

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON ENERGY AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN KEN TOOLE**, on February 8, 2005 at 3:00 P.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Sen. Ken Toole, Chairman (D)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jeff Essmann (R)
Sen. Dan Harrington (D)
Sen. Dave Lewis (R)
Sen. Dan McGee (R)
Sen. Gary L. Perry (R)
Sen. Glenn Roush (D)
Sen. Carol Williams (D)

Members Excused: None.

Members Absent: Sen. Greg Lind (D)

Staff Present: Casey Barrs, Legislative Branch
Claudia Johnson, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted: SB 365, 2/4/2005 SB 34, 2/2/2005;
SB 307, 2/4/2005; SB 371, 2/4/2005;
Executive Action: None.

CHAIRMAN TOOLE opened the hearing by informing the Committee and those that want to testify, that all four bills will be heard first, than when the people testify, they are to state which bill they are testifying for. He added that these four bills will go to a subcommittee, who will bring them back into Committee to deal with.

Todd Everts, Staff Attorney, Environmental Analysis for Legislative Services Division. Mr. Everts gave a PowerPoint presentation on the Universal System Benefits Program (USB). He explained the USB, and its overall funding programs, such as funding provided for discounts, donations in energy share, weatherization programs, and cost effective conservation that includes: energy audits; retrofits for businesses, market transformation, e.g., renewable energy resources and development. He said in 1996, there were a number of states that looked at the restructuring of the utility industry, and the sale of energy supply. Mr. Everts distributed a handout on the PowerPoint show.

EXHIBIT (ens31a01)

{Tape: 1; Side: A; Approx. Time Counter: 17 - 21.6}

Dave Ewer, Budget Director for Governor Schweitzer, informed the Committee that the USB programs came from a residual program that was developed from the restructuring of the electrical company and the de-regulation in the 1997 session. He said before the 1997 session, the funding was coming out of the rate base, and Montana consumers were paying for them. He offered some policy guidelines from the direction of Governor Schweitzer who supports and asked that the Committee consider: 1) To support the extension of the USB funding charts, because they are set to expire on September 31, 2005; 2) To support the USB for low-income utilities' system, weatherization, and renewals. He informed the Committee that large companies have been using USB for their own benefit, and it is time for the USB to be directed and used only for low-income, weatherization and renewals. He reminded the Committee that in 1997, the large customers (Montana Power) had capped what they had to pay, and they were allowed to use USB to weatherize their own companies. He discussed the utility rate going up for the USB programs, such as; LIEAP for low-income. He talked about the USB program targeting a population in Montana that is 150 percent of poverty or less. He asked the Committee to consider this, because the delusion is very real. He informed the Committee that the Governor's office supports raising the current allocated amount of 17 percent to a more realistic one, which is between 25 percent to 30 percent.

HEARING ON SB 365

{Tape: 1; Side: A; Approx. Time Counter: 23 - 25}

Opening Statement by Sponsor:

SEN. JON ELLINGSON (D), SD 49, opened the hearing on **SB 365**,
Revise laws related to universal system benefit laws.

SEN. ELLINGSON said this bill is a simple extension of the USB,
and extends the sunset from September 31, 2005 to September 31,
2009. He encouraged the Committee to support this bill.

HEARING ON SB 34

{Tape: 1; Side: B}

Opening Statement by Sponsor:

SEN. JOHN COBB (R), SD 9, opened the hearing on **SB 34**, Revise
universal system benefits laws.

SEN. COBB distributed a letter from **Jim Nolan, Chief,**
Intergovernmental Human Services Bureau, DPHHS. The letter
outlines the DPHHS concerns of SB 34's impact on low-income
energy, and weatherization assistance programs. This bill will
raise the minimum funding level from 17 percent to 40 percent.
He stated that the USB programs are all sun setting this
September 31, 2005, and urged the Committee to support the USB
programs.

[EXHIBIT\(ens31a02\)](#)

HEARING ON SB 307

{Tape: 1; Side: B; Approx. Time Counter: 3 - 8}

Opening Statement by Sponsor:

SEN. KEN TOOLE (D), SD 41, opened the hearing on **SB 307**,
Generally revise universal system benefits charges.

He informed the Committee this bill is a simple housekeeping
bill. He discussed the de-regulation of Montana that took place
in 1997, and its affect on the USB programs.

HEARING ON SB 371

{Tape: 1; Side: B; Approx. Time Counter: 8 - 13}

Opening Statement by Sponsor:

SEN. DAN HARRINGTON (D), SD 38, opened the hearing on **SB 371**,
Revise universal system benefits programs.

SEN. HARRINGTON discussed the de-regulation of the Montana Power Company that took place in 1997, and how many people lost their savings. He distributed a handout and how each of these four bills, SB 34, SB 307, SB 365, and SB 371 affects the USB programs.

[EXHIBIT \(ens31a03\)](#)Proponents' Testimony:

Pat Callbeck Harper, Associate State Director for AARP Montana, and Jackie Boyle, Legislative and Research Coordinator for AARP, distributed written testimony in support of SB 371, and information how the USB energy assistance is used by Montana's elderly. She asked the Committee to support the USB programs.

[EXHIBIT \(ens31a04\)](#)

Greg Jergeson, Chairman and Commissioner of the Public Service Commission (PSC), distributed written testimony of the PSC support for the USB programs. He urged the Committee to support these bills.

[EXHIBIT \(ens31a05\)](#)

{Tape: 1; Side: B; Approx. Time Counter: 21 - 25}

Tom Schneider, Commissioner for the Public Service Commission, gave testimony of the USB programs, and their use in the Great Falls and Flathead area. He stated that **SEN. TOOLE** and **SEN. HARRINGTON'S** bills create a significant change in the USB programs. He said that the three percent increase in **SEN. TOOLE'S** bill, SB 307 concerns him, because it could mean lower contributions from the energy companies. There will be a difference in the retail sales of large companies. The bills have a good foundation toward the USB programs, and he is willing to work with the subcommittees, and assist them with any information they may need.

{Tape: 2; Side: A}

Brad Molnar, Commissioner, Public Service Commission (PSC), stated that everything above the 17 percent is slush dollars for the large companies. He said the PSC supports these bills, and urged the Committee to support them.

Opponents' Testimony:

Gary Wiens, representing the Montana Electric Cooperatives' Association, distributed written testimony. He said the co-ops support SB 34, and 365, and but do not support SB 307 and SB 371. His testimony states that SB 307 will have significant financial impacts on the coops in Montana. It repeals every provision that is designed to ensure co-op customers do not face rate increases in order to pay for USB programs. The co-ops' decision not to oppose USB programs when they were first established in 1997, was made contingent upon the bipartisan pledge made by legislators to make certain that Montana customers would not see higher power bills as a result of the USB programs. **Mr. Wiens** distributed written testimony in opposition on SB 371.

[EXHIBIT \(ens31a06\)](#)

[EXHIBIT \(ens31a07\)](#)

Don Prevost, Manager of the Lower Yellowstone Rural Electric Association, and representing the Montana Electric Cooperatives' Association, distributed written testimony. He states that SB 34's mandated increase in the minimum USB low-income obligation from 17 percent of 2.4 percent of the 1995 electricity sales to 40 percent of electricity sales will have an enormous impact on the co-ops in Montana.

[EXHIBIT \(ens31a08\)](#)

{Tape: 2; Side: B}

Doug Hardy, Generaly Manager of Park Electric Cooperative in Livingston, testified on behalf of the Montana Electric Cooperatives' Association. He said the co-ops support SB 365. The extension of the USB programs without expansion allows the co-ops to meet the commitments made in 1997 when the USB came into existence, without the increased costs to the member consumers of the co-ops. **Mr. Hardy** distributed written testimony, which he discussed stating the co-ops' opposition of SB 307.

[EXHIBIT \(ens31a09\)](#)

EXHIBIT (ens31a10)

Dave Kelsy, representing Yellowstone Valley Electric Cooperatives, and Southern Montana Electric Gas, informed the Committee they support SB 365, but oppose SB 307, 371, and SB 34 for previous reasons stated.

{Tape: 2; Side: B; Approx. Time Counter: 18 - 24}

John Alke, representing Montana Dakota Utilities (MDU), informed the Committee that MDU opposes SB 307, 371 and SB 34. He stated that these bills create a bureaucracy. If SB 307 were to pass, it will empower the PSC to invoke a surcharge of one percent, five percent, and so on, allowing the PSC to do whatever they want by taking the funds from MDU service territory contributed by MDU consumers, and distribute this money to other people throughout Montana.

{Tape: 3; Side: A}

John Fitzpatrick, representing NorthWestern Energy (NW), stated that the USB monies are a tax levied against the legislator's constituents, and collected by the bulk utility companies. He informed the Committee that NW supports SB 365 and SB 34, but NW is strongly opposed that the PSC can set a tax rate approved by the current administration.

{Tape: 3; Side: A; Approx. Time Counter: 12 - 13.5}

Don Quander, representing Stone Container, Billings, said that the Stone Corporation Council represents the Large Customer Group (LCG). He said they do not oppose the extension of the USB programs.

{Tape: 3; Side: A; Approx. Time Counter: 13.5 - 19.8}

Haley Beaudry, representing Columbia Falls Aluminum Company (CFA), informed the Committee that CFA supports SB 365 for reasons previously stated. CFA doesn't support anything above the 17 percent for USB programs that was set in 1997. He stated that 17 percent of \$500,000 is \$80,000. This would impact CFA significantly.

{Tape: 3; Side: A; Approx. Time Counter: 19.8 - 24.4}

Betty Beverly, Executive Director and Advocate for Senior Citizens throughout Montana, informed the Committee they support all four bills. She talked about senior citizens on fixed

incomes. Medicare Part B has risen 47 percent in the last four years.

{Tape: 3; Side: B}

Charlotte Thomas, representing AARP Montana, and Montana Retired Educators Association, distributed written testimony, and information from the citizens that had testified in the public forum that was held at the Lewis and Clark Library on February 3, 2005.

EXHIBIT(ens31a11)

Rachel Haberman, representing Energy Share of Montana stated they support SB 34, but are opposed to SB 307, 365, and SB 371. She distributed a fact sheet showing Montana's poor, and the need for low-income energy assistance.

EXHIBIT(ens31a12)

Victor Miller, representing the Havre Rural Development Council, informed the Committee that the USB programs should be expanded for all vendors.

Patricia Callbeck Harper, representing AARP Montana, said the USB Program is not benefitting low-income, fixed-income seniors. She said the energy burden is serious for these senior citizens, and a survey from one year ago show these seniors spend 30 to 34 percent of their income on energy.

{Tape: 3; Side: B; Approx. Time Counter: 15 - 25}

Chuck Macgraw, representing Natural Resources Defense Council, and the Renewable NW project, said they support SB 307, 365, and SB 371, but they oppose SB 34. He stated they support the three bills because the public services are funded by USB programs, and there is a great need for their continued funding. He said they do not support SB 34. He said there has been a significant change in Montana's energy over the last 10 years. He said that "we now have significantly higher energy costs, and a disrupted energy industry in the market." He explained this means a repeating demand that the falling Montana's low-income residents. He said that over the last two years, Montana has seen substantial diversions of USB programs that are supposed to be for the low-income program. He said this places an undue burden on other USB programs that also need to be supported.

{Tape: 4; Side: A}

George McCauley, representing self, stated his support for SB 371.

Jim Morton, Executive Director of the District XI Resource Council, stated they oppose SB 34, because it mandates when it should be flexible.

Dave Ryan, Engineer of Technology, said that "universal" means for everyone. He asked the Committee not to take money from one program, and place it in another. He stated his support for SB 365, 371, and SB 307, but he opposes SB 34 for the above reasons mentioned. He added there is no USB money for wind resources.

{Tape: 4; Side: A; Approx. Time Counter: 15 - 19.2}

Patrick Judge, Montana Environmental Information Center (MEIC), distributed written testimony from Jo Radtke, President of the Rural Sustainability Organization, who wanted to be on record in support of SB 307, and inform the Committee that her organization has brought USB programs to Granite County. **Mr. Judge** discussed the various businesses that have taken advantage of the USB programs, such as; schools, fire stations, commercial and government buildings, and 10 senior centers. He urged the Committee's support for these bills.

EXHIBIT (ens31a13)

Informational Testimony:

Krista Partridge, representing KEMA-XENERGY, informed the Committee that KEMA performs energy audits. KEMA will come to peoples homes by appointment, and without charge, to make suggestions where people can conserve on their energy. She distributed a written summary of her testimony.

EXHIBIT (ens31a14)

{Tape: 4; Side: A; Approx. Time Counter: 21.2 - 24}

Lee Tavenner, owner of Solar Plexus in Missoula, informed the Committee he designs and installs solar power systems. He commented that he had heard on the way over from Missoula that PP&L Montana is raising their rates again. He said that NW is currently taking the opportunity on bringing wind resources to the front burner. He added this will be cost effective and a viable resource.

George Walborn, Montana Department of Revenue, informed the Committee the department has a small USB program, and he is available for any questions the members may have.

Jim Nolan, DPHHS, informed the Committee the department is actively involved with the USB programs. He said they receive money from NW, and the department uses that money for weatherizing low-income homes.

{Tape: 4; Side: B}

Other Information:

Rachel Haberman, representing Energy Share, distributed written testimony.

EXHIBIT (ens31a15)

Questions from Committee Members and Responses: None

Closing by Sponsors: Closed.

CHAIRMAN TOOLE said the members involved in the subcommittee will be: **SEN. WILLIAMS**, **SEN. LIND** and **SEN. ESSMANN**. He may appoint another subcommittee at the February 10, 2005 Committee hearing.

ADJOURNMENT

Adjournment: 6:00 P.M.

SEN. KEN TOOLE, Chairman

CLAUDIA JOHNSON, Secretary

KT/cj

Additional Exhibits:

EXHIBIT ([ens31aad0.PDF](#))