

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: S1/26/21

# A Bill

SENATE BILL 65

5 By: Senator B. Ballinger  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS LAW REGARDING STATE EMISSION  
9 PLANS FOR FOSSIL-FUEL-FIRED ELECTRIC GENERATING  
10 UNITS; AND FOR OTHER PURPOSES.  
11

## Subtitle

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14 TO AMEND ARKANSAS LAW REGARDING STATE  
15 EMISSION PLANS FOR FOSSIL-FUEL-FIRED  
16 ELECTRIC GENERATING UNITS.  
17

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 8-3-205(a), concerning assessment of the  
22 effects of a state plan for regulating carbon dioxide emissions from covered  
23 electric generating units, is amended to read as follows:

24 (a) ~~Before completing preparing a petition to initiate a rulemaking or~~  
25 ~~permitting process for the development of rules or permits implementing a~~  
26 ~~state plan for regulating carbon dioxide emissions from covered electric~~  
27 ~~generating units, the Division of Environmental Quality shall prepare a~~  
28 ~~report that takes into account the factors specified in § 8-4-312 and the~~  
29 ~~Clean Air Act, 42 U.S.C. § 7401 et seq., as applicable.~~  
30

31 SECTION 2. Arkansas Code § 8-3-207(a), concerning procedures for  
32 approval of the state plan, is amended to read as follows:

33 (a) ~~Before transmitting a state plan to the Governor for submission of~~  
34 ~~the state plan to the United States Environmental Protection Agency Not later~~  
35 ~~than fifteen (15) days after developing a formal state plan, the Division of~~  
36 Environmental Quality shall transmit to the cochairs of the Legislative



1 Council a copy of the state plan and the accompanying report developed under  
2 § 8-3-205.

3  
4 SECTION 3. Arkansas Code § 8-3-207(d), concerning procedures for  
5 approval of the state plan, is amended to read as follows:

6 (d) Notwithstanding the provisions of this subchapter, in the absence  
7 of legislative approval under subsection (b) of this section, the Governor  
8 may direct the submission of a state plan to the United States Environmental  
9 Protection Agency if, in his or her judgment:

10 (1) Sufficient time has passed for the Legislative Council to  
11 consider a state plan submitted by the division for legislative approval;

12 (2) Further delay would result in the failure to submit a state  
13 plan by the relevant deadline for submission; and

14 (3) Failure to submit a state plan would ~~likely~~ result in the  
15 imposition of a federal implementation plan.

16  
17 SECTION 4. Arkansas Code § 8-3-208 is amended to read as follows:

18 8-3-208. ~~Feasibility study~~ Rate and reliability safety valve.

19 (a) If a state plan approved under this subchapter would result in a  
20 significant increase in the total electric or natural gas bill annually for  
21 any customer class *as determined by the Arkansas Public Service Commission*,  
22 the Division of Environmental Quality shall ~~prepare a feasibility study to~~  
23 ~~determine whether:~~

24 ~~(1) An alternative approach is consistent with the Clean Air~~  
25 ~~Act, 42 U.S.C. § 7401 et seq.; or~~

26 ~~(2) The pursuit of implementing an alternative approach is~~  
27 ~~likely to result in the imposition of a federal plan~~ reopen the proceeding  
28 under § 8-3-204 and, after the opportunity for a hearing, revise the state  
29 plan to satisfy § 8-3-206(a)(1) and transmit the revised state plan to the  
30 cochairs of the Legislative Council for approval under § 8-3-207.

31 (b)(1) Each year the division shall evaluate the impact of electricity  
32 rate increases on the energy intensive trade exposed manufacturers and the  
33 resulting greenhouse gas leakage.

34 (2) If increased electric rates are found to be contributing to  
35 increased manufacturing greenhouse gas leakage, the division shall reopen the  
36 proceeding under § 8-3-204 and, after the opportunity for a hearing, revise

1 the state plan to avoid manufacturing greenhouse gas leakage and transmit the  
2 revised state plan to the cochairs of the Legislative Council for approval  
3 under § 8-3-207.

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5 SECTION 5. Arkansas Code § 8-3-209 is repealed.

6 ~~8-3-209. Waiver of review and approval procedures for emissions plans.~~

7 ~~(a) The Division of Environmental Quality may seek a waiver of review~~  
8 ~~and approval procedures for emissions plans from the Legislative Council if~~  
9 ~~the division determines that final federal emission guidelines do not require~~  
10 ~~any one (1) or more of the following:~~

11 ~~(1) Shifting generation from electric generating units powered~~  
12 ~~by one fuel type to another fuel type;~~

13 ~~(2) Closing any fossil fuel-fired electric generating unit; or~~

14 ~~(3) Imposing a statewide greenhouse gas goal or other statewide~~  
15 ~~greenhouse gas emissions limitation.~~

16 ~~(b) A request to the Legislative Council under subsection (a) of this~~  
17 ~~section shall include an explanation of how the final emission guidelines for~~  
18 ~~the regulation of carbon dioxide emissions from existing fossil fuel-fired~~  
19 ~~electric generating units under § 111(d) of the Clean Air Act, 42 U.S.C. §~~  
20 ~~7411, do not require any of the factors in subsection (a) of this section.~~

21 ~~(c) The division shall not seek a waiver under subsection (a) of this~~  
22 ~~section until the United States Environmental Protection Agency promulgates~~  
23 ~~emission guidelines for the regulation of carbon dioxide emissions from~~  
24 ~~existing fossil fuel-fired electric generating units under § 111(d) of the~~  
25 ~~Clean Air Act, 42 U.S.C. § 7411(d).~~

26 ~~(d) An affirmative majority vote of the Legislative Council is~~  
27 ~~required to grant a waiver of review and approval procedures for a state~~  
28 ~~plan.~~

29 ~~(e) If the Legislative Council grants a waiver under this section,~~  
30 ~~then all requirements in §§ 8-3-203 and 8-3-205—8-3-207 are waived.~~

31 ~~(f) If the Legislative Council grants a waiver under this section, the~~  
32 ~~division may submit a state plan to the United States Environmental~~  
33 ~~Protection Agency.~~

34  
35 /s/B. Ballinger

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