



Energy and Telecommunications Interim Committee

61st Montana Legislature

SENATE MEMBERS

JERRY BLACK--Vice Chair
RON ERICKSON
VERDELL JACKSON
CLIFF LARSEN

HOUSE MEMBERS

ROBYN DRISCOLL--Chair
DUANE ANKNEY
TONY BELCOURT
HARRY KLOCK

COMMITTEE STAFF

SONJA NOWAKOWSKI, Research Analyst
TODD EVERTS, Staff Attorney
DAWN FIELD, Secretary

MINUTES

January 14, 2010

Room 102, State Capitol
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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COMMITTEE MEMBERS PRESENT

REP. ROBYN DRISCOLL, Chair
SEN. JERRY SEN. BLACK, Vice Chair

SEN. RON ERICKSON
SEN. VERDELL JACKSON
SEN. CLIFF LARSEN

REP. DUANE ANKNEY
REP. HARRY KLOCK

COMMITTEE MEMBERS ABSENT

REP. TONY BELCOURT

STAFF PRESENT

SONJA NOWAKOWSKI, Research Analyst
TODD EVERTS, Staff Attorney
DAWN FIELD, Secretary

AGENDA & VISITORS' LIST

Agenda, Attachment #1.
Visitors' list, Attachment #2.

COMMITTEE ACTION

The Energy & Telecommunications Interim Committee:

- approved the November 9 and 10, 2009, minutes as corrected;
- approved certain energy policy statements regarding coal-fired generation;
- approved certain energy policy statements regarding promotion of alternative energy systems; and
- approved an energy policy statement to increase oil and gas exploration and development in Montana.

CALL TO ORDER AND ROLL CALL

00:01:06 REP. DRISCOLL called the Energy and Telecommunications Interim Committee (ETIC) to order at 8:02 a.m. The Secretary took roll, REP. BELCOURT was absent (ATTACHMENT #3).

UPDATE ON NCSL/PNWER WORKSHOP

00:01:47 REP. DRISCOLL said that the National Council of State Governments (NCSL) and Pacific NorthWest Economic Region (PNWER) conference was very educational and that the smart grid information was particularly interesting. SEN. LARSEN said that there was a great deal of very specific information presented on different types of power and that he would provide copies of the materials. He said it was constantly emphasized that the best dollar value of energy is conservation. REP. ANKNEY agreed that conservation is key but he cautioned against rushing into new regulations and laws regarding which types of energy will be allowed or regulated heavily because of the adverse effect on consumers.

ENERGY POLICY: "PROMOTING CONSERVATION" AND "PROMOTING ENERGY EFFICIENCY INCENTIVES"

Sonja Nowakowski, Research Analyst, Legislative Services Division (LSD), provided a report on the issue in advance of the meeting, which included Governor Schweitzer's energy policy statement on conservation and energy, findings, and examples from other state energy policies, and background information (EXHIBIT #1).

00:05:05 **Bruce Measure, Northwest Power and Conservation Council**, spoke briefly and introduced Charlie Grist.

00:07:26 **Charlie Grist, Northwest Power and Conservation Council (NWPCC), Portland, Oregon**, presented a PowerPoint slide show explaining the goals of the Draft Sixth Power Plan for the Pacific northwest region. Mr. Grist highlighted conservation measures contained in the draft plan (EXHIBIT #2).

00:28:11 **Jim Baerg, Energy+Design, Montana Energy and Design, Livingston**, discussed energy efficiency as a form of economic development using a PowerPoint slide show (EXHIBIT #3). Mr. Baerg said that energy efficiency promotes jobs and economic development and that full use of all tools available is needed, such as strengthening energy codes, offering more substantial tax credits, providing loan programs for energy efficiency projects, and strengthening utility incentives.

00:42:44 **Brian von Lossberg, Commons Link, Missoula**, presented a PowerPoint slide show (EXHIBIT #4) explaining how his business promotes energy efficiency and conservation. He said that he works directly with consumers by giving household members data in real time on their energy use, and the tools to help them reduce their energy consumption through behavioral change and consumer choices. He said that 15-32-109, MCA, needs to be clarified to ensure that the tax credit includes whole-home energy monitoring systems.

01:06:29 **Eric Edelen, Bluestone Technologies, Kalispell**, discussed how people can effectively use meters in their homes to monitor and decrease their energy consumption. He said that his business designs and installs smart home/smart grid-compatible smart home systems and also explained key energy conservation terms and the benefits and advantages of installing a smart home system. Additional topics discussed by Mr. Edelen included how smart home technology is used by the homeowner, homeowner privacy concerns as related to smart grid systems, savings of total energy costs for homeowners, and how to motivate homeowners to install smart home technology. Mr. Edelen suggested that a certification program to designate homes as a smart grid home should be put in place and that local electricians and contractors should be allowed to certify a home as a smart home. He said it is his opinion that certain energy conservation measures should be required in new homes and that utility companies will also have to buy into the concept. He concluded by stating that he would support low-voltage licenses for contractors and sub-contractors.

Montana Dakota Utilities (MDU), NorthWestern Energy (NWE), and Montana Electric Cooperatives Association (MECA),

01:27:07 **Bob Rowe, NWE**, invited ETIC members to Butte to tour NWE's technical operations, saying that NWE's activities match well with what was discussed by the presenters. Mr. Rowe discussed the policy work groups working on an energy efficiency plan and said that the plan will be presented to the PSC soon. Mr. Rowe updated the ETIC on NWE's smart grid pilot project and on NWE's work on a regional and national level in market transformation issues. He said he would like to come back to update the Committee at a future meeting.

01:35:22 **Gary Wiens, MECA**, said that cooperatives have been long-time advocates for energy conservation and understand the potential for reducing the need for new generation and holding down costs, as well as the benefits of conservation measures. He said there is a huge distinction between voluntary and required energy efficiency standards and explained why mandates for energy conservation are not in the best interest of consumers. Mr. Wiens said that factors such as who a cooperative serves, who will pay for the efficiency incentives, and who benefits from them must be carefully considered in creating energy efficiency programs. Because cooperatives are member-owned, Mr. Wiens said, cooperatives are very cognizant of costs and how rates could be affected in creating new programs and are more likely to invest in system-wide improvements, rather than programs that benefit individual customers.

Public comment

- 01:45:48 **Kevin Marks, Deer Lodge**, discussed how land use patterns and urban sprawl are contributing to high energy use and increased costs. He referenced the Hirsch report from the Department of Energy to reinforce his points that land use patterns and urban sprawl contribute to high energy use and suggested that energy codes be updated and modified, in order to discourage these patterns.
- 01:49:53 **Ed Gulick, Billings, Chair, Northern Plains Resource Council (NPRC)**, said that the NPRC recognizes the importance of energy efficiency. He discussed the NPRC's position on energy efficiency incentives and said that all Montanan's should have access to universal system benefits (USB) programs. Mr. Gulick said that the energy efficiency tax credit has been beneficial but is inadequate and that financing for energy projects should be more readily available to homeowners, such as through a special improvement district set up through a local government. Mr. Gulick said that the NPRC also supports higher building standards for state buildings, both for rehabilitation of existing buildings and for new construction. Mr. Gulick concluded his testimony by saying that energy efficiency standards should be created, as proposed in HB 641 in the 2009 Legislature.
- 01:55:58 **Brian Patrick, Superintendent of Schools, Townsend School District, Townsend**, discussed the importance of teaching students about energy conservation and how he has implemented innovative and energy saving projects in the Townsend schools, such as a building a biomass heating plant, installing solar panels on the school roof, and creating a Green Club. Mr. Patrick also described the 2009 energy summit he organized to help other schools identify how they can conserve energy and lower energy costs. He said that the summit was so well received that another one is planned for 2010 (EXHIBIT #5).
- 02:03:31 **Kyla Wiens, Montana Environmental Information Center (MEIC)**, said that energy efficiency should be at the foundation of the state's energy policy because it is the most affordable, most abundant, least risky, and cleanest energy resource available in Montana. She made several recommendations on what steps should be taken to maximize the environmental and economic benefits of energy efficiency by adopting a comprehensive approach:
- enact energy efficiency standards for the state's largest utilities;
 - expand energy efficiency tax credits and incentives; and
 - improve programs that increase awareness of energy efficiency tax credits
- (Ms. Wiens submitted written comments after the meeting (EXHIBIT #6).*
- 02:07:13 **Bill Drummond, Manager, Western Montana Electric Generating and Transmission Cooperative, Missoula**, said that he represents seven utilities that have been involved in energy efficiency programs for over 30 years. He said that energy efficiency is by far the cheapest source of power because the more energy conserved, the less that has to be purchased; which results in savings for all customers. Mr. Drummond listed several recommendations supported by his cooperative:
- strengthening of energy efficiency codes;

- require enforcement of energy efficiency codes; and
- incentives for liquid fuel suppliers to participate in energy efficiency programs.

02:11:29 **Chuck Magraw, Natural Resources Defense Council, Renewable Northwest Project**, said that Montana's energy policy has been allowed to become fragmented and does not work to the benefit of the citizens of Montana. He said that all energy customers should be able to benefit from energy conservation and efficiency measures. He encouraged the ETIC to consider how it could level the playing field by crafting an energy policy that would apply uniformly to all citizens.

02:13:49 **Ben Brouwer, Energy Program Manager, Alternative Energy Resources Organization (AERO)**, recalled Brian Patrick's statement that energy efficiency projects and investments act as an insurance policy against increasing energy costs, and said that such an approach is important to the future of Montana. He said that AERO supports creation of uniform energy efficiency standards that would apply to all utilities doing business in the State, stronger tax credits and loan programs for energy efficiency improvement projects, and enforcement of building codes.

Committee questions and discussion

02:15:25 SEN. ERICKSON asked Mr. Grist how climate change was dealt with in his model and how water supplies will be affected. Mr. Grist said water supplies will be affected because as temperatures rise, less water will be stored in snow pack, and that run-off will occur earlier and stronger, which will significantly affect power prices and the ability to store water for future use. Mr. Grist predicted that summer heat storms will become more usual and of longer duration, and that demand for energy will increase even more as a result.

02:19:29 SEN. JACKSON asked about a performance standard for energy conservation, rather than a prescriptive standard, for new homes being built. Mr. Baerg explained the meaning of each type of standard and how they are used. He said that the energy code has both models and that his opinion is that both are needed. He said that most builders use the prescriptive standard because it is easier and less expensive to use.

02:22:18 REP. DRISCOLL asked what a "smart strip" is. Mr. Baerg explained that it is a power strip with an single on/off switch that will accommodate multiple appliances, so the home owner can turn off many appliances while they are not being used. He said that smart strips are an inexpensive and effective approach to controlling electricity use.

02:23:34 **BREAK** - 10:25 a.m. to 10:48

02:48:35 REP. DRISCOLL called the meeting back to order at 10:50 a.m.

USB REVIEW - USE OF MONEY REMITTED TO STATE

02:48:59 **Jim Nolan, Department of Public Health and Human Services (DPHHS)**, reviewed the statutory requirements for collection of USB funds from utilities and

explained how USB funds that are remitted to the state's USB program are utilized. Mr. Nolan reviewed how USB funds remitted to DPHHS by MDU are spent (EXHIBIT #7) and said that the main two programs supported by USB funds are the Low Income Energy Assistance Program (LIEAP) and a weatherization program.

02:52:02 **Lou Moore, Chief, Energy and Pollution Prevention Bureau, Department of Environmental Quality (DEQ)** explained DEQ use of MDU USB charges, including revenues collected, expenditures, and a current balance (EXHIBIT #8).

Public comment

02:55:31 **John Alke, MDU**, discussed the background of the issue and differences between NWE and MDU regarding USB funds. He said that the USB program was imposed as a result of the 1997 restructuring for competitive reasons, not to expand social programs and that MDU had to create a system for spending the money it was now required to charge. He compared NWE's USB program to MDU's USB program and said that no administrative dollars are taken out of MDU's collections. He said that the MDU system is very efficient and provides almost a full flow-back, with the exception of the money that goes to DEQ. Mr. Alke said that the MDU USB collections are very small, as compared to NWE collections.

Committee questions and discussion

02:59:10 SEN. JACKSON said that he does not understand DEQ's involvement with the USB program. Ms. Moore said that the DEQ houses a state energy office and that part of its mission is to disseminate information on a variety of energy issues. SEN. JACKSON asked for an explanation of why DEQ gave some of its money to DPHHS. Ms. Moore said that a transfer of funds from the DEQ to the DPHHS was done to serve the higher need of low income families.

03:02:26 **Todd Everts, ETIC Staff Attorney, LSD**, said that the restructuring act statutorily requires that the DEQ is involved and explained the provisions of the statute.

03:03:07 SEN. LARSEN referred to Ms. Moore's handout (EXHIBIT #8) listing DEQ's projects and activities and asked if MDU provides similar services. Mr. Alke said yes and no, and explained that only the Montana portion of MDU's service territory is obligated by USB. He said that because the USB is in effect for such a small portion of MDU's service territory, MDU has not undertaken the same efforts as other utilities that operate entirely within state borders. He said that, essentially, DEQ and DPHHS has been acting as MDU's contractors in administering USB funds.

AGENCY OVERVIEW PRESENTATION

03:06:59 **Greg Jergeson, Chair, Public Service Commission (PSC)**, updated the ETIC on the following topics:

- the current status of NWE's general rate case filing;
- the status of NWE's tax tracker case;

- a hearing scheduled for January 20, 2010, on natural gas resources ownership;
- participation by Commissioners Jergeson and Toole in regional electric transmission meetings and activities;
- the Commission's completion of its first year of work on enforcement of renewable energy portfolio standards for NWE, MDU, and electricity suppliers;
- opened a new docket to consider new federal standards regarding regulatory actions to promote energy efficiency and smart grid but declined to adopt the standards because the Commission is in the midst of hiring new people to do an in-depth analysis of those types of programs; and
- motor carrier roundtable scheduled for February 2, 2010.

OTHER BUSINESS

Approval of November 2009 meeting minutes

03:13:13 SEN. ERICKSON asked to make corrections to the November 9 & 10, 2009, meeting minutes. He referred members to page 12, time stamp marker 03:22:54, and said that the minutes should reflect that he asked for a definition of integrated gasification combined cycle. He also said that on page 14, time stamp 05:56:33, the word "information" should be changed to "inform". **SEN. ERICKSON moved to approve the minutes as corrected.**

03:14:38 SEN. JACKSON referred the members to page 13, and discussed his concerns. He said that he would prefer more of an action statement. He said that he had prepared a rough draft of policy statements that would more clearly state action statements. REP. DRISCOLL said that SEN. JACKSON's draft would not be considered as part of changes to the minutes but could be discussed later in the meeting. **The motion passed on a unanimous voice vote.**

Administrative Rules

03:16:18 Mr. Everts said Commissioner Jergeson covered most of his report, specifically the rulemaking activity for HB 294 and hearing scheduled for January 20, 2010, on filing requirements for natural gas.

03:16:58 Ms. Nowakowski said that Bonnie Lorang, Montana Independent Telecom Systems (MITS) provided a summary on the status of Montana American Reinvest and Recovery Act (ARRA) broadband funds (EXHIBIT #9).

ETIC budget update

Ms. Nowakowski said that the ETIC expenses are higher than other committees because of member travel expenses but that the committee should be able to complete its work based on its current work plan. She said that three meeting dates remain and that there will not be any money left for a post-session meeting. She briefly discussed the option of requesting additional funds from the Legislative Council and LSD's current budget status.

03:19:33 The ETIC discussed options for extending its meeting times that would not generate significant additional expense. It was suggested the members could

meet the night before a meeting at their own expense or adjusting meeting dates. Ms. Nowakowski suggested that the members further discuss the issue over the lunch hour and that the issue could be revisited at the end of the day.

Final handbooks

03:29:50 Ms. Nowakowski said the members received the final versions of "*The Electricity Law Handbook*" (EXHIBIT #10) and "*Understanding Energy in Montana*" (EXHIBIT #11) in their meeting packets.

Update on EQC biomass study - HJR 1

03:31:20 Ms. Nowakowski said that the Environmental Quality Council (EQC) met last week and considered the following:

- the availability woody mass and agricultural residue in Montana;
- other state activities related to biomass;
- biomass projects and proposals in Montana;
- federal biomass legislation;
- current state incentives and potential incentives;
- biomass technologies;
- power prices, markets, and transmission needs;
- formation of a Governor's Interagency Task Force; and
- various other issues related to biomass.

Ms. Nowakowski said that she would continue to keep the ETIC updated.

03:34:00 SEN. LARSEN asked who heads up the Governor's Interagency Task Force. Ms. Nowakowski said that Pat Wise of the Governor's Office of Economic Development is the primary contact.

03:34:20 SEN. JACKSON said he is very interested in this and would appreciate any materials available. He discussed in detail a biomass project at Stoltze Lumber. He said he would like to hear ideas from other committee members.

03:36:55 SEN. ERICKSON said that he has questions and concerns about the economics of delivery distances and costs. Ms. Nowakowski explained that the EQC is working with others, such as Angela Farr of the United States Forest Service (USFS), the DEQ, the University of Montana, and other resources to gather data on availability, costs, and delivery distances.

03:40:02 SEN. JACKSON said that the loss of Smurfit Stone will greatly affect the trucking businesses and Flathead area. He asked if there is anything that the State can do to help with the Stoltze biomass project and a small hydro project located in Whitefish. Mr. Everts referred SEN. JACKSON to a list of biomass development incentives on page 38 in "*The Understanding Electricity*" handbook.

03:42:17 Break to get lunch.

WORKING LUNCH / ENERGY POLICY: REVIEW OF NOVEMBER TOPICS

Overview of Summary

04:13:27 Ms. Nowakowski said that members received a five-page Energy Policy Development paper (EXHIBIT #12) in their meeting materials, as well as a draft

Energy Policy Summary (EXHIBIT #13) of statements developed at the November 2009 ETIC meeting. She explained how the documents would be further refined through committee discussion and eventually used to create energy policy statements and draft legislation.

Public comment on review of November topics

04:16:12 Ben Brouwer, AERO, said that at the November meeting, SEN. ERICKSON asked utilities to comment on three policy suggestions regarding feed-in tariff and net metering as discussed by himself (Mr. Brouwer) and another presenter. Mr. Brouwer said that members received a copy of SEN. ERICKSON's questions and of the responses received from NWE and MDU (EXHIBIT #14). Mr. Brouwer said that he believes that the responses mischaracterize small scale renewable energy project and that he would like to clarify the matter. He discussed several key points contained in a letter from AERO and other concerned co-signers that addressed their concerns (EXHIBIT #15). *(Additional written comment was received from Lee Tavenner. Solar Plexus, Missoula - EXHIBIT #16).*

Committee Discussion

04:22:54 SEN. JACKSON asked about the renewable energy projects, specifically whether NWE can actually use the electricity and the difficulty of hooking them into the system. Mr. Brouwer said that the systems are not designed as commercial power projects and are meant to be used by a particular household or business. He explained that it is a trade off and that extra power cannot be sold off. Mr. Brouwer said that NWE has suggested, and that AERO agrees, that a telemetering device would be very useful in order to help with the intermittent nature of these net-metering systems and forecasting. SEN. JACKSON asked if consideration has been given to restricting these projects to a certain size. Mr. Brouwer said that issue would need additional study if caps were to be considered.

04:27:15 SEN. LARSEN asked if these small producers have to have special equipment. Mr. Brouwer said that they do require a special meter that allows the electricity to flow both ways and for the utility to record it. He said that the producer also has to meet stringent safety requirements.

Committee discussion of energy policy statements - Coal

04:32:02 SEN. JACKSON referred to page 2 of his draft energy policy statement (EXHIBIT #17) and said that his policy statement on coal was listed there.

04:37:39 REP. DRISCOLL said discussion would begin with increasing the supply of low-cost electricity with coal-fired generation. SEN. ERICKSON suggested that the committee adjust the wording as it reviewed each statement, in order to make the statements more action oriented.

A discussion of coal-fired generation ensued. SEN. JACKSON asked to include portions of his energy summary. REP. KLOCK said that he did not wish to make a statement indicating that coal is not important and that it would remain an important resource to Montana.

04:53:28 After additional discussion and revision, Ms. Nowakowski read back the following statement: "*Montana is committed to supplementing energy needs with renewable energy sources, while recognizing the value of existing coal-fired generation and its place in Montana's energy portfolio*". **SEN. ERICKSON moved to approve that statement as the ETIC's energy policy statement on coal.** SEN. JACKSON suggested that it should begin with more of an action word. SEN. BLACK's opinion was that it is an action statement. REP. ANKNEY agreed with SEN. BLACK and that coal must be kept as a low-cost energy source. **The motion passed on a 5-2 voice vote, REP. KLOCK and SEN. JACKSON opposed the motion.**

ENERGY POLICY: "INCREASING ENERGY EFFICIENCY STANDARDS FOR NEW CONSTRUCTION"

Ms. Nowakowski provided a report on this issue in advance of the meeting, which included Governor Schweitzer's energy policy statement on energy efficiency in construction, findings, findings, and examples from other state energy policies, and other background information (EXHIBIT #18).

04:57:22 **Dave Cook, Labor Chief, Building Codes Bureau, Department of Labor and Industry (DLI)**, reviewed Montana's building code statutory requirements, including inspection and enforcement requirements. Mr. Cook said that the DLI is working with stakeholders and has adopted a proposal for adoption of the 2009 International Energy Conservation Code (IECC), with amendments to make it work in Montana. He said that the expected time line for adoption is March of 2010. Mr. Cook also discussed enforcement issues, such as problems with the self-certification process and that the DLI is working with the DEQ to create a better system for inspection. Mr. Cook said that the DLI is also developing new software to help with permitting problems.

05:06:10 Mr. Cook said, regarding commercial building inspections, that inspection and enforcement tools have been improved and that it is becoming easier to get cooperation. Additionally, Mr. Cook said that DLI's annual conference also offers energy code training and green building classes to make builders and designers more aware of new concepts and techniques.

05:09:52 **Brian Green, Energy and Pollution Prevention Bureau, DEQ**, said that the current code upgrade should result in an annual savings for homeowners of about \$276 per year. He said that the savings occur from more efficient windows, more efficient lighting requirements, increased insulation levels, and more stringent requirements for above ceiling space and duct work. He predicted that improvements will continue to be made incrementally. He said that Montana tax policy is supportive of energy efficiency improvements and he discussed several credits available to homeowners. Mr. Green noted that the down turn in the economy has affected the number of people filing for the tax credit but predicted that once the economy improves, the filings would increase. He also discussed training support functions in which DEQ participates.

05:15:15 **Dustin Stewart, Executive Director, Montana Building Industry Association (MBIA)**, passed out "The Road to Green Building" brochures to the members

(EXHIBIT #19). He said while there is no question that the housing industry has been significantly hit by the recent recession, Montana builders have continued to focus on green building techniques because people want energy efficient homes. He said that the brochure is only one of the MBIA's efforts to educate consumers and increase awareness of the availability of green building. Mr. Stewart discussed other MBIA efforts to promote green building practices in Montana and noted that a Missoula builder was named Green Builder of the Year.

05:20:16 Mr. Stewart discussed building codes, saying that there have been significant code changes in the last three years which makes the building process quite complicated. He explained how the new code requirements have added significant costs to constructing a new house in Montana and said that the MBIA is working with the DLI to lessen the impact of the new codes. Mr. Stewart said that while they are all good ideas, at some point affordability does become an issue.

05:23:29 Mr. Stewart discussed the current building inspection system, created in 1999 as a result of legislative audit recommendations. He said that the system provides good consumer protection and safeguards and works well, even though permit and inspection costs vary from place to place. Mr. Stewart said that all in all, Montana is headed in the right direction regarding energy efficiency standards and green build programs.

05:26:16 **Steve Loken, Loken Buildings, Missoula**, said that he began using green building techniques 18 years ago in the Pacific Northwest, and that associations similar to MBIA opposed such standards at that time because of perceived higher costs and controls. Today, he said, those same associations are pursuing higher energy standards than ever because of public demand. Mr. Loken agreed that better homes are being built today but disagreed that the cost must be significantly more to do so. He said that the down turn in the economy presents an ideal time to slow down and train and educate builders on better and smarter building techniques and materials. Mr. Loken offered a number of recommendations:

- involve utility companies by making them at least partially responsible for a structure's energy efficiency;
- place an additional charge on structures that use an inordinate amount of energy;
- involve Montana's colleges of technology in education and training efforts in construction technology and energy resource conservation;
- take into consideration that land costs and infrastructure costs are also contributing to increased building costs;
- performance test new houses for infiltration loss, which is the largest sources of heat loss and provide retrofit building opportunities on existing houses; and
- increase tax incentives, particularly for existing housing stock.

Mr. Loken said that it is important to capitalize on what is available in Montana and that the government and private sectors should work together to maximize what it can for the citizens and to decrease building costs. He also discussed

Southern Montana Electric's attempt to build a power plant near Great Falls and said it would have been very costly to SME's customers.

05:38:04 Gary Wiens, MECA, responded to Mr. Lokens' comments about SME's proposal to build new generation near Great Falls, saying that the cooperatives are looking at replacing half of their power supply and that efficiency measures alone will not meet their needs. He agreed that there is a need for customer education. Mr. Wiens said he would support the 2009 IECC but that enforcement must be a part of it. He said that lack of enforcement impacts the cooperatives even more than other utilities because of the lack of inspections for rural homes and that many homeowners cannot afford to retrofit their homes, so they continue to experience high utility bills.

Public Comment

05:41:43 Kyla Wiens, MEIC, asked that beyond-code efficiency standards be adopted for all new construction and to enact enforcement mechanisms to ensure compliance with existing energy code (EXHIBIT #6).

05:45:08 **Svien Newman, NPRC, Billings**, read a letter from NPRC member Nash Emrich, who supports strong conservation-oriented building codes (EXHIBIT #20).

05:49:16 Ed Gulick, Chair, NPRC, Billings, stated his strong support for energy efficiency building codes, saying that a building's long-term energy consumption must be taken into consideration as energy costs continue to increase. He said that third-party programs have worked well but that "lagers" must be pushed to catch up in order to move efficiency standards forward. Mr. Gulick discussed affordability and said that he was concerned about a few areas of the code but not with the efficiency standards, and said that efficiency will increase affordability. He agreed with previous comments from others that strengthening enforcement must be a focused effort, particularly in rural areas. He encouraged the legislators to provide policies that would implement the North West Power and Conservation Council's (NWPCC) recommendations.

05:52:48 Ben Brouwer, AERO, said that the conservation agenda sometimes runs counter to that of cooperatives but that he is encouraged by the areas in which there is agreement. He said he is heartened to see the building industry incorporating green building practices but cautioned that green building and efficiency standards need to be specifically defined in code, including enforcement provisions.

05:54:35 **Bob Decker, Executive Director, The Policy Institute, Helena**, said that the most important issue in the building codes is enforcement and asked that they be enforced to the full extent possible. On the design side, Mr. Decker said it would be a simple fix to amend 50-60-115, MCA, which deals with appointments to the Building Codes Council. He said the structure of the Council has not been changed in decades and that an energy expert on the Council is needed. Mr. Decker offered to work with Ms. Nowakowski or others to draft language to amend the code.

Committee questions and discussion

- 06:00:05 SEN. JACKSON asked if rural cooperative customers should use electricity to heat their homes if they are concerned with energy efficiency. Mr. Wiens said yes, that many cooperative customers are switching from propane to electricity.
- 06:01:23 SEN. JACKSON asked, regarding energy efficiency code requirements, if there should be limits or restrictions placed on new homes, such as how many windows could be used or use of incandescent lighting. Mr. Green, DEQ, said that there are no restrictions on the amount of or type of windows that may be used in a home in the new code. Regarding the use of incandescent lighting, Mr. Green said that the codes are flexible and allows a certain amount of incandescent lighting. SEN. JACKSON asked how the R21 insulation value was chosen. Mr. Green said that the R21 is a high performance bat but takes up the same amount of space as lesser value bats. He said R21 is more expensive than R19 but will provide better efficiency in the long term. SEN. JACKSON asked if performance standards will be used in the future. Mr. Green said that performance standards may be used under the new codes.
- 06:07:25 SEN. ERICKSON noted that many people have commented on the need for stricter enforcement of building standards. He asked how that might be accomplished, how it would be paid for, and if the Legislature could be of help. Mr. Cook listed the number of inspectors available through out the state and said that the DLI is providing cross training for its inspectors so that they may inspect more than one area of construction. He said that the Department is trying to use its current FTEs as efficiently as possible. Regarding how to pay for enforcement, Mr. Cook said that inspections are tied to the permitting process, which generates fees, and that is how the process would be paid for.
- 06:13:54 SEN. BLACK said that currently, the certification process is voluntary for rural builders. Mr. Cook said yes, that in statute the energy code is applicable to all structures, but that there is no enforcement mechanism in place for rural structures. SEN. BLACK asked what happens if a voluntary certification is not filed. Mr. Cook explained said that the builder is required to affix a sticker on the electrical panel after inspection but that there is no mechanism to check to see if that is done. He said that he hopes that the new system will add a follow up component.

BREAK

Continued discussion of coal-fired generation

- 06:36:04 REP. DRISCOLL asked Ms. Nowakowski to read the draft policy statement approved earlier in the meeting. Ms. Nowakowski did so.
- 06:36:43 SEN. ERICKSON asked to review SEN. JACKSON's second policy statement - *continued research and pilot projects to convert coal into synthetic petroleum products, hydrogen, methane, and natural gas will extend Montana's competitive advantage with coal well into the future* - (page 2, EXHIBIT #17). He asked to change the word "will". After discussion, it was agreed to substitute "may" for "will". **SEN. ERICKSON moved to approve the amended statement as the**

ETIC's second and only other statement on coal. The motion passed on a unanimous voice vote.

Promoting alternative energy systems.

- 06:42:52 SEN. ERICKSON said that several speakers recommended that Montana's colleges of technology be more involved in energy efficiency training. He read the bullet point statement (page 3, EXHIBIT #12 - third from bottom of *Promoting Alternative Energy Systems* section) regarding the Montana Board of Regents' management of the university system. He suggested adding references to energy conservation and energy efficiency to the statement. **SEN. ERICKSON moved to add that statement, with his suggested language changes, to the ETIC's energy policy statement on alternative energy systems.**
- 06:48:56 The ETIC discussed whether all educational facilities in Montana's K-12 and university system should be included. SEN. JACKSON supported making the statement broad enough to cover all educational institutions. Ms. Nowakowski said the statement could be reworded to keep the comment recognizing the Board of Regents but also to expand it to include other educational facilities and programs. **SEN. ERICKSON said so moved. The motion failed on 3 - 4 voice vote, with SEN. JACKSON, SEN. LARSEN, REP. ANKNEY, and REP. KLOCK voting no.**
- 06:52:50 **SEN. JACKSON moved to approve the language "to encourage educational programs that prepare the work force for creating and obtaining jobs in an emerging renewable energy economy" as an ETIC policy statement on promoting alternative energy systems. The motion passed on a 6-1 voice vote, with REP. ANKNEY voting no.**
- 06:54:38 SEN. ERICKSON referred to SEN. JACKSON's draft energy policy statement on alternative energy production (page 3, EXHIBIT #17) and asked members to look at the fourth policy statement regarding providing incentives for biomass plants to generate heat and electricity. **SEN. ERICKSON moved that the language be proposed as a policy statement of the ETIC. The motion passed on a unanimous voice vote.**
- 06:55:40 SEN. ERICKSON referred to SEN. JACKSON's draft energy policy statement (page 3, EXHIBIT #17) and asked members to look at the sixth policy statement regarding continued promotion of large utility scale wind and small-scale distributed generation that are cost effective. He suggested placing a period after the word "generation". He discussed his reasons for not including the words "cost effective", saying that distributed energy systems may not be cost effective but do help, and are a part of the education process. He said that he personally has a system in his yard that will not be paid off for many years but that the cost effectiveness of the project is not the most important factor. He said it would be a mistake to move away from distributed energy. SEN. JACKSON asked to also include the next-to-last policy statement regarding establishing uniform policies for interconnection and net metering related to customer-owned renewable energy facilities.

- 07:00:38 SEN. LARSEN supported including both statements. REP. ANKNEY said that as policy makers, cost effectiveness must be considered. SEN. JACKSON agreed.
- 07:02:49 SEN. ERICKSON further discussed his reasons for not wanting to consider cost effectiveness in promoting alternative energy systems, saying that with any developing technology, it will take time for the prices to come down. He said that it also gives peoples control over their energy consumption and increases the possibility for a full-fledged industry to evolve. Ms. Nowakowski said that there are legislative findings related to alternative energy and net metering and read the statutory language contained in 69-8-601, MCA, regarding promotion of net metering.
- 07:05:28 **SEN. JACKSON moved to approve both of the statements, with SEN. ERICKSON's proposed language changes, as ETIC policy statements on promoting alternative energy systems.** After discussion, it was agreed that, because of existing statutory language, it was not necessary to include the statement on establishing uniform policies for interconnection and net metering. **SEN. JACKSON amended the motion to support promotion of the long-term growth of large utility scale wind and small-scale distributed generation. The motion passed on a 6-1 voice vote, with REP. KLOCK opposing.**
- 07:09:09 SEN. LARSEN asked to consider the last policy statement listed in SEN. JACKSON's draft policy statements (page 3, EXHIBIT #17) - *promote additional hydropower expansions by classifying them as renewable under the "The Montana Renewable Power Production and Rural Economic Development Act"*. He said that he believes hydropwer is a renewable resource and that Montana needs all the hydropower it can get. **SEN. JACKSON moved to include the statement on hydropower as part of ETIC's policy statement on promoting alternative energy systems.** SEN. ERICKSON said the he would support the statement in general but did have concerns about NWE and how it would meet its renewable standard. He referred to legislation proposed in the 2009 session on this issue and asked Ms. Nowakowski to comment. Ms. Nowakowski said that there were several bills in the 2009 session that dealt with adding hydropower. She briefly discussed current statutory language and how it would apply to this issue. **The motion passed on a 5-1-1 voice vote. REP. DRISCOLL voted no and SEN. ERICKSON abstained.**

2007 GOVERNOR'S RECOMMENDATIONS: ENERGY SUPPLY

- 07:20:04 **Jeff Blend, Energy Pollution Prevention Bureau, DEQ,** presented PowerPoint slides relating to the Governor's Climate Change Advisory Committee's (CCAC) energy supply recommendations (EXHIBIT #21). Mr. Blend also provided copies of the CACC's Final Report: *Montana Climate Change Action Plan* (EXHIBIT #22).

Public comment

- 07:36:36 There was no public comment.

UPDATE ON CO² REGULATORY EFFORTS -- ENVIRONMENTAL QUALITY COUNCIL

ACTION

07:37:01 Todd Everts, speaking as lead staff for the Environmental Quality Council (EQC), discussed action taken by the EQC regarding proposed rules to establish permitting thresholds for greenhouse gas. He said that the EQC, having oversight of the DEQ and BER, formally objected to the notice of the proposed rulemaking, in order to delay adoption of the proposed rules; and that the BER voted to cancel the rulemaking process.

07:39:03 **David Klemp, Bureau Chief, Air Resources Management Bureau, DEQ**, said he was available to answer questions and that other DEQ staff was also present and available for questioning. REP. DRISCOLL said that Director Richard Oppen was also present.

Public comment

07:40:28 There was no public comment.

Committee questions and discussion

07:40:37 SEN. ERICKSON asked Mr. Everts to explain in more detail the ramifications of the EQC's objection and delay in rulemaking. Mr. Everts said that the DEQ will have to wait for the Environmental Protection Agency's (EPA) regulations and that those regulations will have to be evaluated to determine the implications for Montana. SEN. ERICKSON asked how much time would be given to promulgate rules on a state level. Mr. Everts said he did not know if any time would be given to states for that purpose but that the DEQ planned to encourage the EPA to give states time to implement rules.

07:43:02 SEN. ERICKSON asked Mr. Klemp to discuss his perspective on whether or not particular EPA rules would harm Montana, if Montana is not allowed to promulgate its own rules. Mr. Klemp said that the DEQ has asked the EPA for additional time to transition into regulation of greenhouse gas emissions. He said that indications have been given that the normal three-year time period to implement a new program may not be given to states but that no one knows, at this time, what exactly is going to happen. He said that the DEQ was trying to be proactive in the process and not adopt a threshold that was more restrictive than federal guidelines.

Public Comment

07:49:03 Steve Loken said that he was a member of the Climate Change Advisory Committee and that the group worked very hard on the recommendations. He said that the CCAC was very disappointed that only 7 of the over 100 recommendations were chosen to be moved forward. He asked that the ETIC look over the recommendations carefully because, if implemented, they would make a difference.

Written public comment was received from Janelle Rieger, Ismay, Montana, regarding her concerns about the TransCanada Bison Pipeline that will cross her property in Carter County (EXHIBIT #23).

Return to policy statement discussion - promoting alternation energy systems

- 07:50:22 Ms. Nowakowski read aloud the draft policy statements formulated by the ETIC so far: "*Montana encourages educational programs that prepare the work force for creating and obtaining jobs in an emerging renewable energy economy, to continue to promote continued long-term growth of large utility scale wind and small-scale distributed generation, and to promote additional hydropower expansions by classifying them as renewable under the 'Montana Renewable Power Production and Rural Economic Development Act, and provide incentives and loan programs to promote the development of biomass plants to generate heat for industrial use or electricity' "*.
- 07:51:32 SEN. JACKSON asked to add the third statement - "*search for new alternative energy projects to promote such as a hydrogen generator to improve vehicle mileage and reduce exhaust emissions*" - as an additional ETIC policy statement on alternative energy systems (page three, EXHIBIT #17). **SEN. JACKSON moved to adopt the statement as part of the ETIC's proposed statement on promotion of alternative energy systems.**
- 07:53:10 The ETIC discussed the language of the motion. It was agreed that the wording would be changed to "*to promote the advancement of new alternative energy technologies to improve vehicle mileage and reduce exhaust emissions*". **REP. JACKSON amended his motion to reflect the language changes.** Ms Nowakowski said that the state has a state transportation energy policy. She read the policy aloud to the ETIC and said that the members could also place their proposed language within that policy. **The motion passed on a unanimous voice vote.**
- 07:58:11 SEN. JACKSON referred to the top of page 2 of EXHIBIT #17, regarding his policy statement on increasing oil and gas exploration and development. He read the statement to the members and said that the proposed policy statement would stop the decline of Montana's declining production, provide natural gas for generating electricity, and help the nation wean itself off its dependence on Mid-East oil. The members discussed several proposed language changes. **SEN. JACKSON moved to approve the policy statement, "*to increase oil and gas exploration and development to reduce Montana's declining production, and most importantly, help get our nation off foreign oil*".** The motion passed on a 4-3 voice vote. **REP. DRISCOLL, SEN. LARSEN, and SEN. ERICKSON voted no.**
- 08:04:26 SEN. JACKSON referred to his draft policy statements - page 2, EXHIBIT #17, fourth policy statement - and asked the ETIC to consider nuclear power. **SEN. JACKSON moved to include consideration of building a nuclear power plant in Montana as an ETIC policy statement.** Mr. Everts reminded the ETIC that it would require a referendum to approve construction of a nuclear power plant in Montana. **After a brief discussion, the motion failed on a voice vote, with SEN. JACKSON voting yes.**

08:08:00 SEN. JACKSON referred to page 3 of his draft energy policy statements (EXHIBIT #17) and asked members to read the second policy statement regarding tax credits for renewable energy systems. **He moved to add that item to ETIC's policy statement list.** Several committee members discussed their opinions and concerns. **SEN. JACKSON withdrew his motion and said he would revisit the issue at a later meeting.**

Reducing regulations that increase taxpayer energy costs

08:16:07 After discussion, it was agreed by the ETIC that it would take no action at this time.

OTHER BUSINESS

08:18:31 Regarding the May meeting agenda, Ms. Nowakowski said she would provide a summary of this meeting's policy statement decisions very soon. She said the committee also would have a draft report of all policy decisions made to date and a list of potential bill drafts. Ms. Nowakowski said that other agenda items would include implementation of SB 498, an update from the Big Sky Carbon Sequestration project, and a discussion on hydropower. She asked for feedback or additional agenda items from the members.

08:28:01 Mr. Everts said that the ETIC would be in a better position to make policy decisions after the March budget status/training session.

08:28:49 SEN. BLACK said that he has heard a report that a natural gas generation facility is being built near Culbertson. Doug Hardy, Basin Electric, said that the plant is under construction and will serve a small number of customers on the east side of the Continental Divide.

ADJOURN

08:32:11 With no further business before the Committee, REP. DRISCOLL adjourned the meeting at 4:35 p.m. The Energy and Telecommunications Interim Committee's next meeting is scheduled for May 13, 2010, in Helena.

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