

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on March 11, 1991, at 10:00 a.m.

ROLL CALL

Members Present:

J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

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

Announcements/Discussion: None

HEARING ON HOUSE BILL 610

Presentation and Opening Statement by Sponsor:

Representative Dorothy Bradley, sponsor of the bill, stated that this is some revisions of a telecommunications bill that the committee dealt with six years ago. At that time we had the Montana telecommunications act, it was coming at a time where the country had gone through eight years building the whole document based on a monopoly kind of concept. One entity was providing a universal service, they were guaranteed all of the business, and the trade off was that it was a very carefully regulated monopoly. Competition began creeping in, and then we entered into a seven year litigation and an anti-trust suit in the late seventies. This began competition in the telecommunications industry. At that time, we came in with a bill, to try to move in this state as organized as possible, from a regulated monopoly to a competitive market. At the same time keep universal service cohesive affordable across the state of Montana. It was a challenge at that time, to try to deal with the fairness issue.

We had an entity, mountain bell had us west, which had the monopoly, and we are trying to come up with a scheme where when competition came in, they would eventually be allowed to compete when the competition reached a certain level. This wouldn't tie their hands so much that the competition could come in and sift off the cream of the business, and leave them with the bad business. At that time they talked about new concepts like detariffing and forbearance. Telecommunications is the fastest of all technology in the country. This is largely enabling and permissive. It gives regulatory choices to the public service commission.

Proponents' Testimony:

Jim Hayhurst, director of external affairs for US west communications for Montana, spoke in favor of the bill (See Exhibit 1).

Rex Manuel, representing himself, stated this bill gives the commission the authority to look at different ways to regulate companies, like US west, but it does not mandate any change. His experience as a regulator convinced him that the process and the personalities that the commission will ensure that no alternative regulatory program will be implemented unless the commission is fully convinced that the public interest is furthered by making a change. This bill is permissive legislation that will allow the PSC to adopt this plan, or a similar one. This bill offers statutory safeguards for the consumers and the industry as a whole.

Leo Berry, representing MCI telecommunications, stated that HB 610 as originally introduced would have caused some major problems for MCI. Since the bill has been substantially amended, MCI stands in strong support.

Cathy Brightwell, executive vice president of government affairs representing AT&T, spoke in favor of the bill (See Exhibit 4).

Gene Philips, representing northwestern telephone systems, stated that they feel that the fact that it is permissive and is not mandatory is a strong issue.

Tom Hopgood, representing GTE, stated that they support this bill for the reasons stated.

Ken Williams, representing entech, stated that they support this bill.

Joan Mandeville, representing Montana telephone association, stated that they worked with US west on this bill, both before its introduction, and through the process. Through that process, all of their problems and concerns with this bill were removed. They support it's passage.

Clark Spranget, the business manager of international brotherhood elect local 206 in Helena, spoke in favor of the bill (See Exhibit 5).

Bob Nelson, representing the consumer council, stated that this bill largely originated due to the sending proposal before the public service commission for alternative regulation. They support the concept of giving the commission the flexibility to

consider the proposal.

Ivan Evilsizer, staff attorney for the Montana public service commission, spoke in favor of the bill (See Exhibit 2).

Opponents' Testimony:

Commissioner John Driscoll, the elected official person designated to regulate utilities here in Montana from southwestern Montana, stated that the commission voted to support this piece of legislation by a three to two vote. The two commissioners that voted against this legislation was himself and commissioner Anderson. It is a very bad piece of legislation. Ask yourselves if you'd support this bill if it was written, instead of alternative regulation, an act to deregulate the basic telephone services in Montana. The only reason to vote in favor of a bill like this, is if you feel very strongly that somehow we need to do more to encourage competition, because competition in turn improves the quality of telecommunication. This bill will not get that accomplished. The commission already has been given by you plenty of authority to do just about anything that this bill asks to be done. This bill is a monopoly asking us to take away all of the protection that the consumer has against monopolies, and to leave the monopoly with some of the few shields that it has to protect itself from being sued for anti-trust.

Questions From Committee Members:

Senator Thayer stated that he was having trouble understanding why commissioner Driscoll is opposing this, because this bill gives the commission the authority to look at this alternative. It does not mandate that you have to do it. In his testimony he stated that essentially they have all of the pieces to do this anyway. This just clarifies that his commission does choose to rule in favor of the alternative form, it takes away the legal question that they have the authority, or they do not.

Commissioner Driscoll stated that it does appear that way, and under any other circumstance he wouldn't have the problem that he is having right now.

Senator Thayer asked that Jim Hayhurst respond to Mr. Driscoll's testimony.

Jim Hayhurst stated that the process was started four or five years ago. Serious discussions began in 1990 where US west proposed a revenue plan similar to the plan that is in affect today in Idaho. Their plan is before the commission, the commission has looked at it substantially. The bill is permissive, it gives the commission authority to approve their plan, but it certainly does not mandate to commission to approve their plan.

Senator Lynch asked that Representative Bradley respond to the statements made by commissioner Driscoll.

Representative Bradley submitted a written response (See Exhibit 3).

Questions From Committee Members:

Senator Thayer asked where was the amendment put on, the committee or the floor.

Representative Hansen stated the amendment was put in on the floor.

Senator Gage asked if anybody had talked with the Montana association of counties in regards to this bill.

Representative Hansen replied that she talked with her county, but not with the association.

Closing by Sponsor:

Representative Hansen closed by saying that she concurs with the amendments that were proposed. Senator Franklin will carry the bill.

HEARING ON HOUSE BILL 819Presentation and Opening Statement by Sponsor:

Representative Angela Russell, sponsor of the bill, stated that this bill promotes state tribal cooperation in economic development. It provides for an indian representative on the tourism advisory council. The house committee did make some amendments. Tourism is a growth industry in Montana, and it promotes revenue.

Proponents' Testimony:

None

Opponents' Testimony:

None

Questions From Committee Members:

Senator Gage stated that on page four, line twenty two of the bill, it states "and enhancement of economic opportunities FOR TOURISM", he would personally like that taken out of the bill. These cooperative agreements should look at a lot more than just tourism.

Representative Russell stated that was her original intent. The committee thought that it was so broad, and that is why they put the "for tourism" part in it.

Senator Franklin asked if Representative Russell would be open to amending "for tourism" and replacing it with "in areas such as tourism".

Representative Russell replied that she would be open to that.

Closing by Sponsor:

Representative Russell closed by saying that if Senator Gage and Senator Franklin would like to make those amendments, that would be fine. It is really important to keep indian people involved in the tourism aspect.

HEARING ON HOUSE BILL 854Presentation and Opening Statement by Sponsor:

Representative Mike Foster, sponsor of the bill, stated a new and unique, private sector approach to long term health care. For example, if he was wanting to buy a policy that would allow him to have some aspects of life insurance and health insurance for the purpose of addressing long term health care. He would make his monthly premium payments, just like any life insurance policy. When he passes away, the remaining dollars would go to his heirs. This is just a new approach, and it has some promise.

Proponents' Testimony:

Tom Hopgood, representing the health insurance association of America, stated that this bill allows somebody to buy a policy. The death benefits would be excellerated when the person needs the benefits to pay for the long term care that they are receiving. If they don't receive the long term care, then the benefits are not excellerated, and they can pay off in the event of the person's death.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Kennedy asked if this type of policy can be sold now.

Tom Hopgood stated that this policy is being sold now. This would provide a step a statutory framework for the agents and the companies to work in. It expands the definition of what life insurance is, to expressly include these types of benefits.

Closing by Sponsor:

Representative Foster closed by saying that if you look at medicade and what is happening there, the projections that the costs are going to skyrocket. This will be a real nice approach. This bill is based on model legislation. It has been done across

the nation.

EXECUTIVE ACTION ON HOUSE BILL 854

Motion:

Senator Thayer moved that HB 854 be concurred in.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion made that HB 854 be concurred in passed unanimously. Senator Hager will carry this bill to the floor.

HEARING ON HOUSE BILL 863

Presentation and Opening Statement by Sponsor:

Representative Dave Brown, sponsor of the bill, stated that this bill is known as the small business investment capital company act. This bill is a win win situation. It takes the problem with current law on programs, makes some changes to those programs, and deals with the real economic development need in Montana. That is available capital. This bill is about economic development capital (See Exhibit 9).

Proponents' Testimony:

Evan Barrett, executive director of the Butte local development corporation and the administrator of the southwest Montana development corporation, proposed some amendments to the bill (See Exhibit 10).

Senator Tveit, stated that he supports the bill with some proposed amendments (See Exhibit 11).

Dave Lewis, executive director of the state board of investments, stated that the board supports the bill as it was originally submitted. It took all of the remaining tax credits as of January 1, 1991, and set them aside for allocation to a small business and investment company that would be selected by the board. There was an amendment that was added in the house committee on page eighteen, section C. It states that the board may allocate any additional reverted tax credits to a qualified capital company.

Robyn Young, deputy insurance commissioner representing the state auditor, stated that they support HB 863, because it closes the door on the problems they had with the Montana small capitol company act. It makes more money available. They have a problem with the language in the amendment on page eighteen subsection C, lines eight through sixteen. They do not think that they are necessary, and prefer that this section be deleted.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Thayer asked how will we determine where SBIC will be. Who is going to make that determination.

Dave Lewis replied that this bill does say that the board of investments will make the selection. They will have to advertise for applicants.

Evan Barrett stated that they have been working with the high planes development authority in Great Falls, Montana.

Senator Gage asked if under this bill, they would have to allocate credits.

Dave Lewis replied that under this bill, we would feel that the legislature had given them the direction that they sought. They would allocate the credits to the SBIC.

Senator Lynch stated that he is a real opponent to something that is on passage of approval, but the October 1 date would hinder their ability to start moving.

Representative Brown stated that was correct.

Closing by Sponsor:

Representative Brown closed by saying that on page eighteen, subsection C this section was added to allow that if any capitol credits are reverted back to the board of investments, they can add to this total to further expand their ability to grant loans. Senator Mazurek has agreed to carry this bill on the floor.

EXECUTIVE ACTION ON HOUSE BILL 819

Motion:

Senator Franklin moved to amend HB 819 by striking "for tourism" from page four, line twenty two, and replacing it with "including and not limited to tourism".

Senator Franklin moved to amend HB 819 by striking "for tourism" from page four, line twenty two.

Senator Franklin moved that HB 819 be concurred in.

Discussion:

None

Amendments, Discussion, and Votes:

Senator Lynch suggested that the committee just strike "for tourism" so that the bill will read much cleaner.

The motion to amend HB 819 by striking "for tourism" passed unanimously.

Recommendation and Vote:

The motion made that HB 819 be concurred in passed unanimously with amendments.

Senator Franklin will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 782

Motion:

Senator Noble moved that HB 782 be amended.

Senator Noble moved that HB 782 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:


None

Recommendation and Vote:


The motion that HB 782 be concurred in as amended passed unanimously.

ADJOURNMENT

Adjournment At: 12:20 a.m.



J.D. LYNCH, Chairman



DARA ANDERSON, Secretary

JDL/dia

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

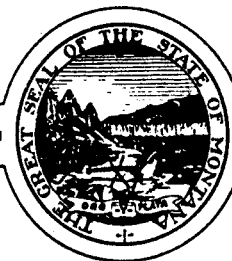
DATE 3/11/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	X		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES



STAN STEPHENS, GOVERNOR

FAX #(406) 444-1499

STATE OF MONTANA

OFFICE 836 Front Street
LOCATION: Helena, Montana

MAILING Cogswell Building
ADDRESS: Helena, MT 59620

Solid & Hazardous Waste Bureau
Telephone: (406) 444-1430

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 6

DATE 3/11/91

BILL NO. HB 782

March 11, 1991

DHES TESTIMONY ON HOUSE BILL 782
AN ACT TO CLARIFY THE REQUIREMENTS CONTAINED IN THE
MONTANA MOTOR VEHICLE RECYCLING AND DISPOSAL ACT.

The Department of Health and Environmental Sciences has proposed the legislation contained in H.B. 782 to provide clarification and guidance to the provisions of the Montana Motor Vehicle Recycling and Disposal Act. By making these changes it will help counties to understand their responsibilities in the program and allow for more uniform enforcement of the laws and rules across the state.

In Section 1 of the Bill a change is being made to add a definition of "component part" and provide for the consistent use of the term in the Act. This term has been used in the definition of a junk vehicle in the Act since it first began, but there has been no uniform explanation of the meaning of "component part" itself. The inclusion of this definition will provide all program personnel at the state and county level along with motor vehicle wrecking facility owners with a precise understanding of the term and eliminate misunderstanding when this term is used in communications concerning the requirements of the Act.

In Section 2 of the legislation is an amendment to 75-10-503 (2), MCA, which was added to the Motor Vehicle Recycling and Disposal Act during the previous legislative session to provide for the sale of individual junk vehicles from county motor vehicle graveyards. The department's efforts to promulgate the required rules for this section have been unsuccessful. Without clarification of this section, the rules implementing the statute can not be properly written without conflicting with other laws and the purpose of the program itself. By providing the proposed clarification to this section, it will allow the department to proceed with the sale of junk vehicles from county graveyards in a way that will benefit private industry while the program can continue its efforts to keep unsightly junk vehicles



Office of the Legislative Auditor

State of Montana

SENATE BUSINESS & INDUSTRY

EXHIBIT NO.

6A

Report to the Legislature

DATE

3/11/91

June 1990

Performance Audit Report

BILL NO.

HB 785

Motor Vehicle Recycling and Disposal Program

Department of Health and Environmental Sciences

This report contains recommendations for improvements to program operations. The recommendations address:

- ▶ Program enforcement activity.
- ▶ Clarification of state and county level responsibilities.

Direct comments/inquiries to:
Office of the Legislative Auditor
Room 135, State Capitol
Helena, Montana 59620

89P-28

TESTIMONY ON HB 782

MR. CHAIRMAN AND COMMITTEE MEMBERS, MY NAME IS PETE FRAZIER, ENVIRONMENTAL HEALTH DIRECTOR WITH THE CITY-COUNTY HEALTH DEPARTMENT IN CASCADE COUNTY. IN ADDITION, I HAVE SERVED AS THE CASCADE COUNTY JUNK VEHICLE PROGRAM DIRECTOR SINCE THE PASSAGE OF THE STATE MOTOR VEHICLE RECYCLING AND DISPOSAL LAW IN THE 1973 LEGISLATIVE SESSION.

WE SUPPORT HB 782 IN ALL AREAS EXCEPT FOR ONE SHORT WORD ON PAGE 7, LINE 23. THIS IS THE WORD "TWO". THIS BILL WAS AMENDED IN THE HOUSE DURING FLOOR DEBATE AND, IN ITS CURRENT FORM, WOULD ALLOW INDIVIDUALS AND BUSINESSES TO POSSESS ONE JUNK VEHICLE UNSHIELDED. SECTION 75-10-503 (1)(b) STATES THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES SHALL ADOPT RULES FOR THE CONTROL OF JUNK VEHICLES IN LOCATIONS OTHER THAN MOTOR VEHICLE WRECKING FACILITIES AND GRAVEYARDS. SUBSECTION 1(f) FURTHER STATES THAT THE DEPARTMENT SHALL ADOPT RULES FOR THE SHIELDING OF A JUNK VEHICLE AND MOTOR VEHICLE WRECKING FACILITIES AND GRAVEYARDS FROM PUBLIC VIEW. THE DEPARTMENT ADOPTED ADMINISTRATIVE RULE 16.14.206 FOR THE CONTROL OF JUNK VEHICLES, WHICH STATES:

"1) ONE TO THREE VEHICLES AT ONE LOCATION WILL BE HANDLED AS FOLLOWS:

- A) THE JUNK VEHICLE MAY BE DEPOSITED WITH THE FREE MOTOR VEHICLE GRAVEYARD, OR,
- B) IF LEFT ON THE PREMISES, THE JUNK VEHICLE IS TO BE SHIELDED FROM PUBLIC VIEW."

IT IS OBVIOUS FROM THE STATUTE AND RULE THAT THE LEGISLATURE INTENDED THAT ALL JUNK VEHICLES SHOULD COME UNDER THE LAW. IT IS ALSO OBVIOUS THAT IF PEOPLE WISH TO HAVE ONE JUNK VEHICLE ON THEIR PROPERTY, THEY MAY DO SO, AS LONG AS IT IS SHIELDED FROM PUBLIC VIEW SO YOU AND I DON'T HAVE TO LOOK AT IT.

IT IS TRUE THAT JUNK VEHICLES ARE NOT A MAJOR PUBLIC HEALTH PROBLEM, BUT THEY CERTAINLY ARE A CONTRIBUTOR TO ENVIRONMENTAL DEGRADATION IN OUR STATE. THEY ARE AN ESTHETICAL NUISANCE TO THE CITIZENS OF OUR STATE AS WELL AS THOUSANDS OF TOURISTS WHO VISIT OUR STATE EACH YEAR. IN ADDITION, THEY CREATE HARBORAGES FOR VECTORS AND RODENTS, SAFETY HAZARDS TO CHILDREN, AND ADD TO POTENTIAL SOIL AND WATER POLLUTION THROUGH LEAKING GAS TANKS AND OIL LEAKAGE.

HAVING BEEN DIRECTLY INVOLVED IN THIS PROGRAM SINCE ITS' INCEPTION 18 YEARS AGO, I CAN HONESTLY SAY THAT OVER 90% OF COMPLAINTS I RECEIVE HAVE TO DO WITH PROPERTY CONTAINING ONE OR TWO JUNK VEHICLES. OVER THE YEARS, CONSIDERABLE PROGRESS HAS BEEN MADE STATEWIDE IN CLEANING UP OR SHIELDING JUNK VEHICLES, YET IT IS A CONSTANT BATTLE. BY ALLOWING THE AMENDMENT TO STAND, ALL THE WORK OF MANY PEOPLE STATEWIDE OVER MANY YEARS WILL BE LOST, AND MONTANA WILL RETURN TO THE EARLY DAYS. I HAVE HAD RELATIVES AND FRIENDS FROM OUT OF STATE, WHEN THEY LEARN I AM INVOLVED IN A JUNK VEHICLE PROGRAM, EXPRESS A DESIRE FOR A SIMILAR PROGRAM, AND EXPRESS THEIR PLEASURE WITH HOW CLEAN MONTANA IS, COMPARED TO THEIR STATE, WITH REGARD TO JUNK VEHICLES. MONTANA HAS BEEN A LEADER IN THE COUNTRY IN JUNK VEHICLE CLEAN UP AND, IN FACT, THE STATE PROGRAM JUST RECEIVED A NATIONAL AWARD FOR AN INNOVATIVE AND EFFECTIVE PROGRAM FROM THE COUNCIL OF STATE GOVERNMENTS IN DECEMBER OF 1990. HOWEVER, IF THIS BILL IS PASSED AS IT WAS AMENDED, THIS AWARD WILL HAVE LITTLE MEANING. THEREFORE, I URGE YOU TO RETURN THE WORDING ON PAGE 7, LINE 23 TO ITS ORIGINAL FORM BY DELETING THE WORD "TWO" AND REPLACING IT WITH "ONE".

THANK YOU.

Amendment to House Bill No. 782
Section 4

1. Page 6, line 11.
Strike: "--"
2. Page 6, line 12.
Strike: "junk vehicle sale revenues as offset."
3. Page 6, line 19 through line 22.
Strike: "Net revenues realized by a county through its sale of junk vehicles must be treated as an offset to the approved junk vehicle collection and graveyard budget of the county."

Insert: "Counties realizing revenues from the sale of junk vehicles must return to the state junk vehicle program revenue account money equal to the salvage value of each vehicle sold. The salvage value of a vehicle shall be the average contract value of a crushed ton of junk vehicle as determined by the statewide salvage bids received by the department during the current fiscal year. Any additional revenue realized from the sale of junk vehicles may be retained by the county for use in the county's junk vehicle program in addition to the approved junk vehicle collection and graveyard budget of the county."

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 11 day of March, 1991.

Name: Pete Frazier

Address: 3305 17 Ave S - GT Falls, MT

Telephone Number: 761-3808 (H) 761-1190 (H)

Representing whom?

City- CO Health

Appearing on which proposal?

HB 782

Do you: Support? Amend? X Oppose?

Comments:

Written comments submitted.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/11/91 Bill No. HB854 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	✓	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion:

J. Hager
BE CONCURRED IN.

S. HAGER To Carry

HB 863

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 9DATE 3/11/91BILL NO. HB 863

**CREATING ECONOMIC DEVELOPMENT CAPITAL THROUGH A STATE-WIDE
SMALL BUSINESS INVESTMENT CAPITAL COMPANY
(SBICC)**

- **CREATES THE SBICC (BOARD OF INVESTMENTS DESIGNATION)**
 - **ALLOCATES REMAINING CAPITAL COMPANY TAX CREDITS TO THE SBICC**
 - **REQUIRES SBICC TO BECOME FEDERAL SMALL BUSINESS INVESTMENT CORPORATION (UNDER U.S. SBA)**
 - **CAN RESULT IN A 3-1 LEVERAGING OF FEDERAL SBA DOLLARS**
 - **CAN RESULT IN ANOTHER 2-1 LEVERAGING OF BOARD OF INVESTMENTS LOAN PROGRAM DOLLARS**
 - **TARGETS MONTANA SMALL BUSINESS INVESTMENTS (PRIMARILY LOANS) IN ALL 56 MONTANA COUNTIES**
 - **FEDERAL S.B.A. DESIGNATION TRIGGERS FEDERAL REGULATIONS PRECLUDING "SELF-DEALING" ABUSES OF SOME EXISTING MONTANA CAPITAL COMPANIES**
-

THE BOTTOM LINE:

**ALLOCATION OF REMAINING CAPITAL COMPANY TAX CREDITS
TO SBICC CAN PRODUCE**

\$48 MILLION

IN MONTANA SMALL BUSINESS LOANS

AMENDMENTS TO HB 863

On page 16, line 14
Strike: "CERTIFIED"
Insert: "qualified"

On page 16, line 15
Strike: "a"
Insert: "the certified Montana small business investment
capital"

On page 16, line 15
Strike: "that"
Insert: "once it"

ADDITIONAL AMENDMENT TO HB 863

On page 19, line 10
Following: "the"
Insert: "qualified"

On page 19, line 12
Insert: "and the tax credit limitation relating to a capital
investment in the qualified Montana small business investment
capital company shall be in addition to any other tax credit
limitation in [this section]"

AMENDMENTS TO HB 863

Third Reading Copy

Requested by Sen. Tveit

For the Committee on Business and Industry

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 11

DATE 3/11/91

PULL NO. HB863

1. Page 16, lines 3 and 4.

Following: "ENSURE THAT"

Strike: "UP TO"

INSERT: "not less than"

COMMITTEE ON

DATE

5/11/91

BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
GENE PHILLIPS	NORTHWESTERN TELEPHONE SYSTEMS	HB610	✓	
Tom Sweeney	PSC	" "		
Joe Holliman	PSC	" "		
PEX MANUEL	SELF	HB610	✓	
Jim Hayhurst	USWEST COMMUNICATIONS	HB610	✓	
Mike Foster	Rep., House Distr. #32	HB854	✓	
Ivan Evilsizer	PSC	HB610	✓	
Cathy Brightwell	ATTN	HB610	✓	
Bob Nelson	Consumer Counsel	HB610	✓	
DUCK BOLES	MT. CHAMBER	HB 863	X	
ete Frazier	CITY - CO HEALTH GT Falls	782	amend ✓	
Ken Williams	Entech	HB-610	✓	
Jon Dilliard	Dept. of Health	HB782	✓	
Duane Robertson	Dept of Health	HB782	✓	
TOM HOPGOOD	GTE	HB610	✓	
Tom Hopgood	Health Ins. Assoc. America	HB854	✓	
Clark N. Sprangert	IBEW Local 206	HB610	✓	
JOAN MANDEVILLE	MONT. TEL. ASSOC.	HB610	✓	
Bill LEARY	MONT. BANKERS ASSOC.	HB863	✓	
Tom Eberhart	US WEST	HB610	✓	
Dora Lewis	RO Investment	HB863	✓	
EVAN BARRETT	BUTELOCAL DEV. CORP.	HB863	✓	
Robyn Young	State Auditor/Securities Dept	HB863	✓	
Henry E. Lohr	Hank's Salvage & Recycling	HB782	X	

(Please leave prepared statement with Secretary)

Amendments to House Bill No. 782
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell
March 11, 1991

1. Page 6, lines 13 and 14.

Strike: "--" on line 13 through "offset" on line 14

2. Page 6, lines 21 through 24.

Strike: "Net" on line 21 through "county" on line 24

Insert: "Counties realizing revenue from the sale of junk vehicles shall return to the state junk vehicle program revenue account money equal to the salvage value of each vehicle sold. The salvage value of a vehicle must be the average contract value of a crushed ton of junk vehicles as determined by the statewide salvage bids received by the department during the current fiscal year. Any additional revenue realized from the sale of junk vehicles may be retained by the county for use in the county's junk vehicle program in addition to the approved junk vehicle collection and graveyard budget of the county"

Amendments to House Bill No. 819
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell
March 11, 1991

1. Page 4, line 22.
Strike: "FOR TOURISM"

Amendments to House Bill No. 782
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell
March 11, 1991

1. Page 6, lines 13 and 14.

Strike: "--" on line 13 through "offset" on line 14

2. Page 6, lines 21 through 24.

Strike: "Net" on line 21 through "county" on line 24

Insert: "Counties realizing revenue from the sale of junk vehicles shall return to the state junk vehicle program revenue account money equal to the salvage value of each vehicle sold. The salvage value of a vehicle must be the average contract value of a crushed ton of junk vehicles as determined by the statewide salvage bids received by the department during the current fiscal year. Any additional revenue realized from the sale of junk vehicles may be retained by the county for use in the county's junk vehicle program in addition to the approved junk vehicle collection and graveyard budget of the county"

3. Page 7, line 23.

Strike: "TWO"

Insert: "one"

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/11/91 Bill No. HB 819 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR THAYER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR NOBLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR HAGER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR GAGE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR FRANKLIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR BRUSKI	<input type="checkbox"/>	<input type="checkbox"/>
SENATOR KENNEDY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SENATOR LYNCH	<input checked="" type="checkbox"/>	<input type="checkbox"/>

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion:

FRANKLIN
STRIKE 'FOR TOURISM' Pg 22

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/11/91 Bill No. HB 819 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI		
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

FRANKLIN
Motion:

BE CONCURRED IN AS AMENDED

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/11/91 Bill No. HB 782 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	✓	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	✓	
SENATOR BRUSKI		
SENATOR KENNEDY	✓	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: TWO BACK TO ONE - AMENDMENTS

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/11/91 Bill No. HB782 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI		
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: BE CONCURRED IN

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 11, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 782 (third reading copy as amended - blue), respectfully report that House Bill No. 782 be amended and as so amended be concurred in:

1. Page 6, lines 13 and 14.

Strike: "--" on line 13 through "offset" on line 14

2. Page 6, lines 21 through 24.

Strike: "Net" on line 21 through "county" on line 24

Insert: "Counties realizing revenue from the sale of junk vehicles shall return to the state junk vehicle program revenue account money equal to the salvage value of each vehicle sold. The salvage value of a vehicle must be the average contract value of a crushed ton of junk vehicles as determined by the statewide salvage bids received by the department during the current fiscal year. Any additional revenue realized from the sale of junk vehicles may be retained by the county for use in the county's junk vehicle program in addition to the approved junk vehicle collection and graveyard budget of the county"

3. Page 7, line 23.

Strike: "TWO"

Insert: "one"

Signed: _____

John "J.D." Lynch, Chairman

3-11-91
Ad. Coord.

Sec. of Senate

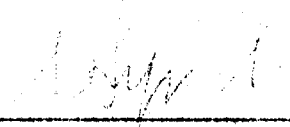
521350SC.S

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 11, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 854 (third reading copy -- blue), respectfully report that House Bill No. 854 be concurred in.

Signed: 
John "J.D." Lynch, Chairman

APR 3-71-91
Amd. Coord.

SB 2-11-91 2:20
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 11, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 819 (third reading copy -- blue), respectfully report that House Bill No. 819 be amended and as so amended be concurred in:

1. Page 4, line 22.
Strike: "FOR TOURISM"

Signed: 
John "J.D." Lynch, Chairman

191 3-11-91
Ad. Coord.

SP 3-11-91 2:20
Sec. of Senate

Testimony of:

James B. Hayhurst, U S WEST Communications

In support of House Bill 610

Before the Senate Business and Industry Committee

March 11, 1991

Mr. Chairman and members of the Committee, my name is Jim Hayhurst and I am Director of External Affairs for U S WEST Communications for Montana. I live in Helena. I am appearing today on behalf of U S WEST in support of HB 610.

I will provide a copy of my testimony, a glossary that may be useful in defining certain terms and concepts we'll discuss this morning and a couple of newspaper clippings about our plan.

As Representative Bradley has stated, the Montana Telecommunications Act of 1985 was the first step to enable telecommunications providers, and in turn, our customers, to take advantage of the increasingly rapid changes occurring in our industry, particularly since the divestiture of AT&T in 1984.

Now, six years later, even more changes and developments have occurred, and the bill before you attempts to provide regulators the flexibility necessary to address the evolving nature of our industry. Similar provisions have been adopted in 30 states and several more are considering these kinds of changes.

Section 2 (pages 3-5) covers the key focus of this bill -- Alternative Forms of Regulation. What this means simply is the ability of the Public Service Commission to consider alternatives to traditional rate of return regulation, which was developed early in this century for firms operating in the utility industries.

Under traditional rate of return regulation, U S WEST is entitled to recover its costs and to earn a just and reasonable return or profit on its investment in Montana. The primary vehicle for this process is the rate case. This regulatory method is time consuming, fails to promote operational efficiency and simply was not designed to address the rapid changes occurring in the industry - particularly new and competitive services. A very real result is that useful services are not available to customers as quickly as they might be.

The need for legislation similar to HB 610 became very apparent last year when we proposed a Montana Network Improvement and Rate Stability Plan with the Public Service Commission. This proposal, which seeks an Alternative Form of Regulation, included the following provisions:

Rates for basic residence and business exchange services would be frozen for five years.

An earnings range is established. If U S WEST earns above the authorized range, Montana customers and the company would share earnings equally. To determine sharing, an annual financial review process will replace costly and contentious rate cases. With Basic Service rates frozen, improved earnings would come from reduced costs, new services and better marketing of existing services.

With approval of this plan, U S WEST will invest more than \$90 million over the next five years to upgrade older switching offices in 113 smaller towns to new digital technology.

The program would upgrade long distance lines in the state to digital facilities, including fiber optics. This project would ensure that by 1995 all Montana residents would benefit from the availability of a modern telecommunications infrastructure, an infrastructure that is necessary to both business operations and consumer activities.

The plan before the Commission will protect basic service customers through the five-year price freeze. It can help deliver new and useful products through the Network Improvement program and the improved flexibility to introduce and market services. And it ensures -- through the profit sharing provisions -- that if the company can increase efficiency and market more effectively, customers will benefit directly from that improved performance.

The PSC legal staff has, however, questioned whether existing statutes empower the Commission to approve such a plan. This bill will remove all doubts.

The bill before you is a result of an intense negotiating effort by U S WEST Communications and other parties who have an interest in telecommunications. A great deal of work has occurred in the last few months to involve interested parties and to incorporate their ideas into this bill.

That work continued even beyond the introduction of the bill and this bill includes a number of amendments offered jointly by involved parties and adopted in House action on the bill. That action included a unanimous "do-pass" recommendation by the House Judiciary Committee and a 96-4 vote on the House floor.

I won't review every provision of the bill, but I will cover some key points.

Section 1 (pages 2-3) simply expands the purpose clause of the 1985 Act to remove any question that the PSC can approve alternate regulation for providers of regulated services.

Section 2 (pages 3-5) is a new section spelling out the PSC's powers regarding alternative regulation, and the procedures by which these plans are to be considered.

Alternatives may include some form of price caps, or the sharing of revenues or profits between customers and the company.

The PSC has nine months to consider a petition by a provider. It can approve the original or a modified plan if it meets certain standards, including a finding that fair, just and reasonable rates will result. If either the petitioner or the Montana Consumer Counsel object to the new plan, there would be no change in regulation.

Section 3 (pages 5-8) is amended to allow for more flexible pricing of some regulated services. Under the 1985 Act, detariffing -- or flexible pricing -- could be approved only after a service-by-service demonstration that competition exists. This demonstration can be complicated and it can lead to considerable debate about how much competition exists and how much is enough to satisfy the language of the 1985 Act.

The amendment will allow the PSC to detariff services if it finds this action consistent with the Act's purposes and the public interest. Rates could be changed with routine notice to the Commission. Services that would be considered for detariffing will be competitive, discretionary or ancillary to primary telephone use. For any detariffed, non-competitive services, the Commission will establish both maximum and minimum prices. The Commission retains complaint oversight for these services.

Also, Subsection 5 of this section (pages 7-8) adds language that independent companies wanted with regard to averaging of toll rates. This language requires long distance providers to charge the same rates for the same distance call, regardless of where the call originates. In other words, a 90-mile call from Great Falls to Helena would cost the same as a 90-mile call from Wyola to Forsyth.

Amendments to Section 4 (pages 8-10) address the "forbearance" provision of the 1985 Act. Forbearance is a customer-by-customer approach to detariffing. If a regulated company finds that one of its customers is considering a switch to another carrier, it can ask the PSC to permit the offering of a non-tariff price in an effort to compete for the customer's continued business. The forbearance procedure has been used most frequently with large businesses that make many long distance calls.

The amendment says that if a regulated provider shows that a customer has asked for prices from firms that have tariffs or price lists for similar services on file with the PSC, the Commission may treat the situation as competitive and permit the applicant to offer a detariffed price.

Section 5 (pages 11-12) is a new section dealing with new services and withdrawal of services. A provider will give appropriate notice of its intent to offer a service. The Commission, considering certain requirements, may require a hearing, or choose to do nothing, giving the provider the green light to begin offering the service. New services can be offered on a detariffed basis and must be priced above relevant costs.

For the first time, procedures are written into the law for the withdrawal of services. Thirty days notice is given to the PSC that a service will be terminated, and the Commission has the option of requiring a hearing.

In Section 6 (pages 12-14), the "filed rate statute" which requires that utilities charge the rates on file with the PSC, is amended. The new provision expressly permits rebates in conjunction with revenue or profit sharing plans. Additionally, providers are permitted to offer, for a limited period, rebates in conjunction with promotions and market trials. Commission approval is required on promotional pricing of fully tariffed services. Also, the PSC is permitted to consider complaints and to formulate rules to define the scope of promotional campaigns.

Section 7 (page 14-15) is a new section which requires that prices for regulated telecommunications services must cover relevant costs unless otherwise ordered by the Commission and it gives the Commission authority to consider complaints that services prices do not cover relevant costs.

As I said earlier, the bill before you includes the varied views of parties who have an interest in telecommunications.

I will not suggest that this bill precisely satisfies the interests of everyone involved. But all our efforts have been done in good faith and good compromise. The result, we believe, is an excellent bill which will clarify the Public Service Commission's authority to deal with the rapidly changing telecommunications industry.

This is a permissive bill. But it allows the Commission to adopt regulatory changes that can benefit Montanans through the 90s and beyond. We ask for your support.

HOUSE BILL 610 - GLOSSARY

Carrier Access Services:

Carrier Access is provided by a Local Exchange Company when it provides for long-distance companies to reach local customers through its local telecommunications network. Basically, switched access provides a transmission path between a customer and a long-distance company so the customer can initiate a long-distance call or a long-distance company can complete a call to the customer.

Deaverage:

This is a pricing structure for long-distance services in which the price of a call which travels the same distance is priced differently because of such variables as the availability of other services and the cost. For example, calls placed over high-volume, low-cost routes could be priced less than calls placed over low-volume, high-cost routes.

Detariff:

A regulatory action which permits a specific service to be offered at prices which are not specified in a rate schedule (tariff) filed with and approved by the Public Service Commission. The prices charged to customers for these detariffed services are on file with the PSC as "price lists." The service remains under the jurisdiction of the PSC and the revenue received are included in the PSC's review of the provider's earnings.

Forbearance of Regulation:

A procedure by which a provider of a regulated service may request permission to respond to a competitive situation with a price other than the tariffed rate.

Message Telecommunications Service:

The industry term for long-distance service.

Tariff:

A schedule of specific rates to be charged by a regulated provider for a particular service. All regulated telecommunications services are offered to the public at tariffed rates and any changes must be approved by the PSC.

Universal Service:

A long standing public policy and service goal of both the telephone industry and regulatory agencies to make basic telephone service available to the greatest number of people possible at affordable prices.

☒ NEWSPAPER ☐ TV
☐ RADIO ☐ OTHER

ORIGINATED BY ☐ PR
☐ MGR. ☐ NEWS

CITY <i>Great Falls</i>	NAME OF NEWSPAPER, RADIO/TV STATION OR OTHER MEDIA <i>Great Falls Tribune</i>	
DISTRICT	PAGE OR TIME <i>page 3 - C</i>	DATE APPEARED <i>June 14, 1990</i>
STATE <i>Montana</i>	STORY THEME (Check Only One)	
<input type="checkbox"/> POSITIVE <input type="checkbox"/> NEUTRAL <input type="checkbox"/> NEGATIVE	<input type="checkbox"/> CONSUMER <input type="checkbox"/> TECHNOLOGY <input type="checkbox"/> OTHER _____ <small>(I.E. FINANCIAL, LABOR, PERSONNEL, CITIZENSHIP, ETC.)</small>	<input type="checkbox"/> MARKETING <input type="checkbox"/> LEGISLATION <input type="checkbox"/> SERVICE <input type="checkbox"/> RATES
CO. POSITION INCLUDED? YES _____ NO _____		

Phone firm files for 5-year rate freeze

HELENA (AP) — U S West Communications Wednesday filed a request with the state Public Service Commission to freeze basic service rates for five years and to spend nearly \$80 million on new digital switching offices and long-distance facilities in 112 of Montana's smaller communities.

What Montana Vice President George Ruff called a "new regulatory approach" would give the utility an 11 percent to 12.5 percent rate of return. If the company earned more than 12.5 percent, profits would be shared 50-50 with customers.

Ruff said in the PSC filing that the plan, which could begin in 1991, "includes a rate freeze for residence and business access services such as basic local service.

"We believe the ability to keep rates stable and to offer new and useful services will be of real benefit to our customers," he said.

The earnings range would be reviewed in 1993, and the company could file for higher rates if earnings fell below the range for a year.

Ruff said the plan included three limited exceptions to the freeze. But he added that the company does not expect "frozen" rates to change

through most of the plan's five-year life.

He said that "if we manage our business effectively, the plan allows us to earn more than we might have under traditional regulation."

Exceptions to the rate increase, with PSC approval, would be PSC-approved depreciation changes, accounting changes for benefits paid to U S West retirees and other PSC actions that would affect the company financially.

Now that U S West has upgraded equipment in the state's larger cities, "we believe we have a plan that will allow us to finance the investment needed to bring this digital technology — and the service it provides — to customers in the rest of the state," Ruff said.

The largest community to get upgraded facilities would be Havre, and the smallest would have about 100 customers, said U S West spokesman Russ Cravens.

"A myriad of options in telecommunications are not available to the smaller communities, such as call forwarding and three-way calls," Cravens said.

If the plan is approved by the PSC, the company would begin a five-year construction program to install

112 state-of-the-art digital switching offices in the smaller communities, the filing said. In addition, the company would complete a totally digital long-distance network to improve service to all Montana communities.

"We're excited about the potential to upgrade our customers' service through this accelerated improvement plan," Ruff said. "Government leaders, economic development officials and customers are increasingly convinced that a modern telecommunications network is important to business growth and new jobs in Montana."

Ruff said that regulatory commissions around the country are implementing similar regulatory approaches. He said more than half the states and the Federal Communications Commission have adopted new forms of regulation.

Cravens was asked if, after five years, the company would file for a big rate increase because the construction program would have increased the basis for its rate base.

Cravens said that, because of depreciation of older equipment, "I don't see that we're looking at any balloon rate hike at the end of five years."

REMARKS:

☒ NEWSPAPER ☐ TV
☐ RADIO ☐ OTHER

ORIGINATED BY ☐ PR
☐ MGR. ☒ NEWS

CITY <i>Butte</i>	NAME OF NEWSPAPER, RADIO/TV STATION OR OTHER MEDIA <i>The Montana Standard</i>	
DISTRICT	PAGE OR TIME <i>p8 7</i>	DATE APPEARED <i>Dec 5</i>
STATE <i>Montana</i>	STORY THEME (Check Only One)	
<input type="checkbox"/> POSITIVE <input type="checkbox"/> NEUTRAL <input type="checkbox"/> NEGATIVE	<input type="checkbox"/> CONSUMER <input type="checkbox"/> TECHNOLOGY <input type="checkbox"/> OTHER	<input type="checkbox"/> MARKETING <input type="checkbox"/> LEGISLATION <input type="checkbox"/> SERVICE <input type="checkbox"/> RATES
CO. POSITION INCLUDED? YES ___ NO ___ (I.E. FINANCIAL, LABOR, PERSONNEL, CITIZENSHIP, ETC.)		

US West seeks rural improvements, rate freeze

By Kevin McRae
Standard State Bureau

HELENA — US West Communications intends to ask the 1991 Legislature to change state law to allow the company to boost profits and improve rural phone services, while freezing basic service rates for five years.

The company's proposal has not yet been approved by the state Public Service Commission, which is considering whether state utility regulators have legal authority to approve US West's requests.

Regardless of the PSC's actions, the company is drafting a bill proposing to change regulation laws in a way that would increase profits and allow \$80 million worth of phone improvements during the basic rate-freeze period, US West spokesman Russ Cravens said Tuesday.

Meanwhile, a PSC attorney told commissioners in a meeting Tuesday that he doubted US West's entire request could be granted under current laws the commission must follow.

Despite their apparent disagreement, Cravens and PSC attorney

Chuck Evilsizer said in separate interviews that they hope US West and the state agency can cooperate to reach a settlement soon.

US West filed its original request in June, proposing to freeze basic phone service rates for five years and to spend about \$80 million on new digital switching offices and long-distance equipment in 112 of Montana's smaller towns.

The request also proposed a new regulatory system that would give the company an allowable rate of return ranging from 11 percent to 12.5 percent. Under the earning-sharing plan, if US West earned

more than 12.5 percent, the profits would be shared 50-50 with customers.

US West intends to file a second request later this month, which will resemble the June proposal but will include more cost studies and financial information, Cravens said.

Evilsizer questioned the PSC's legal authority to grant the request, citing laws against "retroactive rate making" and "pre-approval" among his reasons.

State laws for setting rates prohibit backward adjustments such as the profit-sharing plan proposed by US West, Evilsizer said.

Rates are required to be set in advance without variations, he said, adding that a recent Illinois court decision struck down a similar plan by a telephone company in that state.

The plan to finance the \$80 million in improvements also could violate laws against pre-approval, requiring that utility improvements be in place and operating before a company can recover the costs in its rates, Evilsizer said.

Cravens said US West did not ask for pre-approval, rather, "We're saying that this proposal would give us the opportunity to finance these

improvements and provide rate stability."

Cravens said several states are adopting alternative regulation methods to keep up with changes in technology and the economy.

Traditional regulation methods, in which government regulators determine a company's allowable profit, were devised to help manage consumer interests when monopolies dominated business, he said. A new system is needed because of new technology and increasing business competition that has emerged within the past 10 years, Cravens said.

REMARKS:

March 11, 1991
Cathy Brightwell
AT&T
In Support of HB 610

Good morning, my name is Cathy Brightwell. I am Assistant Vice President, State Government Affairs for AT&T. I am located in Helena.

The Montana Telecommunications Act recognized the need for an orderly transition from a regulated telecommunications industry to a competitive market environment. House Bill 610 provides further incentives to that end.

It allows telecommunications providers to introduce new services in a timely manner, it allows for limited promotions to respond to competitive needs, and it provides safeguards to protect customers of local exchange carriers from anti-competitive behavior.

AT&T believes HB610 will enhance competitive growth and technological advancement in Montana.

We urge you to support this bill.



SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 5

LOCAL 206 IBEW

DATE 3/11/91

406/443-7475

1-800-621-3437

Clark N. Spranget
Business Manager

BILL NO. HB 610

P.O. Box 5654
Helena, Montana 59604

March 11, 1991

Senator J.D. Lynch
President Pro Tempore
Chairman, Business & Industry Committee
Montana State Senate

Dear Senator Lynch,

I am currently Business Manager/Financial Secretary of Local 206, International Brotherhood of Electrical Workers (I.B.E.W.) Just this past summer members of Local 206 and myself worked very hard with local city, county and state officials, as well as our Federal delegation and management to retain or expand the Network Operations Center here in Helena. We were successful in that endeavor.

Today this center employs 43 people and is forecast to grow to 81 employees in the future. The center monitors the workings of the telephone network in Montana, Wyoming and soon to add Utah. As you might guess, this center could be located anywhere. While we think our Montana membership can do the work better than workers in any other state, there are only so many jobs to go around. Also, the center is designed to monitor the operations of modern digital switching offices and facilities that the U S WEST Communications modernization plan calls for. So I worry about keeping a high tech center in Montana if we don't go forward with building the high tech telephone network that I hear Montanans say they want.

In closing, I strongly support HB 610. I feel the legislature should provide the Public Service Commission with clear authority to consider and approve a modernization plan for the betterment of all Montanans.

I thank you for your support and I ask that my comments be entered into the record.

Respectfully submitted,

Clark N. Spranget

Clark N. Spranget, Bus. Mgr.
I.B.E.W. Local #206

CNS/sr
cc: file

February 11, 1991

Chairman Bill Strizich
House Judiciary Committee
Capitol Station
Helena, MT 59620

SEN. TO BUSINESS & INDUSTRY

SEN. NO. 3
DATE 3/11/91
BILL NO. HB 610

Re: House Bill 610 -- Rebuttal of Commissioner Driscoll's Arguments

Dear Chairman Strizich:

Commissioner John Driscoll raised a number of points in opposition to HB 610 that require rebuttal.

1. Driscoll: The bill would "deregulate" U S WEST Communications (USWC).

RESPONSE: The bill permits the PSC to consider changes in the way telephone providers are regulated -- it has nothing to do with deregulation. As I mentioned in response to a question from Rep. Toole, U S WEST Communications' proposed profit sharing plan is a moderate move away from traditional rate of return regulation, but still relies heavily on annual calculations of a firm's earnings. These are the same calculations that are done today. Driscoll's statement that there would be no way to monitor earnings is wrong.

2. Driscoll: The bill abolishes needed regulatory safeguards.

RESPONSE: The safeguards listed by Mr. Driscoll (access to records, adequate service, etc.) will all continue to apply under an alternative plan. The ratemaking provisions of Parts 2, 3 and 9 are all that would be changed, and then only if the Commission finds alternative regulation in the public interest.

3. Driscoll: The right to withdraw a modified plan is bad policy.

RESPONSE: The "right to withdraw" or "veto power" is a common feature of alternative regulation legislation. This feature recognizes that alternative regulation necessarily involves new ways of dividing risks between a company and its customers. While these plans are now common, they are also very new. The right to withdraw is a necessary protection for USWC's shareholders as modified regulatory mechanisms are initiated in this new and changing environment. Withdrawal of the plan would result in a continuation of the existing form of regulation. Therefore, no one would be hurt by the exercise of the power.

While we are aware of no provision in other states giving a similar power to someone other than the affected company, we support giving this power to the Consumer Counsel, the constitutional agency charged with representing Montana ratepayers. USWC cannot support giving the same right to parties with far more narrow interests, however.

February 11, 1991

Page 2

4. Driscoll: The bill gives the PSC too much power.

RESPONSE: It is true that the PSC will receive additional power to adapt regulation to changing conditions in the industry. But, the power granted is necessary and many safeguards are provided. The only alternative to granting this power is for the Legislature itself to directly determine how regulation should change. The hearing today points out what a complex and time-consuming task telephone regulation is. The PSC, as the Legislature's agent, should have the opportunity to weigh what changes make the most sense.

Staff Counsel Evilsizer said the PSC staff would scrutinize any alternative regulation plan to ensure that adequate protections for ratepayers would be included in any PSC order approving a plan.

5. Driscoll: Forbearance will "kill" competition.

RESPONSE: Forbearance simply allows a fully regulated companies to compete. In reality, Montana is more open to competition in the telephone industry than virtually any state. There is no protection for service territories. The market for long-distance services is increasingly competitive. Without forbearance or detariffing, a regulated companies' rates are set by the PSC and competitors know exactly what price they must beat to obtain a customer. Forbearance and detariffing allow a regulated company to compete by moving away from the price that is on file with the PSC and open for the entire public to see. These procedures allow a company like USWC to compete. They don't guarantee that we'll be successful.

6. Driscoll: USWC has not had a full rate case review since divestiture (1984).

RESPONSE: Our earnings have been examined four times by the Public Service Commission since divestiture, with the most recent case concluded in early 1990. A full rate investigation is currently under way at the PSC.

I would be pleased to further address these or any other points that you might have on this bill.

Very truly yours,


Dennis R. Lopach

cc; Members of House Judiciary Committee

PUBLIC SERVICE COMMISSION TESTIMONY
IN FAVOR OF HB 610
March 11, 1991

I am Ivan C. Evilsizer, staff attorney with the Montana Public Service Commission. I am appearing here today to speak on behalf of the Commission in favor of HB 610 (as amended by the House).

This Bill is important for a number of reasons. First, there is some uncertainty as to the PSC's power to approve alternative forms of regulation for telephone companies under current law. This Bill will empower the PSC to approve price caps, earnings-sharing plans and other alternative types of regulation which have already been implemented in many other states. These plans can increase the efficiency incentives of telephone companies, reduce regulatory costs, increase technological innovation, increase economic efficiency, result in sharing of earnings with ratepayers and modernization of the telecommunications infrastructure, and increase economic development in the state.

This Bill (Sec. 3) also increases the flexibility of the Commission to detariff telecommunications services (pricing flexibility and reduced regulatory oversight), when found to be consistent with the public interest and the state public policies established in the 1985 Montana Telecommunications Act (universal service, encouragement of competition, increased access to telecommunications technological advancements and transition to a competitive environment).