grants
 23 from private and public sources --is--from--the--fee--on--the
 24 emission--of--sulfur--dioxide--provided--for--in--(section 4)
 25 STUDIES MUST BE PROVIDED PURSUANT TO 75-2-211(5)."

1 NEW SECTION. Section 2. Sulfur dioxide -- additional
 2 monitoring requirements. (1) The department may, UPON
 3 ADEQUATE OPPORTUNITY FOR A HEARING INVOLVING AFFECTED
 4 INDUSTRIES, adopt rules to require continuous sulfur dioxide
 5 emission monitoring CONSISTENT WITH SUBCHAPTER V OF THE
 6 FEDERAL CLEAN AIR ACT, 42 U.S.C. 7661, ET SEQ. for:

7 {a}--any facility that, including all emission points
 8 and stacks within the facility, emits more than 250 tons of
 9 sulfur dioxide annually; or

10 {b}--each emission point or stack within a facility that
 11 emits 50 or more tons of sulfur dioxide annually.

12 {2}--in areas with major industrial sources of sulfur
 13 dioxide, the department shall ensure that monitoring occurs
 14 for ambient air concentrations of sulfur dioxide at 5-minute
 15 intervals and in a manner that detects concentrations of
 16 sulfur dioxide up to 5 parts per million.

17 {3}{2} The department shall annually prepare and make
 18 public a report on sulfur dioxide monitoring data and on
 19 other information related to sulfur dioxide emissions for
 20 each major emitting facility and urban community.

21 NEW SECTION. Section 4. Fee on emission of sulfur
 22 dioxide. The board by rule shall assess a sulfur dioxide fee
 23 on a facility that emits sulfur dioxide. The sulfur dioxide
 24 emission fee must be paid when the facility obtains an air
 25 quality permit obtained pursuant to 75-2-211. The sulfur

1 dioxide fee must be:

2 {1}--assessed in addition to the annual fee required
 3 under 75-2-211;

4 {2}--assessed on each ton of sulfur dioxide that is
 5 actually emitted;

6 {3}--set initially at a minimum of \$3 per ton, and
 7 increased proportionately each year until 1998 according to
 8 a formula developed by the board. By 1998, the sulfur
 9 dioxide fee plus the annual fee required under 75-2-211 must
 10 equal the minimum fee prescribed by the federal Clean Air
 11 Act, 42 U.S.C. 7401, et seq., and

12 {4}--adjusted annually after 1998 to account for changes
 13 to the consumer price index, as required by the federal
 14 Clean Air Act, 42 U.S.C. 7401, et seq.

15 NEW SECTION. SECTION 3. AIR QUALITY STANDARDS IN 1997
 16 -- MODELING STUDIES -- REPORT. (1) EXCEPT AS PROVIDED IN
 17 SUBSECTION (3), THE FOLLOWING AMBIENT AIR QUALITY STANDARDS
 18 FOR SULFUR DIOXIDE BECOME EFFECTIVE ON JULY 1, 1997:

19 (A) 0.10 PARTS PER MILLION, 24-HOUR AVERAGE, NOT TO BE
 20 EXCEEDED MORE THAN ONCE PER YEAR; AND

21 (B) 0.02 PARTS PER MILLION, ANNUAL AVERAGE, NOT TO BE
 22 EXCEEDED AT ANY TIME.

23 (2) UPON APPROVAL BY THE ENVIRONMENTAL PROTECTION
 24 AGENCY OF A REVISED STATE IMPLEMENTATION PLAN FOR SULFUR
 25 DIOXIDE IN THE BILLINGS AND LAUREL AREA, THE DEPARTMENT

1 SHALL:

2 (A) CONDUCT MODELING STUDIES TO ANALYZE AMBIENT SULFUR
 3 DIOXIDE EMISSIONS FROM MAJOR INDUSTRIAL SOURCES. FINDINGS
 4 BASED UPON THE MODELING STUDIES MUST BE THE BASIS FOR
 5 NEGOTIATIONS WITH EACH SOURCE. THE DEPARTMENT SHALL THEN, IN
 6 CONSULTATION WITH THE AFFECTED SOURCE AND AFTER A PUBLIC
 7 HEARING, ESTABLISH A GOAL FOR EACH SOURCE TO ATTAIN
 8 COMPLIANCE WITH THE STANDARDS CONTAINED IN SUBSECTION (1)
 9 AND A FEASIBLE TIMEFRAME NECESSARY TO MEET THAT GOAL.

10 (B) MAKE A STATUS REPORT TO THE 1997 LEGISLATURE.

11 (3) THE STANDARDS CONTAINED IN SUBSECTION (1) REPLACE
 12 EXISTING STANDARDS ON JULY 1, 1997, UNLESS:

13 (A) THE AIR POLLUTION CONTROL ADVISORY COUNCIL MAKES A
 14 FINDING,--WITH--THE--CONCURRENCE--OF--THE--DEPARTMENT, THAT THE
 15 HEALTH STUDIES COMPLETED PURSUANT TO 75-2-206 DEMONSTRATE
 16 THAT THE EXISTING STANDARDS ARE ADEQUATE TO PROTECT HUMAN
 17 HEALTH;

18 (B) THE DEPARTMENT MAKES A FINDING THAT THE AFFECTED
 19 SOURCES HAVE MADE SUFFICIENT CHANGES TO PROVIDE AN ADEQUATE
 20 MARGIN OF SAFETY FOR THE HEALTH AND WELFARE OF CITIZENS IN
 21 THE BILLINGS AND LAUREL AREA; OR

22 (C) THE 55TH LEGISLATURE BY STATUTE IMPOSES EXISTING OR
 23 OTHER AMBIENT AIR STANDARDS.

24 NEW SECTION. Section 4. Codification instruction.
 25 [Sections 17--37--and-4 2 AND 3] are intended to be codified

1 as an integral part of Title 75, chapter 2, part 2, and the
 2 provisions of Title 75, chapter 2, part 2, apply to
 3 [sections 17-37--and-4 2 AND 3].

4 NEW SECTION. SECTION 5. COORDINATION INSTRUCTION. IF
 5 HOUSE BILL NO. 318 IS PASSED AND APPROVED, THEN THE
 6 REFERENCE TO "75-2-211(5)" IN [SECTION 1 OF THIS ACT] IS
 7 VOID AND THE CODE COMMISSIONER IS INSTRUCTED TO CHANGE THIS
 8 REFERENCE TO "[SECTION 12 OF HOUSE BILL NO. 318]".

-End-