

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS**

**Call to Order:** By **CHAIRMAN ROD BITNEY**, on January 22, 2003 at  
3:40 P.M., in Room 455, Capitol.

**ROLL CALL**

**Members Present:**

Rep. Rod Bitney, Chairman (R)  
Rep. Gary Matthews, Vice Chairman (D)  
Rep. Alan Olson, Vice Chairman (R)  
Rep. Dee Brown (R)  
Rep. Eileen J. Carney (D)  
Rep. Daniel Fuchs (R)  
Rep. Hal Jacobson (D)  
Rep. Jeff Laszloffy (R)  
Rep. Scott Mendenhall (R)  
Rep. John Parker (D)  
Rep. Jim Shockley (R)

**Members Excused:** Rep. Brennan Ryan (D)

**Members Absent:** Rep. Tim Dowell (D)  
Rep. Diane Rice (R)

**Note:** Rep. Dowell and Rep. Rice arrived after the roll was read.

**Staff Present:** Glenna McClure, Committee Secretary  
Mary Vandebosch, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 266, 1/16/2003; HB 337,  
1/16/2003, HJ 12, 1/16/03  
Executive Action: HB 266 Postponed  
HJ 11 Postponed

**HEARING ON HB 266**

**Sponsor: REPRESENTATIVE HAL JACOBSON, HD 54, HELENA**

**Opening Statement by Sponsor:**

***{Tape: 1; Side: A; Approx. Time Counter: 2 - 5.5}***

**REP. JACOBSON** said that section one of this bill amends the definition of specialized telecommunications equipment; to strike the portion of the definition that includes "and hearing screening equipment". Section two is amending repeals the provision allowing allocated funds approved for hearing screening equipment and allocating funds to the Montana School for the Deaf and Blind to be used for purposes other than telecommunications services. Section three amends the component to provide an appropriate means to determine eligibility for participation in the program based on a family earning not more than 400% of the federal poverty level. Language is being deleted establishing participation in the program without charge to family incomes under 250% of the poverty level. Section four strikes the language "unless allocated to the Montana School for the Deaf and Blind", (MSDB). Section five amends another part by striking the word "may" and inserting the word "must."

**Proponents' Testimony:**

***{Tape: 1; Side: A; Approx. Time Counter: 5.5 - 22.7}***

**Ben Havdahl, Chairman, Montana Telecommunications Access Program (MTAP), Helena,** submitted written testimony.

**EXHIBIT (feh13a01)**

**Ron Bibler, Great Falls,** said that he is totally deaf and he asked for the committee's help. This bill would provide for more people who are deaf or hard of hearing to have access to the equipment to facilitate communicating over the telephone. The technology of today allows for caption telephones, which is similar to captioned television.

**Geoff Feiss, General Manager, Montana Telecommunications Association,** said that his company normally objects to using telephone bills for nontelecommunications purposes. This bill will clean up the MTAP program so that the moneys that are collected by the ten cent charge on phone bills actually go to MTAP instead of to other places. He urged the committee to support this bill.

**Rick Hays, Qwest Communications**, said that he also speaks in support of this bill. He said that this program has been efficiently run and well organized in the 13 years that it has been in operation.

**Questions from Committee Members and Responses:**

*{Tape: 1; Side: A; Approx. Time Counter: 22.7 - Tape: 1; Side: B; 7.0}*

**REP. BROWN** asked how much more money will be raised by changing the word "may" to the word "must."

**Goeff Feiss**, said that he didn't know of any companies that are not charging the additional ten cents.

**REP. RICE** asked what was 400% of the federal poverty level.

**REP. JACOBSON** said that if there was a single person in the family, it is \$8,860, a family of two is \$11,940, a family of three is \$15,020, a family of four is \$18,100.

**REP. PARKER** asked Mr. Havdahl if this bill would restrict the deaf and blind school too from offering any of its services to any of its students.

**Mr. Havdahl** said that the money appropriated to the school was for specialized hearing equipment and relay services. Since the MTAP already supplies these services to the school at no cost, no students would be affected.

**REP. PARKER** asked Mr. Havdahl if it was fair to say that the school would not need this funding because the services are provided by MTAP.

**Mr. Havdahl** said, "Yes."

**REP. MATTHEWS** asked how many people were served yearly based on the income guidelines.

**Mr. Havdahl** said that the number of calls made by relay are about 8,000 to 9,000 per month.

**REP. MENDENHALL** asked REP. JACOBSON if he could explain the fiscal note.

**REP. JACOBSON** indicated that Kryss Kuntz could better explain the fiscal note.

**Kryss Kuntz, MTAP**, said that the \$56,995 for fiscal year 2004 and fiscal year 2005, would reduce the general fund of a total of \$113,000 for MSDB by taking it out of the MTAP fund. That is why they have broken it out into general fund and state special revenue fund. The state special revenue shows how much would be collected.

**REP. BROWN** asked if her calculations were correct in that a family of four could still make \$72,000 and still qualify for the program.

**REP. JACOBSON** said that was correct.

**REP. BROWN** asked if insurances were billed first.

**Mr. Havdahl** said that the 400% comes close to the average Montana means income. The majority of the program participants are over the age of 65 which means there are mostly one or two family members involved.

**Closing by Sponsor:**

***{Tape: 1; Side: B; Approx. Time Counter: 7 - 8.9}***

**REP. JACOBSON** said that he would be exploring **REP. BROWN'S** question a little further regarding billing insurance companies. Hearing testing screening equipment for infants has been purchased for all hospitals and clinics in Montana.

**HEARING ON HB 337**

**Sponsor: REPRESENTATIVE RICK RIPLEY, HD 50, WOLF CREEK**

**Opening Statement by Sponsor:**

***{Tape: 1; Side: B; Approx. Time Counter: 8.9 - 14.5}***

**REP. RIPLEY** said that HB 337 would free electric and telephone rate payers from the responsibility of paying the cost of moving utility lines to accommodate houses or other high structures being moved on public roads and highways. Under present statute, the person having the house moved and the utility company involved are each supposed to pay 50% of the cost of moving the wires. In reality, less than 50% is recovered by the utilities and therefore passed on to the rate payers. Additional costs are incurred when a mover arrives late or fails to arrive for a scheduled move. HB 337 resolves these problems by allowing full

recovery for the cost of each move by the homeowner. The bill also allows for estimated costs to be recovered prior to the move. The bill also requires the utility company, within 45 days, to refund the money collected that exceeds the actual cost of accommodating the move. The bill also deletes the involvement of the Public Service Commission. The bill also provides an effective date.

**Proponents' Testimony:**

**{Tape: 1; Side: B; Approx. Time Counter: 14.5 - Tape: 2; Side: A; 5.8}**

**John Fitzpatrick, Northwestern Energy**, said that Northwestern Energy is a regulated utility under the laws of Montana by the Public Service Commission. He said that they operate on a cost of service basis which means that their rates are set on the basis of what it costs to build and operate the utility. All costs are passed on to the rate payer. When funds are recovered from the house movers, they are credited to the rate payers. The right-of-way that was provided at no cost to the utility companies for construction of utility lines was a private use of a public right-of-way for a public good. House moving, on the other hand, is the private use of a public right-of-way for a private benefit, not a public benefit. Under the current statute a manufactured home mover is required to pay the full cost of moving the lines. In the case of an individual dwelling, the current law provides for a 50/50 split. Mr. Fitzpatrick distributed a fact sheet outlining Northwestern's experience over the past four years, an outline of house moving costs, and a summary of what happens in other states. He gave an example of a home that was moved that cost over \$80,000. He distributed copies of pictures of the move of that home.

**EXHIBIT (feh13a02)**

**EXHIBIT (feh13a03)**

**EXHIBIT (feh13a04)**

**EXHIBIT (feh13a05)**

**Doug Hardy, Montana Electric Cooperatives' Association**, provided written testimony.

**EXHIBIT (feh13a06)**

**Jeanne Barnard, General Manager, Big Flat Electric Cooperative, Malta**, provided written testimony.

**EXHIBIT (feh13a07)**

**Bill Penn, MDU Utility Company,** said that they are in support of HB 337.

**Dan Flynn, IBEW 44,** said that some of the house movers that they work with are very efficient and some are not. He said that this bill would ensure that all house movers would work more efficiently.

**Tom Harrison, Montana Cable Telecommunications Association,** said that the logic is if you can't pay for what you are moving, don't move it.

**Geoff Feiss, General Manager, Montana Telecommunications Association,** said that the law is "broke and needs fixed." This bill would encourage economic efficiency.

**Opponents:**

*{Tape: 2; Side: A; Approx. Time Counter: 5.8 - Tape 2; Side B; 9.1}*

**Andy Skinner, Helena,** said that he has moved many houses since 1960. The issue seems to be a few movers that delay the companies. When a house is moved, half of the cost is picked up by the utility company and half is picked up by the mover. He distributed a copy of a supreme court decision by Justice John Conway Harrison. It is in the benefit of the public to move buildings. If a building is not moved, it is torn down and adds to the dump. The costs involved in moving poles and lines are inflated by the utility companies. They can go to the PSC for a rate increase. He asked that the committee table the bill.

**EXHIBIT (feh13a08)**

**John Swanson, private homeowner and Construction Manager for the National Guard,** said that his home was the one referred to by Mr. Fitzpatrick. They were quoted many different costs for moving the lines to move their home. He distributed information related to the moving of his home. **Note:** exhibit was received after the hearing so was entered as exhibit # 13.

**EXHIBIT (feh13a13)**

**Don Tamietti, house mover from Butte,** distributed a portfolio to show that their work is not just to line their own pockets. He said that he understood that the utility companies have had problems with some moving companies. There isn't a problem with

the law. There may be a problem with coordinating with the house movers. The Highway Department has the same problems.

**EXHIBIT (feh13a09)**

**Troy Dorrell, house mover,** said that the power company may have a legitimate argument when they say they wait for movers. He said that there are several times when his company is waiting for the power company. Many moves are done for low income people. This was the case for a woman moving a home from Paradise Valley to Belgrade. The lines are in the public right-of-way. By raising the costs to the movers, the cost is passed on to the home owner.

**John Cathcart, Pastor,** said that a piece of property was donated to his church by the Hardy ranch. The old Bob's Valley Market was also donated to the church. If this bill were in effect when this building was moved to their present location, they would have been unable to afford the move. He distributed a copy of an article from Country Magazine, in which the church was featured.

**EXHIBIT (feh13a10)**

**Wayne Overhuls, house mover, Columbus, Montana,** said that he is the third generation and his boys are fourth generation house movers. This bill will do away with house moving. He asked that the committee oppose HB 337.

**Dwayne Ostermiller, house mover, Billings,** said that in he would like to see this remain as it is.

**Steve Kinniburgh, K & T Construction, Kalispell, and member of the Montana House Movers Association,** distributed a copy of his testimony and pictures of houses that his company has moved.

**EXHIBIT (feh13a11)**

**Georgia Tamietti, owner, Tamietti house moving and construction, Butte, and a member of Montana House Movers Association,** said that she does all of the calls to the utility companies. They can only move on Tuesday, Wednesday, and Thursday. The utility companies have meetings on Mondays and don't want to start a project on Friday before the weekend. She asked that the committee oppose this bill.

**Gary Treweek, Treweek Construction Company, Kalisepll,** said that his concern is that the costs will be overbid by the utility companies. The utility company has the free use of public right-of-way.

**Sheri French, partner, Big Sky House Moving, Helena,** said that their business is running out of options for moving houses around obstacles. She said this bill would inflate the cost of moving a house to the extent that it would not be cost-effective. She distributed information on house moving advantages.

**EXHIBIT (feh13a12)**

**Spook Stange, Executive Vice President, Montana Motor Carriers Association,** said that they stand in opposition to HB 337 as it also applies to heavy haulers.

**Stuart Doggitt, Montana Manufactured Housing and RV Association,** said that they are also in opposition of HB 337.

**Questions from Committee Members and Responses:**

*{Tape: 2; Side: B; Approx. Time Counter: 9.1-12.1}*

**REP. MENDENHALL** asked if it was true that a few are ruining it for everyone else.

**Mr. Fitzpatrick** said that they don't agree with that. The reason for the bill is to prevent the rate payers from subsidizing the home moving industry. There are instances where costs have been driven up because there have been inefficient moves. The rate for lifting a line can also include other tasks such as cutting a line, moving a pole, or even shut down a generation plant. There can be a tremendous amount of expense in the preparation to do the actual cutting or moving a line. The reimbursement schedule only covers the single act of pushing the line up or making the cut or whatever it happens to be.

**Closing by Sponsor:**

*{Tape: 2; Side: B; Approx. Time Counter: 12.1 - 15.1}*

**REP. RIPLEY** said that this bill is not intended to put anyone out of business. It is intended for the individual receiving the benefit pays for it versus the constituents through rate hikes. It is designed to be fair for everyone involved.

**HEARING ON HJ 12**

**Sponsor: REPRESENTATIVE DANIEL C. FUCHS, HD 15**

**Opening Statement by Sponsor:**

***{Tape: 2; Side: B; Approx. Time Counter: 17 - 19.3}***

**REP. FUCHS** said that HJ 12 is straightforward. This resolution will send a strong message, world wide, that all freedom-loving Americans are going to be on active duty 24-7 to prevent terrorist acts on our soil.

**Proponents' Testimony:** None

**Opponents' Testimony:**

***{Tape: 2; Side: B; Approx. Time Counter: 19.3 - 23.6}***

**Travis McAdam, Montana Human Rights Network, Helena,** said that his organization has tried to educate Montanans regarding radical right wing movements, including the militia movement. It is within this context that they oppose this bill. They agree that it is important for the citizenry to be vigilant in preventing foreign domestic terrorism. However, they don't believe that these responsibilities are best met by the professionals in our police departments and law enforcement agencies. A major area of concern is that there are no parameters for what constitutes terrorism. This leaves the citizens to suppress what they define as terrorism. It is important to realize that the militia movement views terrorism everywhere, even in the actions of government.

**Questions from Committee Members and Responses:**

***{Tape: 2; Side: B; Approx. Time Counter: 23.6 - 27.7}***

**REP. CARNEY** asked since, on page 2, line 17-18, the type of firearms are not defined, are there any limitations on what type of firearms that could be used to defend themselves.

**REP. FUCHS** the bill would apply to legal firearms.

**REP. CARNEY** asked if **REP. FUCHS** had a definition of terrorism.

**REP. FUCHS** said that the definition of terrorism would be determined by the court.

**REP. PARKER** asked if, on line six, there is an unintentional omission of the United States military personnel that are currently putting themselves as risk in order to prevent terrorism.

REP. FUCHS said that he would not in opposition to putting that in the bill.

**Closing by Sponsor:**

*{Tape: 2; Side: B; Approx. Time Counter: 27.7 - Tape: 3; Side A; 8.9}*

REP. FUCHS thanked the committee and asked for the committee's support.

**EXECUTIVE ACTION ON HB 27**

**Motion:** REP. BROWN moved that HB 27 DO PASS.

REP. OLSON said that her understood that someone from the Department of Corrections may be bringing forth some amendments.

**Substitute Motion/Vote:** REP. OLSON made a substitute motion HB 27 be postponed. **Substitute motion carried 14-0.**

**EXECUTIVE ACTION ON HB 266**

**Motion:** REP. MENDENHALL moved that HB 266 DO PASS.

REP. JACOBSON said that he wanted to address REP. BROWN'S question about insurance companies being billed prior to receiving MTAP benefits. He found that this is not the case.

REP. PARKER indicated that he would like to wait until Monday to address this bill in order to visit with one of his constituents who is the superintendent of the School for the Deaf and Blind.

**Substitute Motion/Vote:** REP. PARKER made a substitute motion that HB266 be postponed. **Substitute motion carried 14-0.**

**HEARING ON HJ 11**

**Sponsor:** REPRESENTATIVE FRANK J. SMITH, HD 98, Poplar

**Opening Statement by Sponsor:**

*{Tape: 3; Side: A; Approx. Time Counter: 8.9 - 10.9}*

**REP. SMITH** said that HJ 12 would affect schools throughout the state. The impact aide board has determined that a 7 1/2% increase in funding is needed. He would like to have a letter sent to the congressional delegation urging support for this increase.

**Proponents' Testimony:**

*{Tape: 3; Side: A; Approx. Time Counter: 10.9 - 12.5}*

**Lynda Brannon, Indian Impact Schools of Montana,** said, "Yes, yes, yes and that is as brief as I can get."

**Kathy Fabiano, Office of Public Instruction,** said that she supports this resolution. An increase would benefit areas that are underfunded and have a positive effect on students.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

*{Tape: 3; Side: A; Approx. Time Counter: 12.5 - 12.6}*

**REP. SMITH** thanked the committee and requested a do pass on HJ 11.

**ADJOURNMENT**

Adjournment: 5:45 P.M.

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REP. ROD BITNEY, Chairman

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GLENN MCCLURE, Secretary

RB/GM

**EXHIBIT (feh13aad)**