



PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE
67th Montana Legislature

SENATE MEMBERS

Janet Ellis
Mary McNally
Keith Regier
Tom Richmond

HOUSE MEMBERS

Laurie Bishop
Denise Hayman
Christopher Pope
Derek Skees
Brad Tschida
Daniel Zolnikov

COMMITTEE STAFF

Trevor Graff - Research Analyst
Nadine Spencer - Secretary
Jameson Walker - Attorney

MINUTES LOG

September 08, 2020

9:01 AM

Zoom Video Conference

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Please contact the Legislative Services Division at 406-444-3064 for more information.

ROLL CALL

Members Present:

Rep. Derek Skees, Chair (R)
Sen. Janet Ellis, Vice Chair (D)
Rep. Laurie Bishop (D)
Rep. Denise Hayman (D)
Sen. Mary McNally (D)
Rep. Christopher Pope (D)
Sen. Keith Regier (R)
Sen. Tom Richmond (R)
Rep. Brad Tschida (R)
Rep. Daniel Zolnikov (R)

Staff Present:

Trevor Graff, Research Analyst
Nadine Spencer, Secretary
Jameson Walker, Attorney

Committee Business Summary

The Energy and Telecommunications Interim Committee (ETIC):

- Voted 10-0 to adopt the Public Service Commission study report;
- Voted 10-0 to adopt the HJ12 report;
- Voted 10-0 to pre-introduce PD0001 as a committee bill;
- Voted 7-3 to pre-introduce PD0005 as a committee bill;
- Voted 5-4 to pre-introduce PD0008 as amended as a committee bill;
- Voted 6-4 to pre-introduce PD0009 as amended as a committee bill;
- Voted 10-0 to pre-introduce PD0002 as amended as a committee bill.

Agenda (Attachment 1)**Call to Order/Roll Call**

- 09:01:27 Rep. Skees called the meeting to order at 9:01 a.m. The secretary called the roll. **(Attachment 2)** Rep. Tschida was not present at the beginning of the meeting and gave his proxy to Rep. Skees.
- 09:02:19 Rep. Skees said an updated agenda and the meeting materials are on the committee website.
- 09:03:18 Sen. Ellis asked that the link for the Zoom videoconference be resent to Rep. Hayman.

Public Service Commission Study

- 09:04:06 Trevor Graff, research analyst, Legislative Services Division (LSD), provided an introduction and said at the last meeting committee members asked to have a chance to collect their thoughts on core values and technical notes to add to the findings. **(Exhibit 1)**
- 09:05:48 Rep. Skees commented on the report.
- 09:06:29 Rep. Hayman entered the meeting.

Public comment

The ETIC received written public comment. **(Exhibit 2)**

Questions from the committee

- 09:08:07 Rep. Skees said Rep. Tschida pointed out that the Public Service Commission (PSC) makes decisions that are science driven. He thought a better descriptor would be data and fact driven.
- 09:09:50 Rep. Pope agreed with substituting factual and data driven for science driven.

Committee action

Motion/Vote

09:10:48 Sen. Ellis moved to adopt the PSC study report. The motion carried unanimously by voice vote. Rep. Tschida voted aye by proxy.

HJ12: Transmission Infrastructure Study

09:12:48 Mr. Graff provided an introduction and said the report still needs to go through final editing. He said material regarding wildfire liability and the threat to the grid is located at the end of the report. [\(Exhibit 3\)](#)

Public comment

None

Questions from the committee

09:15:24 Rep. Bishop thanked Mr. Graff for his work on the report.

09:15:36 Rep. Skees agreed and said transmission infrastructure has many components that may need to be looked at during the next interim.

09:16:37 Rep. Hayman asked Mr. Graff about keeping the committee up to date on any changes regarding transmission issues.

09:18:20 Rep. Skees asked Jameson Walker, staff attorney, LSD, to keep the committee informed regarding any updates including changes in ownership.

Committee action

09:18:55 Rep. Skees asked Mr. Graff about the need for a motion to send the report to final edit.

Motion/Vote

09:19:51 Sen. Ellis moved to adopt the HJ12 report. The motion carried unanimously by voice vote. Rep. Tschida voted aye by proxy.

09:21:23 Rep. Skees said the ETIC is ahead of schedule and without objection the administrative rule review will be next on the agenda.

Administrative Rule Review

09:22:22 Mr. Walker said there are no new rules under the purview of the ETIC. He said he will let the committee know if there are any new rules before the start of the Legislative session.

Public comment

None

Questions from the committee

09:23:50 Sen. Ellis asked Mr. Walker about the process regarding new rules proposed before the start of the Legislative session.

09:26:05 Rep. Skees asked Mr. Walker to send the committee any proposed rule changes.

Committee action

None

09:27:18 Rep. Skees said without objection the Legislative Services update will be next on the agenda.

09:28:25 Recess

09:32:30 Reconvene

Legislative Services Update

09:32:36 Joe Kolman, Environmental Policy director, LSD, provided information on the results of the second part of a survey sent to all legislators regarding the interim. [\(Exhibit 4\)](#)

Questions from the committee

09:39:14 Rep. Bishop asked Mr. Kolman when the survey was taken. She said the information presented to legislators in January on fiscal policy was different than when the survey was taken.

09:40:26 Rep. Skees asked Mr. Kolman if a survey is taken at the beginning of each interim.

09:40:55 Rep. Hayman asked Mr. Kolman about the percentage of legislators participating in the survey.

09:41:25 Rep. Hayman asked Mr. Kolman about the value in sending the survey out again.

09:42:38 Sen. Ellis commented on her experience working on a subcommittee that included the Education Committee and a subcommittee of the Legislative Finance Committee and the ability to have both perspectives.

Legislative Services update continued

09:43:46 Mr. Kolman provided information on the survey regarding the 2021 Legislative session and COVID-19 restrictions. [\(Exhibit 5\)](#)

Questions from the committee

09:50:59 Rep. Skees commented on the percentage of legislators that did not know their computers could run multiple programs at the same time.

09:52:32 Rep. Bishop asked Mr. Kolman if the survey results can be accessed on the legislative website.

09:53:02 Rep. Pope asked Mr. Kolman if meetings will be held in Helena during the 2021 Legislative session.

09:56:32 Rep. Skees asked Mr. Kolman if legislators that choose to stay home will receive their per diem. He asked if the revenue that is potentially saved can be used to off-set the cost of technology.

09:59:15 Rep. Skees asked Mr. Kolman about the internet band width at the Capitol.

10:00:54 Sen. McNally asked Mr. Kolman about the process for remote floor sessions.

10:02:43 Rep. Skees commented on the changes that have already been made in the House chamber.

10:03:21 Rep. Bishop asked Mr. Kolman about the ability to have an equitable experience for legislators that are participating by Zoom videoconference versus in person.

10:04:40 Rep. Skees asked Mr. Kolman if there has been any attempt to reach out to lobbyists and the general public to get their opinion regarding the advantages and disadvantages of a remote session.

10:07:06 Rep. Pope asked Mr. Kolman about a remote session and the protocols for decorum.

Legislative Services update continued

10:09:28 Mr. Kolman discussed tools for legislators.

Questions from the committee

10:13:03 Rep. Skees asked Mr. Kolman how to access the information on the website. <https://leg.mt.gov/information-legislators/resources-organizations/>

10:16:08 Recess

10:30:21 Reconvene

Geothermal Research Update (90-3-1301, MCA)

10:30:27 Mr. Graff provided an introduction.

Presentation -- Bureau of Mines and Geology

10:31:09 John Metesh, director, Montana Bureau of Mines and Geology, provided an update on the Geothermal program.

Public comment

None

Questions from the committee

10:38:22 Sen. Ellis asked Mr. Metesh about tracking the development of geothermal resources.

10:38:59 Rep. Tschida entered the meeting.

10:40:00 Rep. Pope asked Mr. Metesh about the opportunity for geothermal development in Montana.

10:43:35 Rep. Skees asked Mr. Metesh if the program involves tracking natural disasters that can result from geothermal.

10:45:29 Rep. Skees thanked Mr. Metesh.

Committee action

None

Hydroelectric Reports Review

10:46:24 Mr. Graff provided an introduction.

10:46:42 Jan Langel, Water Resources Division administrator, Department of Natural Resources and Conservation (DNRC), presented the hydroelectric report.

Public comment

None

Committee action

10:55:06 Sen. Ellis asked Mr. Langel to provide an update on the work related to the failure of the St. Mary's diversion structure.

10:58:40 Rep. Hayman asked Mr. Langel if the DNRC has determined the feasibility and cost for hydroelectricity.

11:00:47 Rep. Hayman asked Mr. Langel about a general evaluation of the cost of hydroelectricity. Mr. Langel redirected to question to David Lofftus, hydropower supervisor, DNRC.

11:02:57 Rep. Hayman asked Mr. Loftus what NorthWestern Energy (NWE) is willing to pay for hydroelectric power and capacity. Mr. Lofftus said he will find out.

11:04:14 Rep. Hayman said she would like the DNRC to provide more detailed information. Mr. Langel said he will provide the information to Mr. Graff.

11:04:42 Rep. Pope asked Mr. Langel if the DNRC keeps track of water resources. He asked about the effect of climate change and drought on hydroelectric facilities.

11:10:33 Sen. Regier asked Mr. Langel about the St. Mary's diversion project and if the cubic feet per minute is constant throughout the year and about the total annual acre feet when the project is operating correctly.

11:11:23 Sen. Regier asked Mr. Langel about the total megawatt production on DNRC hydroelectric projects. Mr. Langel redirected the question to Mr. Lofftus.

11:12:19 Rep. Tschida asked about the cost of power generated and requested information on how the power generated by hydro facilities compares with the price of similar sized hydrogeneration projects. He also requested information on smaller projects and what their costs were at the time they went into production compared to now. Mr. Langel said he will provide the information.

11:14:36 Rep. Skees asked Mr. Graff to keep track of getting the information for the committee.

11:14:50 Rep. Skees asked Mr. Langel about the parameters used for the feasibility studies on adding hydro power on a dam.

11:16:34 Rep. Skees asked Mr. Langel if the DNRC has ever looked at permitting a new dam in a new location in a feasibility study.

11:17:34 Rep. Skees asked Mr. Langel about the measure used in the feasibility studies to determine that a project is uneconomical. Mr. Langel said it was how they were evaluated and the potential for future earnings. He redirected the question to Mr. Lofftus for additional information.

11:21:28 Rep. Skees asked Mr. Loftus if the DNRC requires a feasibility study in order to build a dam.

11:22:13 Rep. Skees asked Mr. Loftus if most of the projects are for irrigation and not power generation.

11:23:03 Rep. Skees thanked Mr. Langel and Mr. Lofftus.

11:23:15 Rep. Skees said without objection the committee will recess early for lunch and reconvene at 12:30 p.m. He said the ETIC can work on committee legislation until the PSC is available for its agenda item.

Lunch

11:24:15 Recess

12:30:27 Reconvene

12:30:49 Rep. Skees said Bob Lake, chairman, PSC, will be available after 1:00 p.m. to provide an update. He said without objection the committee can begin work on HB597.

HB597 (2019) Cleanup Legislation

12:31:41 Mr. Graff provided an overview of PD0001. [\(Exhibit 6\)](#) Mr. Graff said the committee did not receive any written public comments on the bill.

Public comment

None

Questions from the committee

None

Committee action

Motion/Vote

12:34:11 Sen. Ellis moved to pre-introduce PD0001 as a committee bill. The motion carried unanimously by voice vote. Sen. McNally will sponsor the bill.

12:36:55 Mr. Graff said the committee needs to assign a backup sponsor for members who are not holdover legislators and who are not unopposed in their elections.

9-1-1 Grant Cleanup Legislation

12:38:41 Mr. Graff provided an overview of PD0005. [\(Exhibit 7\)](#)

Public comment

None

Questions from the committee

12:40:03 Sen. Regier asked Mr. Walker if tribal governments are included in the definition of "local government."

12:41:44 Rep. Hayman said tribal governments are independent nations and are not part of local government.

12:42:19 Mr. Walker said "local government" is not defined in Title 69. He said there is a reference in 69-12-342, MCA, to a definition of "local government" in Title 2.

12:43:01 Sen. Regier asked Mr. Walker if tribal governments operate 9-1-1 centers or if they are operated by the county.

12:44:30 Sen. Ellis said there are 52 dispatch units in the state and that tribes were inadvertently left out. She said the committee that oversees the grant program is holding back money to help support tribal government dispatch centers.

Committee action

Motion/Vote

12:45:41 Sen. Ellis moved to pre-introduce PD0005 as a committee bill. The motion carried 7-3 by roll call vote. Rep. Skees, Rep. Tschida, and Sen. Regier voted no. Rep. Hayman will carry the bill. [\(Attachment 3\)](#)

PSC Update

12:49:06 Mr. Lake provided an update on PSC activities. [\(Exhibit 8\)](#)

12:50:07 Mr. Lake discussed the dockets for NWE.

12:57:35 Mr. Lake discussed the docket for APEX Solar.

12:58:57 Mr. Lake discussed the dockets for Montana-Dakota Utilities.

13:00:28 Mr. Lake discussed the commission ruling on the application by North Star Water and Sewer to increase its rates in a subdivision near Helena.

13:03:11 Mr. Lake discussed other dockets and non-dockets.

Public comment

None

Questions from the committee

- 13:05:53 Sen. Ellis thanked Mr. Lake for providing the committee with a copy of his written statement.
- 13:06:40 Rep. Pope asked Mr. Lake about the decision-making process for the new procedural order for NWE's Colstrip pre-approval docket and when the public hearing date will be scheduled.
- 13:12:19 Rep. Pope asked Mr. Lake about the December 14 public hearing date and scheduling public listening sessions during the holiday period.
- 13:14:21 Rep. Skees commented on the process that allows new candidates to watch PSC proceedings before being sworn in as commissioners. Mr. Lake said his objective is to have a session for newly elected commissioners. Rep. Skees asked Mr. Lake to provide a copy of the information to Mr. Graff.
- 13:16:48 Rep. Skees asked Mr. Lake to provide his input on the PSC study report. Mr. Lake said he will.
- 13:18:03 Rep. Skees asked Mr. Lake about the lawsuit that was filed by the PSC regarding public record requests by several newspapers and the email scandal.
- 13:20:42 Rep. Pope asked Mr. Lake about conflict within the PSC staff and allegations of misconduct and if the PSC plans to report its internal findings.
- 13:22:40 Rep. Skees asked Mr. Lake if the PSC reviewed the bill drafts submitted by Roger Koopman and if it had a position on the drafts.

PD0008 -- Preapproval Repeal Legislation

- 13:27:04 Mr. Graff provided an overview of PD0008. [\(Exhibit 9\)](#)

Public comment

- 13:30:24 David Hoffman, NWE.
- 13:36:50 Rep. Mary Ann Dunwell, HD 84.
- 13:40:44 Jason Brown, Montana Consumer Counsel. [\(Exhibit 10\)](#)

The ETIC received additional written public comment. [\(Exhibit 11\)](#)

Questions from the committee

- 13:43:53 Rep. Hayman asked Mr. Brown about the competitive solicitation process.
- 13:47:14 Sen. Regier asked Mr. Brown about any pre-approval projects in the past that turned out to be detrimental.
- 13:48:22 Rep. Skees provided an example of a pre-approval project that had a bad outcome.
- 13:49:27 Sen. Regier commented on the example.

Committee action

Motion

13:50:12 Sen. Ellis moved to pre-introduce PD0008 as a committee bill.

Discussion on the motion

13:52:18 Rep. Skees

13:54:14 Rep. Hayman

13:55:53 Sen. McNally

Vote

13:57:27 The motion carried 5-4 by roll call vote. Rep. Skees, Rep. Tschida, Sen. Richmond, and Sen. Regier voted no. Rep. Zolnikov abstained from voting. ([Attachment 4](#))

Motion

13:58:47 Sen. Ellis moved to amend PD0008.

14:01:26 Rep. Skees provided a summary of the changes in the amendment.

Vote

14:03:56 The motion carried 5 - 4 by roll call vote. Rep. Skees, Rep. Tschida, Sen. Regier, and Sen. Richmond voted no. Rep. Zolnikov abstained from voting. ([Attachment 5](#))

Motion/Vote

14:05:16 Rep. Ellis moved to pre-introduce PD0008 as amended as a committee bill. The motion carried 5 - 4 by roll call vote. Rep. Skees, Rep. Tschida, Sen. Regier, and Sen. Richmond voted no. Rep. Zolnikov abstained from voting. Sen. Ellis will carry the bill. ([Attachment 6](#))

Questions from the committee continued on the PSC update

14:08:07 Rep. Tschida asked Rep. Pope about his reference to issues within the PSC.

14:13:36 Recess

14:30:19 Reconvene

14:30:19 Rep. Tschida left the meeting.

PD0009 --Deadband Legislation

14:30:39 Mr. Graff provided an overview of PD0009. ([Exhibit 12](#))

Public comment

14:32:20 Mr. Hoffman.

14:36:05 Mr. Brown. ([Exhibit 13](#))

Questions from the committee

14:38:03 Sen. Regier asked Mr. Graff why 5 percent was chosen for the amount not to exceed for the deadband.

Committee action

Motion/Vote

14:39:16 Sen. Ellis moved to pre-introduce PD0009 as a committee bill. The motion carried 6-4 by roll call vote. Rep. Skees, Rep. Tschida, Sen. Regier, and Sen. Richmond voted no. Rep. Tschida voted no by proxy. ([Attachment 7](#))

Motion

14:40:51 Sen. Ellis moved to amend PD0009.

14:42:22 Mr. Graff explained the amendment.

Vote

14:42:41 The motion carried 8-2 by roll call vote. Rep. Skees and Rep. Tschida voted no. Rep Tschida voted no by proxy. ([Attachment 8](#))

Motion/Vote

14:43:45 Sen. Ellis moved to pre-introduce PD0009 as amended as a committee bill. The motion carried 6-4 by roll call vote. Rep. Skees, Rep. Tschida, Sen. Regier and Sen. Richmond voted no. Rep. Tschida voted no by proxy. ([Attachment 9](#))

14:45:30 Rep. Skees said without objection the committee will reconsider the assigned bill carriers.

14:45:51 Sen. Ellis said she will carry PD0005 and Rep. Hayman will carry PD0008. Rep. Skees agreed without objection from the committee.

14:46:27 Rep. Skees said HB597 will be carried by Sen. McNally, PD0008 will be carried by Rep. Hayman, and PD0005 will be carried by Sen. Ellis.

14:47:08 Sen. Ellis said PD0009 will be carried by Rep. Bishop and she will be the backup carrier.

PD0002 -- E Rate Broadband Legislation

14:48:36 Mr. Graff provided an overview of PD0002. ([Exhibit 14](#))

Public comment

14:52:15 Mark Baker. ([Exhibit 15](#))
14:54:54 Geoff Feiss, Montana Telecommunications Association.
14:57:32 Tim Johnson, Office of Public Instruction.

Questions from the committee

14:58:26 Rep. Hayman said she discovered that the language in the bill is so restricted that free and reduced lunch connectivity cannot be added past the federal guidelines.
15:00:00 Sen. Regier said he could support the bill if section 1(b)(3) was removed. He said the bill needs to be rewritten because schools do not have household incomes.
15:01:17 Sen. Ellis asked Mr. Baker about expanding the program.
15:04:10 Sen. Ellis asked Mr. Baker about removing section 1(b) and section 1(3).
15:05:17 Sen. Ellis asked Mr. Feiss about the amendments proposed by Mr. Baker.
15:07:26 Rep. Hayman said the criteria of 130% of federal poverty is the guideline for free and reduced lunch. She said the federal criteria is very clear that you can only provide broadband to schools and libraries.

Committee action

Motion/Vote

15:09:32 Sen. Ellis moved to pre-introduce PD0002 as a committee bill. The motion carried unanimously by roll call vote. Rep. Tschida voted aye by proxy. ([Attachment 10](#))

Motion

15:11:03 Sen. Ellis moved to amend PD0002.

Discussion on the motion

15:12:03 Rep. Skees
15:12:44 Sen. Regier
15:12:58 Rep. Skees
15:13:07 Sen. Ellis
15:13:30 Mr. Graff
15:13:47 Rep. Skees

Vote

15:14:25 The motion carried unanimously by roll call vote. Rep. Tschida voted aye by proxy. ([Attachment 11](#))

Motion/Vote

15:15:02 Sen. Ellis moved to pre-introduce PD0002 as amended as a committee bill. The motion carried unanimously by voice vote. Rep. Tschida voted aye by proxy. Rep. Skees will carry the bill.

PSC Energy Storage Letter

15:17:27 Rep. Skees said the energy storage letter has not been completed and recommended removing it from the agenda. He said he will allow public comment.

Public comment

15:18:39 Kevin Markovich, director, Energy Supply Operations, NWE.

Questions from the committee

15:20:17 Rep. Pope commented on writing a letter.

15:21:49 Rep. Skees asked Mr. Graff about the last day that interim committees can work. Mr. Graff said it is September 15 and he can work with Rep. Pope on an individual letter.

15:22:43 Rep. Skees suggested that Rep. Pope write down his ideas to circulate to committee and staff by email before September 15. He said the ETIC can decide whether to support the ideas or not.

15:23:36 Mr. Graff said he recommends that the committee decide on a written letter now or he can work with Rep. Pope individually.

15:25:07 Rep. Pope said he will write the letter and make it available to the committee.

15:26:03 Sen. Ellis asked Mr. Graff about the interim deadline dates.

15:28:00 Sen. Ellis asked Rep. Skees about scheduling another ETIC meeting.

15:29:39 Rep. Pope agreed with Rep. Skees about the need to not schedule another meeting.

Public Comment on matters within the jurisdiction of the ETIC

15:30:21 Mr. Markovich.

15:37:01 Mr. Feiss.

15:39:32 Rep. Skees provided clarification regarding the comments made by Mr. Feiss on railroad right-of-way permitting issues.

15:42:10 Mark Lambrecht, Montana Electric Cooperatives' Association.

Other Business/Instructions to Staff

Review of Committee Budget

15:43:49 Mr. Graff provided a review of the ETIC budget and said there is approximately \$23,000 in reserve.

Staff Evaluations

15:44:52 Mr. Graff said he will send the committee the staff evaluations to complete and return.

15:45:24 Mr. Graff provided a review of committee items.

15:46:05 Rep. Skees thanked the committee members and staff for their efforts during the interim.

15:47:02 Sen. Ellis thanked Rep. Skees and committee members.

15:47:22 Sen. McNally thanked Rep. Skees and Sen. Ellis for their leadership.

15:47:41 Rep. Pope thanked Rep. Skees and said it was an honor to serve on the committee.

15:48:06 Rep. Hayman thanked the committee.

15:48:25 Rep. Skees thanked Sen. Richmond and Rep. Zolnikov for their service to the legislature.

15:49:15 Rep. Skees said Mr. Graff will email committee members any updates and Rep. Pope will forward his letter on energy storage. He said he will keep the committee apprised regarding the railroad right-of way issue.

15:49:48 Sen. McNally thanked staff.

ADJOURNMENT

15:50:22 Rep. Skees adjourned the meeting at 3:50 p.m.