

## 1 SENATE BILL NO. 84

2 INTRODUCED BY D. ANKNEY, C. SMITH

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LEGISLATIVE CONSUMER  
 5 COMMITTEE; ELIMINATING THE CONSUMER COMMITTEE; ESTABLISHING A CONSUMER  
 6 SUBCOMMITTEE WITHIN THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE;  
 7 EXPANDING THE MEMBERSHIP OF THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE;  
 8 ~~PROVIDING AN APPROPRIATION;~~ AMENDING SECTIONS 5-5-211, 5-5-230, 5-15-201, 69-1-201, 69-1-222,  
 9 69-1-224, 69-2-204, AND 90-4-306, MCA; REPEALING SECTIONS 5-15-101, 5-15-102, 5-15-103, 5-15-104, 5-  
 10 15-105, 69-1-211, 69-1-212, AND 69-1-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND  
 11 AN APPLICABILITY DATE."

12

13 WHEREAS, the energy and telecommunications interim committee is charged with reviewing, updating,  
 14 and assisting in the implementation of Montana's energy policy in accordance with 90-4-1003; and

15 WHEREAS, consumers are central to Montana's energy policy; and

16 WHEREAS, the energy and telecommunications interim committee and legislative consumer  
 17 committees have often been siloed, sometimes duplicating efforts and sometimes out of sync, instead of  
 18 working jointly to protect Montana consumers from risks while also capitalizing on opportunities within the  
 19 energy sector; and

20 WHEREAS, Montana is in the midst of one of the most significant transformations in the energy sector  
 21 in decades, making it imperative that policymakers work together to share information and protect Montana's  
 22 interests.

23

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

25

26 NEW SECTION. **Section 1. Consumer subcommittee.** (1) There is a subcommittee of the energy  
 27 and telecommunications interim committee to be known as the consumer subcommittee. The subcommittee is  
 28 composed of the members of the energy and telecommunications interim committee provided for in 5-5-211.

1 (2) The composition of the subcommittee must be provided for in the appointments made in  
2 accordance with 5-5-211(7)(b).

3 (3) The subcommittee shall:

4 (a) monitor the activities of the consumer counsel;

5 (b) recommend the appointment of a consumer counsel provided for in 5-15-201 and recommend the  
6 consumer counsel's salary;

7 (c) recommend approval of consumer counsel staff AND CONSULTANTS as provided in ~~69-1-224~~ 5-15-  
8 201;

9 (d) review remedial legislation recommended by the consumer counsel in accordance with 69-1-222;

10 and

11 (e) exercise any additional duties as provided for in Title 69, chapter 1, part 2, and Title 69, chapter 2,  
12 part 2.

13 (4) The subcommittee shall forward all recommendations to the energy and telecommunications interim  
14 committee for approval by a majority of the full committee.

15

16 **Section 2.** Section 5-5-211, MCA, is amended to read:

17 **"5-5-211. Appointment and composition of interim committees.** (1) Senate interim committee  
18 members must be appointed by the committee on committees.

19 (2) House interim committee members must be appointed by the speaker of the house.

20 (3) Appointments to interim committees must be made by the time of adjournment of the legislative  
21 session.

22 (4) A legislator may not serve on more than two interim committees unless no other legislator is  
23 available or is willing to serve.

24 (5) (a) Subject to 5-5-234 and subsection (5)(b) of this section, the composition of each interim  
25 committee must be as follows:

26 (i) four members of the house, two from the majority party and two from the minority party; and

27 (ii) four members of the senate, two from the majority party and two from the minority party.

28 (b) If the committee workload requires, the legislative council may request the appointing authority to

1 appoint one or two additional interim committee members from the majority party and the minority party.

2 (c) In order to conduct the work of the consumer subcommittee provided for in [section 1], the energy  
3 and telecommunications interim committee shall include four additional interim committee members:

4 (i) two members of the house, one from the majority party and one from the minority party; and

5 (ii) two members of the senate, one from the majority party and one from the minority party.

6 (d) A person who is an employee, agent, officer, partner, or director of a regulated company or who  
7 has served a regulated company in any capacity within the 3 years previous to the person's appointment may  
8 not be appointed to the subcommittee.

9 (6) The membership of the interim committees must be provided for by legislative rules. The rules  
10 must identify the committees from which members are selected, and the appointing authority shall attempt to  
11 select not less than 50% of the members from the standing committees that consider issues within the  
12 jurisdiction of the interim committee and at least one member from the joint subcommittee that considers the  
13 related agency budgets. In making the appointments, the appointing authority shall take into account term limits  
14 of members so that committee members will be available to follow through on committee activities and  
15 recommendations in the next legislative session.

16 (7) (a) An interim committee or the environmental quality council may create subcommittees.  
17 Nonlegislative members may serve on a subcommittee. Unless the person is a full-time salaried officer or  
18 employee of the state or a political subdivision of the state, a nonlegislative member appointed to a  
19 subcommittee is entitled to salary and expenses to the same extent as a legislative member. If the appointee is  
20 a full-time salaried officer or employee of the state or of a political subdivision of the state, the appointee is  
21 entitled to reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503.

22 (b) When leadership makes its appointments in accordance with this section, it shall designate which  
23 members of the energy and telecommunications interim committee are members of the consumer  
24 subcommittee."

25

26 **Section 3.** Section 5-5-230, MCA, is amended to read:

27 **"5-5-230. Energy and telecommunications interim committee.** (1) The energy and  
28 telecommunications interim committee has administrative rule review, draft legislation review, program

1 evaluation, and monitoring functions for the department of public service regulation and the public service  
2 commission.

3 (2) The energy and telecommunications interim committee must include a consumer subcommittee in  
4 accordance with [section 1]."

5

6 **Section 4.** Section 5-15-201, MCA, is amended to read:

7 **"5-15-201. Consumer counsel -- ~~appointment and qualifications.~~** ~~The committee shall appoint a~~  
8 ~~consumer counsel and set the consumer counsel's salary.~~ (1) The consumer counsel must have the following  
9 minimum qualifications and additional qualifications that the ~~committee~~ consumer subcommittee determines  
10 appropriate:

11 (1)(a) a bachelor's degree or equivalent from an accredited college or university with a major or minor  
12 in accounting or allied fields; and

13 (2)(b) be admitted to practice law in Montana courts and in the United States district court for the state  
14 of Montana.

15 (2) The consumer counsel may, with the approval of the energy and telecommunications interim  
16 committee, appoint employees and consultants necessary to carry out the provisions of Title 69, chapter 1, part  
17 2, and Title 69, chapter 2, part 2."

18

19 **Section 5.** Section 69-1-201, MCA, is amended to read:

20 **"69-1-201. Definitions.** As used in this part and part 2 of chapter 2, the following definitions apply:

21 ~~(1) "Committee" means the legislative consumer committee provided for in Title 5, chapter 15, part 1.~~

22 ~~(2)(1) "Consumer counsel" means the consumer counsel provided for in Title 5, chapter 15, part 2.~~

23 ~~(3)(2) "Regulated companies" means all those organizations, corporations, associations, or other~~  
24 ~~public or private entities which now are or may hereafter become subject to regulation in any manner by the~~  
25 ~~department of public service regulation or the public service commission or any successor agency.~~

26 (3) "Subcommittee" means the consumer subcommittee that is a permanent subcommittee of the  
27 energy and telecommunications interim committee in accordance with [section 1]."

28

1           **Section 6.** Section 69-1-222, MCA, is amended to read:

2           **"69-1-222. Annual report.** The consumer counsel shall prepare and submit a yearly report and other  
3 interim reports that the consumer counsel determines advisable concerning the consumer counsel's activities  
4 during the year and may recommend appropriate remedial legislation to the ~~committee~~ subcommittee."

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6           **Section 7.** Section 69-1-224, MCA, is amended to read:

7           **"69-1-224. Determination of fee -- reporting.** (1) On or before August 31 of each year, the  
8 department of revenue shall:

9           (a) determine the total gross operating revenue generated by all regulated activities within this state  
10 for all regulated companies for the previous fiscal year;

11           (b) compute the percentage, subject to revision as provided in subsection (2), of the amount  
12 determined in subsection (1)(a) that will produce an amount equal to the current appropriation to the office of  
13 the consumer counsel, except that a regulated company owned and operated by any municipal corporation  
14 within this state may not be required to pay a sum in excess of 0.06 of 1% of its gross operating revenue;

15           (c) adjust the percentage multiplier computed in subsection (1)(b) to ensure that sufficient funds are  
16 generated to meet the appropriation and that excess funds are not generated or retained by:

17           (i) determining the appropriation to the office of the consumer counsel for the previous fiscal year and  
18 comparing it to the fees collected from the previous fiscal year;

19           (ii) reducing or increasing the percentage determined in subsection (1)(b) for the current year in order  
20 to account for any difference determined in subsection (1)(c)(i); and

21           (iii) if necessary, reducing the revenue to be collected for the current year by any funds remaining  
22 unspent at the close of the prior fiscal year; and

23           (d) give notice by mail to each regulated company of the percentage to be applied to the gross  
24 operating revenue reported under 69-1-223(2) to determine the amount of the fee to be paid.

25           (2) (a) The department of revenue shall adjust the percentage multiplier if the department considers a  
26 change necessary to meet or to not exceed the amount to be raised by the fee because of:

27           (i) fluctuations in the actual gross operating revenue subject to the fee; or

28           (ii) submission and approval of a budget amendment authorizing the spending of money from a

1 contingency appropriation included in the appropriation measure for the office of the consumer counsel and  
 2 authorized to be raised by means of the fee.

3 (b) Adjustments of the percentage multiplier are subject to the exception provided in subsection (1)(b)  
 4 for municipally owned and operated regulated companies.

5 (c) Regulated companies must be given at least 30 days' notice of any change in the percentage  
 6 multiplier.

7 (d) Any change in the percentage multiplier is effective at the beginning of the next calendar quarter.

8 (3) In the event that the fee charged in 1 year is in excess of the amount actually expended in that  
 9 year, the excess must be deducted from the amount required to be raised by the fee for the next year before  
 10 the determination required by subsection (1) is made. Money remaining unspent at the close of the fiscal year  
 11 must be used to reduce the percentage calculated in subsection (1) in the subsequent fiscal year.

12 (4) All fees paid by a regulated company pursuant to this section are immediately recoverable by the  
 13 regulated company in its rates and charges. Within 30 days after the issuance by the department of revenue of  
 14 the notice required by subsection (1), the public service commission shall by separate order authorize each  
 15 regulated company to fully recover in its rates and charges, on an annual basis, the fees levied by this part.

16 (5) (a) By January 15 and July 15 of each year, the department of revenue shall submit a written  
 17 report to the ~~legislative consumer committee~~ committee identifying the following:

- 18 (i) the amount of total fees collected by the department dedicated to the consumer counsel;
- 19 (ii) the amount of fees collected in the previous 2 quarters and the percentage multiplier applied; and
- 20 (iii) the total amount of collections in the previous fiscal year and the percentage multiplier applied.

21 (b) The report must be provided in an electronic format."  
 22

23 **Section 8.** Section 69-2-204, MCA, is amended to read:

24 "**69-2-204. Representation of consuming public.** (1) The consumer counsel shall meet and confer  
 25 with members or representatives of the consuming public at times and places that the consumer counsel  
 26 determines appropriate.

27 (2) The consumer counsel has other powers necessary to fully represent the interests of the  
 28 consuming public before the commission as may be granted and promulgated by the ~~committee~~ energy and

1 telecommunications interim committee in accordance with the provisions of the Montana Administrative  
2 Procedure Act."

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4 **Section 9.** Section 90-4-306, MCA, is amended to read:

5 **"90-4-306. Advice of distributors and consumers.** The governor shall actively solicit the advice of  
6 consumers, through the ~~legislative consumer committee established in 5-15-101~~ subcommittee provided for in  
7 [section 1], and of distributors throughout the information gathering, planning, and implementation process  
8 described in this part."

9

10 NEW SECTION. Section 10. Repealer. The following sections of the Montana Code Annotated are  
11 repealed:

12 5-15-101. Legislative consumer committee -- appointment and composition.

13 5-15-102. Ineligibility for appointment.

14 5-15-103. Term of office.

15 5-15-104. Vacancies.

16 5-15-105. Officers.

17 69-1-211. Meetings of committee.

18 69-1-212. Compensation of committee members.

19 69-1-221. Staff of consumer counsel.

20

21 NEW SECTION. Section 11. Saving clause. [This act] does not affect rights and duties that  
22 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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24 NEW SECTION. Section 12. Codification instruction. [Section 1] is intended to be codified as an  
25 integral part of Title 5, chapter 5, part 2, and the provisions of Title 5, chapter 5, part 2, apply to [section 1].

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27 NEW SECTION. Section 13. Effective date. [This act] is effective on passage and approval.

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