

Energy, Telecommunications, and Utility Bills Considered by the 2003 Montana Legislature

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Note: This is a summary. Please consult the actual bill or resolution for details. Bills can be found on the Legislative Branch website:
<http://leg.mt.gov>

Telecommunications -- Approved

HB 54 (Newman)

Summary: Revised the criminal laws relating to stalking, child pornography, defamation, and privacy in communications to include acts involving the use of electronic communications. Defined "electronic communication." Changed the venue for some of those crimes.

Outcome: Approved. Effective October 1, 2003.

HB 96 (Devlin)

Summary: Repealed the tax credit against the retail telecommunications excise tax for advanced telecommunications infrastructure improvements.

Outcome: Approved. Effective February 19, 2003.

HB 168 (Callahan)

Summary: Created a performance assurance state special revenue account for payments made by telecommunications carriers subject to a performance assurance plan. A "performance assurance plan" is a Public Service Commission (PSC) approved plan to ensure that a telecommunications carrier provides adequate wholesale service to competitors after the carrier gains entry into the interlocal access and transport area long-distance market in the region. The funds are statutorily appropriated and may be expended by the PSC to carry out its responsibilities under the terms of the plan.

Outcome: Approved. Effective February 26, 2003.

HB 266 (H. Jacobson)

Summary: Revised the Montana Telecommunications Access Program. Eliminated the infant hearing impairment screening portion of the program. Remaining purpose is to provide specialized telecommunications equipment and services to persons with disabilities. Sunsetted authorization to allocate funds from the program to the Montana School for the Deaf and Blind on June 30, 2005. Revised the means test for eligibility for participation and for providing specialized telecommunications equipment without charge. Made the 10 cent/month special assessment on each telephone access line mandatory instead of discretionary.

Outcome: Approved. Effective July 1, 2003.

HB 392 (Weiss)

Summary: Eliminated the interim universal access program for advanced telecommunications services.

Outcome: Approved. Effective March 19, 2003.

HB 424 (Jent)

Summary: Prohibits telemarketing to residential customers who place their names on a "no-call list." The Montana Department of Administration is required to have the list established by January 1, 2004.

Outcome: Approved. Effective July 1, 2003.

HB 479 (Gillan)

Summary: Strengthens the laws that prohibit "slamming" and "cramming" by providing additional enforcement tools for the PSC, while targeting the enforcement to the responsible party.

- "Slamming" is the unauthorized switching of a telecommunications carrier.
- "Cramming" is the initiation of unauthorized charges on customer's telephone bill.

Outcome: Approved. Effective April 8, 2003.

HB 562 (Ballantyne)

Summary: Revised laws relating to changes in telecommunications carrier. Allows change in carrier with customer's request and electronic signature. Allows change in carrier without customer authorization when a carrier acquires the subscriber base of another carrier, subject to PSC rules.

Outcome: Approved. Effective March 26, 2003.

HB 580 (Bitney)

Summary: Provides the PSC with the authority to conduct an expedited complaint proceeding for certain disputes between telecommunications carriers.

Outcome: Approved. Effective April 14, 2003.

HB 637 (Raser)

Summary: Prohibits sending of unsolicited advertisements to fax machines.

Outcome: Approved. Effective October 1, 2003.

HB 641 (Haines)

Summary: Requires certain telecommunications carriers to transmit information necessary to enable the terminating carrier to identify, measure, and appropriately charge for the termination of telecommunications traffic. Requires certain providers that deliver local telecommunications traffic to a terminating carrier to negotiate an interconnection agreement with the terminating carrier, upon request of the terminating carrier. Requires the PSC to adopt rules and provides for enforcement by the PSC.

Outcome: Approved. Effective July 1, 2003.

SB 132 (McNutt)

Summary: Provides rulemaking authority to the Department of Administration to implement the 9-1-1 statewide emergency telephone system.

Outcome: Approved. Effective March 31, 2003.

SB 173 (McNutt)

Summary: Modifies the process for establishing a service area that is different from a study area

for a rural telephone company for the purpose of eligibility for federal universal service support. Conforms state law to federal law.

Outcome: Approved. Effective March 31, 2003.

SB 387 (Cobb)

Summary: Conforms Montana's retail telecommunications excise tax to: the federal mobile telecommunications sourcing act of 2000 for mobile telecommunications services; and the Streamlined Sales and Use Tax Agreement among states for land line telecommunication services. (Sourcing is the assignment of a transaction to a jurisdiction for tax purposes.)

Outcome: Approved. Effective July 1, 2003.

Telecommunications -- Failed

HB 448 (C. Harris) Generally revise offenses relating to illegal communications and to the illegal use of legal communications.

HB 710 (Raser) Prohibit knowing transmission of misleading unsolicited commercial e-mail messages, or e-mail messages not identified with certain letters in the subject line to specify whether the message is commercial or contains obscene sexual writings or pictures.

SB 2 (D. Ryan) Do not call program.

SB 62 (D. Ryan) Do not call program.

SB 175 (Toole) Prohibit use of hand-held electronic communication devices while operating a vehicle on a highway, with exceptions.

SB 198 (Stonington) Authorize local regulation of wireless telecommunications towers.

SB 277 (Curtiss) Prohibit use of automatic dialing-announcing, predictive dialing or similar devices by telemarketers, with exceptions.

SB 290 (Tester) Establish criteria for public interest determinations by the PSC in designating a carrier as an additional eligible telecommunications carrier for an area served by a rural telephone company.

- SB 308 (Taylor)** Revise telemarketing laws.
- SB 327 (Taylor)** Do call telephone solicitation list.
- SB 361 (Cobb)** Revise restrictions on government competition with private Internet services providers by restricting government service to areas where there is no private provider.

Energy -- Approved

HB 417 (Golie)

Summary: If the U.S. Congress repeals a comparable federal law, this act repeals Montana's laws governing generation and sale of electricity by qualifying small power production facilities that produce electricity from renewable sources or cogeneration. These facilities qualify for different rates based on special criteria.

Outcome: Approved. Effective on repeal of the federal law.

HB 509 (A. Olson)

Summary: Establishes legislative policy: the interests of small Montana electricity consumers must be protected through the provision of adequate and reliable default supply service at the lowest long-term total cost.

This is a comprehensive bill. Some of the major provisions that are not addressed in other bills are summarized below.

- Requires the PSC to establish rates, fees, rules, and procedures to enable customers to reasonably choose an electricity supplier while protecting small customers.
- Requires that all public utility customers of a restructured public utility have the opportunity to choose an electricity supplier other than the default supplier by July 1, 2027.
- Authorizes the PSC to require the default supplier to offer multiple default supply service options.
- Requires the default supplier to offer a product from environmentally preferred resources.
- Establishes time frames and limits for choice for categories of customers, based on demand, in order to ensure a stable default supply.
- Requires certain utilities to conduct pilot programs to assess the potential for offering choice of electricity supply to small customers.

- Requires the PSC to monitor competition for small customers and to make recommendations to the Legislature when workable competition has developed for these customers.
- Establishes legislative interim committee to address energy and telecommunications issues.

Outcome: Approved. Effective July 1, 2003.

HJR 16 (Mendenhall)

Summary: Joint resolution urging the President and Congress to extend the existing federal wind power tax credit.

Outcome: Passed both houses and filed with the Secretary of State.

HJR 26 (Younkin)

Summary: Joint resolution supporting all necessary steps to move Montana into a hydrogen-based economy. (Resolution states that Montana is the only state in the nation with all the natural resources needed to make it a leader in the area of hydrogen energy production.)

Outcome: Passed both houses and filed with the Secretary of State.

SB 70 (McNutt)

Summary: Requires that money deposited in a state universal system benefits (USB) fund be expended in the utility service territory from which the money was received. The responsible state agencies must seek comment on how the money should be spent from those within the utility service territory. (If a utility's expenditures on USB programs are less than required, the utility is required to deposit money in a state fund to be spent by state agencies.)

Outcome: Approved. Effective March 31, 2003.

SB 77 (R. Johnson)

Summary: Extends the charge to fund USB programs until December 31, 2005. Universal system benefits programs include low-income energy assistance, acquisition or support of

renewable energy, and energy conservation activities.

Outcome: Approved. Effective April 11, 2003.

SB 138 (Cobb)

Summary: Revised laws relating to alternative energy and energy conservation tax policy. Generation facilities with 1 megawatt or greater capacity and fueled by an alternative renewable energy source are not exempt from property taxes under the general property tax exemption laws but continue to be subject to new and expanding industry property tax incentives. Revised the deduction for energy conservation investments and the credits for energy conserving expenditures by eliminating the tax saving ceiling for the deduction and the carryforward provision of the credit. Providing that property purchased under the commercial or net metering system investment credit does not have to qualify as special depreciable property under the Internal Revenue Code of 1954.

Outcome: Approved. Effective April 26, 2003.

SB 146 (S. Anderson)

Summary: Eliminated the state grant and loan programs for the following: energy conservation in agriculture; alternative energy and energy conservation research development and demonstration; solid waste management; and state-owned building energy retrofitting.

Outcome: Approved. Effective October 1, 2003.

SB 247 (Cobb)

Summary: Established a default electricity supply procurement process, including a process for pre-approval by the PSC. Requires the default supplier to develop a procurement plan.

Outcome: Approved. Effective April 24, 2003.

SB 330 (Mangan)

Summary: Requires the PSC to consider the statewide economic benefits associated with the procurement of electricity supply by the default supplier as a tiebreaker -- the

consideration of statewide economic benefits is secondary to the consideration of the costs and benefits to the consumer and other criteria established by law.

Outcome: Approved. Effective May 9, 2003.

Energy -- Failed

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| HB 192 (Wanzenried) | Extend and revise USB charge rates. |
| HB 304 (A. Olson) | Revise requirements for the the reduced coal severance tax rate for coal used for the production of electricity within the state. |
| HB 356 (C. Harris) | Extend USB charge until 12/31/2009. Add to USB programs: electricity bill assistance for certain facilities that provide services to persons with developmental disabilities. |
| HB 470 (C. Harris) | Extend USB charge until 12/31/2009. Revise charge so it is based on the average of the 3 previous calendar years. |
| HB 498 (D. Wanzenried) | Eliminate termination date of the USB charge (extend charge indefinitely). |
| HB 666 (Gallik) | Increase the wholesale energy transaction tax from 0.015 cents to 0.067 cents per kilowatt hour of electricity transmitted. |
| HB 764 (Mendenhall) | Revise laws related to wind energy taxation and economic development. |
| HB 774 (Mendenhall) | Revise laws related to wind electric generation taxation. |
| SB 91 (D. Ryan) | Revise laws related to default supply of electricity. |
| SB 154 (Stonington) | Revise laws relating to default supplier's recovery of electricity supply costs. Require PSC to establish default supply resource planning and procurement rules. |
| SB 176 (Toole) | Impose a 1% tax on the gross revenue derived from the sale of electricity from certain hydroelectric facilities. |
| SB 199 (Stonington) | Require public utility to offer separately marketed electricity from |

alternative renewable energy sources through June 2007. Establish standard for retail electricity supply of 7% from alternative renewable energy sources by January 1, 2007.

SB 219 (Toole)

Extend application of net metering laws to certain utilities.

SB 272 (Toole)

Require default supplier to provide small customers with a choice of a range of service options and allow the PSC to limit customer switching among service options.

SB 365 (Stonington)

Require public utility that has filed a transition plan to procure a minimum of 7% of its electricity supply for retail electricity sales from qualifying renewable energy resources or qualifying renewable energy credits.

SB 459 (McCarthy)

Revise the wholesale energy transaction tax.

Utilities -- Approved

HB 337 (Ripley)

Summary: Revised the laws governing expenses for moving utility wires and poles when relocating a structure. Requires that the cost be paid by the mover and providing an exception. Requires a payment to the owner of the wires and poles in advance of the move.

Outcome: Approved. Effective April 17, 2003.

HB 642 (Devlin)

Summary: Requires automatic rate adjustment to reflect state and local taxes and fees paid by a public utility. State and local taxes and fees paid by a public utility may be separately disclosed in a customer's bill.

Outcome: Approved. Effective May 5, 2003.

SB 458 (McNutt)

Summary: Protects purchaser of a utility from certain litigation against predecessor utility. A civil judgment arising from litigation brought by the shareholders of a predecessor in interest may not be recovered in rates filed with the PSC. A public utility regulated under Title 69 may not be made a party to litigation brought by the shareholders of a predecessor

in interest. With certain exceptions, a utility regulated under Title 69 may not be held liable for a civil judgment entered against a predecessor.

Outcome: Approved. Effective April 23, 2003.

Utilities -- Failed

HB 483 (Franklin) Require structural and legal separation between a public utility that is engaged in generation, transmission, or distribution of electrical power or natural gas and an affiliate company that provides merchandising and servicing of appliances.

HB 561 (Bitney) Require that fees charged by the PSC be reasonable. (Under current law fees must be commensurate with costs unless fee is set by federal statute.)

SB 67 (Stonington) Revise the structure and function of the Transition Advisory Committee on Electric Utility Industry Restructuring. Assign administrative rule review and oversight for the Department of Public Service Regulation and attached entities to the committee.

SB 234 (Cobb) Clarifying PSC authority regarding the acquisition or transfer of a public utility or a public utility's property.

SB 335 (Laible) Clarifying provisions related to certain rural electric cooperatives that follow federal communications commission formulas for pole attachment rates in certain incorporated municipalities.

Major Facility Siting Act (MFSA) -- Approved

HB 303 (A. Olson)

Summary: Exempts the following from regulation under the Major Facility Siting Act: an electric transmission line less than 150 miles long that extends from an electrical generation facility to a regional transmission grid, provided that right-of-way agreements or options have been obtained from more than 75% of the property owners who collectively own more than 75% of the property along the centerline.

Outcome: Approved. Effective April 15, 2003.

HB 443 (Lange)

Summary: Revises the policy of the MFSA. States that balancing of constitutional rights is

necessary (i.e., balance right to a clean and healthful environment with rights to pursue life's basic necessities and to acquire, possess, and protect property.) Revises one of the criteria for Department of Environmental Quality approval of a facility so that it is based on a violation of a law or standard that protects the environment or public health and safety. Adds to the criteria for expedited review: economic importance and benefits to the state and the local community of the proposed facility. Streamlines the application and review process by eliminating the requirement that proof of service of copies to other agencies be provided, limiting the total review time for an application, eliminating the requirement that an environmental impact statement or analysis that has been prepared be included in the MFSA report. Revises the fee schedule for an application for a certificate of compliance under the MFSA.

Outcome: Approved. Effective April 3, 2003.