

SENATE BILL NO. 436

INTRODUCED BY BLAYLOCK, HIMSL

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

February 16, 1983	Introduced and referred to Committee on State Administration.
	Rereferred to Committee on Business and Industry.
February 21, 1983	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
	Bill printed and placed on members' desks.
February 22, 1983	Second reading, do pass as amended.
	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 48; Noes, 1. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Business and Industry.
March 1, 1983	Rereferred to Committee on State Administration.
March 23, 1983	Committee recommend bill be concurrent in as amended. Report adopted.

March 26, 1983 Second reading, concurred in
as amended.

March 28, 1983 Third reading, concurred in.

IN THE SENATE

March 28, 1983 Returned to Senate with
amendments.

April 8, 1983 Second reading, amendments
concurred in.

April 11, 1983 Third reading, amendments
concurred in. Ayes, 48;
Noes, 1.

Sent to enrolling.

Reported correctly enrolled.

1
2 INTRODUCED BY Blaylock 21 BILL NO. 436
3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE
6 PUBLIC SERVICE COMMISSION UNDER EXISTING STATUTORY AUTHORITY
7 AND RULES; REVISING PUBLIC SERVICE COMMISSION AUTHORITY;
8 PROVIDING FOR FEES COMMENSURATE WITH COSTS; MAKING TEMPORARY
9 MUNICIPAL REGULATORY AUTHORITY OVER UTILITIES PERMANENT;
10 EXEMPTING PRIVATELY OWNED AND COUNTY WATER AND SEWER SYSTEMS
11 FROM PUBLIC SERVICE COMMISSION REGULATION; AUTHORIZING
12 TEMPORARY UTILITY RATE DECREASES; CLARIFYING TIME LIMITS ON
13 MUNICIPAL RATE INCREASES; MODIFYING MUNICIPAL RATE HEARING
14 NOTICE REQUIREMENTS; EXTENDING SPECIAL PROVISIONS RELATING
15 TO WASTE DISPOSAL TO LOCAL GOVERNMENTS; ESTABLISHING
16 RATEMAKING AUTHORITY OVER CLASS D MOTOR CARRIERS; MAKING
17 RAILROAD SAFETY FUNCTIONS PERMISSIVE RATHER THAN MANDATORY;
18 DELETING THE REQUIREMENT THAT RAILROADS SERVE ALL COUNTY
19 SEATS AND CITIES OVER 1,000; AMENDING SECTION 9, CHAPTER
20 607, LAWS OF 1981; AMENDING SECTIONS 2-8-103, 69-3-101,
21 69-3-204, 69-3-304, 69-7-101, 69-7-102, 69-7-111, 69-12-311
22 THROUGH 69-12-313, 69-12-321, 69-12-324, 69-12-406,
23 69-12-421, 69-12-423, 69-12-501, 69-12-502, 69-14-115,
24 69-14-116, AND 69-14-202, MCA; AND PROVIDING AN EFFECTIVE
25 DATE."

1
2 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
3 MCA, terminates the Public Service Commission and requires a
4 performance evaluation of the Commission by the Legislative
5 Audit Committee; and

6 WHEREAS, as a result of the performance evaluation, the
7 Legislative Audit Committee recommends that the Public
8 Service Commission be reestablished.
9

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

11 ~~NEW SECTION.~~ Section 1. Reestablishment. The public
12 service commission, department of public service regulation,
13 created by 69-1-102, is reestablished for 6 years pursuant
14 to 2-8-122, with existing statutory authority and rules.

15 Section 2. Section 2-8-103, MCA, is amended to read:
16 "2-8-103. Agencies to terminate. (1) The following
17 agencies shall terminate on July 1, 1979:

18 (a) board of abstracters, department of professional
19 and occupational licensing, created by 2-15-1643;

20 (b) board of real estate, department of professional
21 and occupational licensing, created by 2-15-1642;

22 (c) state board of warm air heating, ventilation, and
23 air conditioning, department of professional and
24 occupational licensing, created by 2-15-1656;

25 (d) board of institutions, department of institutions,

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1 created by 2-15-2303.

2 (2) The following agencies shall terminate on July 1,
3 1981:

4 (a) board of athletics, department of professional and
5 occupational licensing, created by 2-15-1661;

6 (b) board of massage therapists, department of
7 professional and occupational licensing, created by
8 2-15-1627;

9 (c) board of osteopathic physicians, department of
10 professional and occupational licensing, created by
11 2-15-1607;

12 (d) board of podiatry examiners, department of
13 professional and occupational licensing, created by
14 2-15-1608¹;

15 (3) The following units of state government shall
16 terminate on July 1, 1983:

17 (a) board of aeronautics, department of commerce,
18 created by 2-15-1812;

19 (b) state board of hail insurance, department of
20 agriculture, created by 2-15-3003;

21 (c) board of horseracing, department of commerce,
22 created by 2-15-1881;

23 (d) board of livestock, department of livestock,
24 created by 2-15-3102;

25 (e) board of milk control, department of commerce,

1 created by 2-15-1802;

2 (f) board of oil and gas conservation, department of
3 natural resources and conservation, created by 2-15-3303;

4 (g) Montana outfitters' council, department of fish,
5 wildlife, and parks, created by 2-15-3403;

6 ~~(h) public service commission, department of public~~
7 ~~service regulation, created by 69-1-1821~~

8 ~~++(h) board of water and wastewater operators,~~
9 department of health and environmental sciences, created by
10 2-15-2105;

11 ~~++(i) board of water well contractors, department of~~
12 commerce, created by 2-15-1862.

13 (4) The following agencies terminate on July 1, 1985:

14 (a) the board of public accountants, department of
15 commerce, created by 2-15-1866;

16 (b) the board of architects, department of commerce,
17 created by 2-15-1871;

18 (c) state banking board, department of commerce,
19 created by 2-15-1803;

20 (d) the state electrical board, department of
21 commerce, created by 2-15-1874;

22 (e) the board of professional engineers and land
23 surveyors, department of commerce, created by 2-15-1873;

24 (f) office of commissioner of insurance and the
25 insurance department, state auditor's office, created by

1 2-15-1902 and 2-15-1903;
 2 (g) office of the securities commissioner, state
 3 auditor's office, created by 2-15-1901;
 4 (h) the board of landscape architects, department of
 5 commerce, created by 2-15-1872;
 6 (i) the board of county printing, department of
 7 commerce, created by 2-15-1811;
 8 (j) the board of plumbers, department of commerce,
 9 created by 2-15-1875;
 10 (k) board of physical therapy examiners, department of
 11 commerce, created by 2-15-1858.
 12 (5) The following agencies terminate on July 1, 1987:
 13 (a) commission for human rights, department of labor
 14 and industry, created by 2-15-1706;
 15 (b) Montana state board of medical examiners,
 16 department of commerce, created by 2-15-1841;
 17 (c) board of dentistry, department of commerce,
 18 created by 2-15-1842;
 19 (d) board of pharmacists, department of commerce,
 20 created by 2-15-1843;
 21 (e) board of nursing, department of commerce, created
 22 by 2-15-1844;
 23 (f) board of nursing home administrators, department
 24 of commerce, created by 2-15-1845;
 25 (g) board of optometrists, department of commerce,

1 created by 2-15-1846;
 2 (h) board of chiropractors, department of commerce,
 3 created by 2-15-1847;
 4 (i) board of radiologic technologists, department of
 5 commerce, created by 2-15-1848;
 6 (j) board of speech pathologists and audiologists,
 7 department of commerce, created by 2-15-1849;
 8 (k) board of hearing aid dispensers, department of
 9 commerce, created by 2-15-1850;
 10 (l) board of psychologists, department of commerce,
 11 created by 2-15-1851;
 12 (m) board of veterinarians, department of commerce,
 13 created by 2-15-1852;
 14 (n) board of morticians, department of commerce,
 15 created by 2-15-1853;
 16 (o) board of barbers, department of commerce, created
 17 by 2-15-1856;
 18 (p) board of cosmetologists, department of commerce,
 19 created by 2-15-1857;
 20 (q) board of sanitarians, department of commerce,
 21 created by 2-15-1861;
 22 (r) board of veterans' affairs, department of social
 23 and rehabilitation services, created by 2-15-2202.
 24 (6) The following agency terminates July 1, 1989:
 25 public service commission, department of public service,

1 ~~regulation, created by 69-1-102.~~"

2 ~~NEW SECTION.~~ Section 3. Fees. Each fee charged by the
3 commission must be commensurate with the costs incurred in
4 administering the function for which the fee is charged.

5 Section 4. Section 9, Chapter 507, Laws of 1981, is
6 amended to read:

7 "Section 9. Effective date ~~and-termination-date.~~ This
8 act shall become effective on July 1, 1981. ~~It-shall~~
9 ~~terminate-on-duty-1-1983.~~"

10 Section 5. Section 69-3-101, MCA, is amended to read:

11 "69-3-101. Meaning of term "public utility". (1) The
12 term "public utility", within the meaning of this chapter,
13 shall embrace every corporation, both public and private,
14 company, individual, association of individuals, their
15 lessees, trustees, or receivers appointed by any court
16 whatsoever, that now or hereafter may own, operate, or
17 control any plant or equipment, any part of a plant or
18 equipment, or any water right within the state for the
19 production, delivery, or furnishing for or to other persons,
20 firms, associations, or corporations, private or municipal:

- 21 (1)(a) heat;
22 (2)(b) street-railway service;
23 (3)(c) light;
24 (4)(d) power in any form or by any agency;
25 (5)(e) except as provided in chapter 7, water for

1 business, manufacturing, household use, or sewerage service,
2 whether within the limits of municipalities, towns, and
3 villages or elsewhere;

4 (5)(f) telegraph or telephone service.

5 (2) ~~The term "public utility" does not include:~~

6 (a) ~~privately owned and operated water, sewer, or~~
7 ~~combination systems that do not serve the public; or~~
8 (b) ~~county or consolidated city and county water or~~
9 ~~sewer districts as defined in Title 7, chapter 13, parts 22~~
10 ~~and 23.~~"

11 Section 6. Section 69-3-204, MCA, is amended to read:

12 "69-3-204. Fees to be charged by commission. (1) The
13 public service commission ~~shall~~ may, except as otherwise
14 provided by law, require and receive fees before filing
15 annual reports, schedules, ~~applications~~, and supplements of
16 ~~these-and-shall-require-and--receive--fees--for--copies--of~~
17 ~~orders,--documents,--classifications,--blank-forms,--and--other~~
18 ~~instruments-prepared-by-it-or-on-file-in-its-office,--unless~~
19 ~~not~~ provided by law to be furnished free of charge ~~under~~
20 ~~the-following-schedule:~~

- 21 (a) ~~--fitting-annual-reports, each-----\$-5.00;~~
22 (b) ~~--fitting-rate-schedules, each-----\$-2.00;~~
23 (c) ~~--classification-for-public-utilities, each--\$-1.50;~~
24 (d) ~~--for-blank-forms-of-annual-reports-for-utilities---~~
25 ~~-----cost.~~

(2) The commission shall require and receive an additional sum to be set by the commission to pay the cost of publishing notice as required by this chapter.

(3) This section does not require or authorize the public service commission to collect fees for the filing of annual reports, schedules, and supplements of these which relate solely to interstate commerce."

Section 7. Section 69-3-304, MCA, is amended to read:

"69-3-304. Temporary approval of rate increases ~~or decreases~~. The commission may, in its discretion, temporarily approve increases ~~or decreases~~ pending a hearing or final decision. If the final decision is to disapprove the ~~an~~ increase, the commission ~~shall~~ may order a rebate to all consumers for the amount collected retroactive to the date of the temporary approval. ~~If the final decision is to disapprove a decrease, the commission may order a surcharge to be paid by all consumers for the amount not collected retroactive to the date of the temporary approval. The commission may order interest to be paid on a rebate or surcharge as determined by the commission.~~ An order of the commission approving or denying a temporary rate increase ~~or decrease~~ shall be an intermediate agency action subject to judicial review under the Montana Administrative Procedure Act."

Section 8. Section 69-7-101, MCA, is amended to read:

"69-7-101. Municipal utilities -- regulation by municipality -- limitation. A municipality has the power and authority to regulate, establish, and change, as it considers proper, rates, charges, and classifications imposed for utility services to its inhabitants and other persons served by municipal utility systems. Rates, charges, and classifications shall be reasonable and just and, except as provided in 69-7-102, they may not be raised to yield more than a 12% increase in total annual revenues or, in the case of mandated federal and state capital improvements, the increase may not exceed amounts necessary to meet the requirements of bond indentures or loan agreements required to finance the local government's share of the mandated improvements. Annual revenues must be computed on any consecutive 12-month period for purposes of this chapter."

Section 9. Section 69-7-102, MCA, is amended to read:

"69-7-102. Rate increases over maximum. (1) If a municipal utility requires rate increases that yield an increase in total revenues in excess of 12% in any one year or rate increases for mandated federal and state capital improvements for which the increase exceeds amounts necessary to meet the requirements of bond indentures or loan agreements required to finance the local government's share of the mandated improvements, it must make application for such increases to the public service commission.

~~(2) If the public service commission issues a rate order approving such an increase, the municipality may not increase any rates and charges under this chapter within 12 months of the commission's order unless an increase is necessary to meet the requirements of bond indentures or loan agreements required to finance the local government's share for mandated federal and state capital improvements."~~

Section 10. Section 69-7-111, MCA, is amended to read:

"69-7-111. Municipal rate hearing required -- notice.

(1) If the governing body of a municipality considers it advisable to regulate, establish, or change rates, charges, or classifications imposed on its customers, it shall order a hearing to be held before it at a time and place specified.

(2) Notice of the hearing shall be published in a newspaper as provided in 7-1-4127.

(3) (a) The notice shall be published three times with at least 6 days separating each publication. The first publication may be no more than 28 days prior to the hearing, and the last publication may be no less than 3 days prior to the hearing.

(b) The notice must also be mailed at least 7 days and not more than 30 days prior to the hearing to persons served by the utility. The notice ~~shall accompany the bill for services of that utility--and~~ must be mailed within the

prescribed time period. This notice must contain an estimate of the amount the customer's average monthly bill will increase.

(4) The published notice must contain:

(a) the date, time, and place of the hearing;

(b) a brief statement of the proposed action; and

(c) the address and telephone number of a person who may be contacted for further information regarding the hearing.

(b) Notice of all hearings shall be mailed first class, postage prepaid, to the Montana consumer counsel."

Section 11. Section 69-12-311, MCA, is amended to read:

"69-12-311. Class A motor carrier certificate. (1) No Class A motor carrier shall operate for the transportation of persons and/or property for hire on any public highway in this state without first having obtained from the commission, under the provisions of this chapter, a certificate declaring that public convenience and necessity require such operation.

(2) A motor carrier making application for such certificate shall do so in writing, separately for each route, which petition shall be verified by the applicant and shall specify the following matters:

(a) the name and address of the applicant and the

names and addresses of its officers, if any;

(b) the public highway or highways over which and the fixed termini between which or the regular route or routes over which it intends to operate;

(c) the kind of transportation, whether passenger, freight, or both, together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in freight traffic;

(d) the proposed time schedule;

(e) a schedule of the tariff or rates desired to be charged for the transportation of freight and/or passengers;

(f) a complete and detailed description of the property proposed to be devoted to the public service;

(g) a detailed statement showing the assets and liabilities of such applicant; and

(h) such other or additional information as the commission may by order require.

(3) Such application shall be accompanied by a filing fee of ~~of--\$100--to--\$300,~~ to be set by ~~rule of~~ the commission ~~based on the number of counties for which the certificate is requested.~~

Section 12. Section 69-12-312, MCA, is amended to read:

"69-12-312. Class B motor carrier certificate. (1) No Class B motor carrier shall operate for the transportation of persons and/or property for hire on any public highway in this state without first having obtained from the commission, under the provisions of this chapter, a certificate that public convenience and necessity require such operations.

(2) A motor carrier making application for such permit shall do so in writing, separately for each locality for which consideration is desired, which petition shall be verified and shall specify the following matters:

(a) name and address of the applicant and the names and addresses of its officers, if any;

(b) the kind of transportation, whether passenger, freight, or both, together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in freight traffic;

(c) the locality and character of operations to be conducted;

(d) a schedule of the tariff of rates desired to be charged for the transportation of freight and/or passengers;

(e) a complete and detailed description of the property proposed to be devoted to the public service;

(f) a detailed statement showing the assets and liabilities of such applicant; and

(g) such other or additional information as the commission may by order require.

(3) Such application shall be accompanied by a filing fee ~~of--\$100--to--\$300,~~ to be set by rule of the commission ~~based-on-the-number-of-counties-for-which-the-certificate-is requested."~~

Section 13. Section 69-12-313, MCA, is amended to read:

"69-12-313. Class C motor carrier certificate. (1) No Class C motor carrier, except any Class C motor carrier operating pursuant to the terms and conditions of a contract ~~with-the-United-States-government-or-an-agency-or-department thereof--or--of-a-contract-for-transporting-solid-waste-with the-state-or-an-agency-or-department-thereof~~ as provided in 69-12-324, shall operate for the distribution, delivery, or collection of goods, wares, merchandise, or commodities or for the transportation of persons on any public highway in this state without first having obtained from the commission, under the provisions of this chapter, a certificate that public convenience and necessity require such operation.

(2) A motor carrier making application for such permit shall do so in writing, separately for each route or

locality for which consideration is desired, which petition shall be verified by the applicant and shall specify the following matters:

(a) the name and address of the applicant and the names and addresses of its officers, if any;

(b) the public highways or highways over which and the fixed termini between which or the route or routes over which it intends to operate, if the same are fixed, or the particular city, town, station, or locality from and/or to which the applicant intends to operate;

(c) the kind of transportation and the character of the goods, wares, merchandise, or commodities to be distributed, delivered, or collected, together with a full and complete description of the character of the vehicle or vehicles, including the rated tonnage capacity of such vehicles, to be used in such service of distribution, delivery, or collection; and

(d) such other or additional information as the commission may by order require.

(3) Such application shall be accompanied by a fee of ~~\$100-to-\$300,~~ to be set by rule of the commission ~~based--on the---number--of--counties--for--which--the--certificate--is requested.~~

(4) The submission of a Class C motor carrier application must be accompanied by the names and addresses

of any person, corporation, or other legal entity with whom the applicant has executed a contract for the distribution, delivery, or collection of wares, merchandise, or commodities or transporting persons. Such contracts must be in writing, executed by the parties and submitted to the commission for examination."

Section 14. Section 69-12-321, MCA, is amended to read:

"69-12-321. Hearing on application for motor carrier certificate. (1) Upon the filing of such application by a Class A, Class B, Class C, or Class D motor carrier, except a Class C motor carrier authorized to operate under the terms of a contract ~~with the United States government for an agency or department thereof~~ as provided in 69-12-324, or upon the filing of a request for a transfer of authority, the commission shall give notice thereof to any interested party. The commission shall fix a time and place for hearing thereon whenever a protest or a request for a hearing is received. The hearing is to be set for a date not later than 60 days after receipt of a protest or a hearing request by the commission. Whenever no protests or hearing requests are received, the commission may act on the application without a hearing as prescribed by commission rules.

(2) Any motor carrier referred to in 69-12-322, the department of highways, the governing board or boards of any

such county, town, or city into or through which the route or service as proposed may extend, and any person or corporation concerned are hereby declared to be interested parties to the proceedings and may offer testimony for or against the granting of the certificate.

(3) The contracting parties referred to in 69-12-313(4) must appear and offer testimony in support of the applicant.

(4) However, an application by a Class A, Class B, Class C, or Class D motor carrier for a certificate may be disallowed without a public hearing thereon when it appears from the records of the commission that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over the route or in the territory and affecting transportation facilities therein have materially changed since said public investigation and finding and that public convenience and necessity do now require the motor carrier operation."

Section 15. Section 69-12-324, MCA, is amended to read:

"69-12-324. Special provisions when federal, or state,

1 ~~or local government~~ contract involved. (1) The
 2 ~~transportation for hire of any persons or commodities~~
 3 ~~between any two points within the state by any motor~~
 4 ~~carrier pursuant to the terms of a written contract between~~
 5 ~~said carrier and the United States government or an agency~~
 6 ~~or department thereof or the state or an agency or~~
 7 ~~department thereof for the transportation of solid waste~~
 8 ~~shall be deemed a transportation movement subject to the~~
 9 ~~provisions of this chapter. However, the presentation of the~~
 10 ~~written contract to the commission shall be deemed~~
 11 ~~sufficient proof of public convenience and necessity in~~
 12 ~~accordance with the terms and conditions contained within~~
 13 ~~the United States government or state contracts. Subject to~~
 14 ~~the provisions of this section, a transportation movement is~~
 15 ~~considered to be:~~

16 (a) the transportation for hire of persons or
 17 commodities between two points within the state by a motor
 18 carrier pursuant to the terms of a written contract between
 19 the carrier and the United States government or an agency or
 20 department thereof; or

21 (b) the transportation for hire of solid waste between
 22 two points within the state by a motor carrier pursuant to
 23 the terms of a written contract between the carrier and the
 24 state government or an agency or department thereof or a
 25 local government, including but not limited to cities and

1 ~~counties.~~

2 (2) The Class C certificate of public convenience and
 3 necessity issued pursuant to the terms and conditions of the
 4 United States government or state or local government
 5 contract may be issued by the commission upon receipt of an
 6 executed copy of the United States government or state or
 7 local government contract. The certificate of public
 8 convenience and necessity may be issued thereafter without
 9 requiring the commission to fix a time and place for public
 10 hearing.

11 (3) The certificate of public convenience and
 12 necessity, issued pursuant to the terms of the United States
 13 government or state or local government contract, is
 14 authorized only for the duration of the United States
 15 government or state or local government contract concerned.
 16 The certificate may be renewed for another definite term if
 17 the same motor carrier is the motor carrier authorized to
 18 operate under the United States government or state or local
 19 government contract."

20 Section 16. Section 69-12-406, MCA, is amended to
 21 read:

22 "69-12-406. Restriction on transportation of certain
 23 waste. No Except as provided in 69-12-324, no Class A, B, or
 24 C carrier will be authorized or permitted to transport
 25 ashes, trash, waste, refuse, rubbish, garbage, or organic

and inorganic matter within the state."

Section 17. Section 69-12-421, MCA, is amended to read:

"69-12-421. Annual fee for motor carriers. (1) Except as provided in subsection (2), in addition to all of the licenses, fees, or taxes imposed upon motor vehicles in this state and in consideration of the use of the public highways of this state, every motor carrier shall, at the time of the issuance of a certificate and annually thereafter, on or between January 1 and the following January 31 of each calendar year, pay to the public service commission of Montana the sum of \$5 a fee set by rule of the commission for every motor vehicle operated by the carrier over or upon the public highways of this state.

(2) (a) A motor carrier engaged in seasonal operations only, where its operations do not extend continuously over a period of not to exceed 6 months in any calendar year, shall only be required to pay compensation and fees in a sum equal to one-half of the compensation and fees herein provided.

(b) The compensation and fees herein imposed shall not apply to motor vehicles maintained and used by a motor carrier as standby or emergency equipment. The commission shall have the power and it is hereby made its duty to determine what motor vehicles shall be classed as standby or emergency equipment."

Section 18. Section 69-12-423, MCA, is amended to read:

"69-12-423. Fees to be charged by commission. (1) The public service commission shall may, except as otherwise provided by law, require and receive fees before filing annual reports, tariffs, schedules, applications, and supplements of these and shall require and receive fees for copies of orders, documents, classifications, blank forms and other instruments prepared by it or on file in its office, unless not provided by law to be furnished free of charge under the following schedules:

- (a) fitting annual reports, each \$5.00;
- (b) fitting tariffs, time schedules, and supplements thereto, each \$2.00;
- (c) for issuing certificates of public convenience and necessity to motor carriers, each \$2.00;
- (d) classification for motor carriers, each \$1.50;
- (e) for a copy of the rules for motor carriers and blank forms of annual reports for common carriers, cost.

(2) The commission shall require and receive an additional sum to be set by the commission to pay the cost of publishing such notice as may be required by this chapter.

(3) This section does not require or authorize the public service commission to collect fees for the filing of

1 annual reports, tariffs, schedules, and supplements of these
2 which relate solely to interstate commerce."

3 Section 19. Section 69-12-501, MCA, is amended to
4 read:

5 "69-12-501. Rate schedules to be maintained. (1) Every
6 Class A₁ or B₁ORD motor carrier holding a certificate must
7 maintain on file with the commission a full and complete
8 schedule of its rates, fares, charges, classifications, and
9 rules of service and any and all tariff provisions relating
10 to such rates, fares, charges, classifications, or rules.
11 Every ~~Class A or Class B motor carrier~~ schedule on file and
12 approved on March 7, 1961, shall remain in full force and
13 effect until changed or modified by the commission or by the
14 carrier with the approval of the commission.

15 (2) No change, modification, alteration, increase, or
16 decrease in any rate, fare, charge, classification, or rule
17 of service shall be made by any motor carrier without first
18 obtaining the approval of the commission. The commission
19 shall prescribe rules providing for the form and style of
20 all schedules and tariffs and for the procedures to be
21 followed in filing or publishing any changes or
22 modifications of the same."

23 ~~NEW SECTION.~~ Section 20. Existing Class D carrier
24 rates in effect. The rates, tolls, and charges levied by
25 Class D motor carriers that were in effect on January 1,

1 1963, are the lawful rates, tolls, and charges until they
2 are changed, as provided in Title 69, chapter 12.

3 Section 21. Section 69-12-502, MCA, is amended to
4 read:

5 "69-12-502. Prohibition on deviation from rate
6 schedules. It shall be unlawful for any Class A₁ or B₁ORD
7 motor carrier to charge, demand, receive, or collect any
8 greater or less rate, charge, or fare than that fixed by the
9 commission for the transportation service provided, when
10 maximum or minimum rates have been established for any
11 service provided by any Class C motor carrier, it shall
12 likewise be unlawful for such carrier to charge, demand,
13 receive, or collect any greater compensation or rate than
14 that established for the service by any applicable maximum
15 rate or any less compensation or rate than that established
16 by any applicable minimum rate. It also shall be unlawful
17 for any Class A₁ or B₁ORD motor carrier or any Class C
18 motor carrier subject to maximum or minimum rates to refund
19 or remit, in any manner or by any device, any portion of the
20 rates, fares, and charges required to be collected under the
21 schedule of the Class A₁ or B₁ORD carrier on file with the
22 commission or under the maximum or minimum rates established
23 by the commission for the Class C carrier."

24 Section 22. Section 69-14-115, MCA, is amended to
25 read:

"69-14-115. Investigation, enforcement, and report concerning railroad safety laws. (1) The commission ~~shall~~ may:

(a) make inquiry into the observance by all railroads within this state of the laws of the United States and of Montana intended to safeguard the lives of the employees of persons or corporations engaged in operating the same;

(b) lay complaint before the proper state or federal officer, of any infraction of any of such laws; and

(c) prosecute before the proper court or tribunal any person guilty of violation of the penal provisions thereof.

(2) The commission shall in the annual report required by 2-7-102 set out what effort it has made to carry out the provisions of this section, with the result thereof, and in detail what steps it has taken to prosecute any violations of any such acts of which it has secured information. A copy of this annual report shall be mailed to the secretary of the department of transportation."

Section 23. Section 69-14-116, MCA, is amended to read:

"69-14-116. General protection of health and safety on railroads. (1) The commission ~~shall have full authority~~ may:

(a) after notice and hearing, to make and enforce rules providing for the installation on and equipment of trains, cars, or engines with safety appliances and

providing for sanitation and adequate shelter as it affects the health of all railroad employees, including but not limited to trainmen, enginemen, yardmen, maintenance-of-way employees, highway crossing watchmen, and clerical, platform, freight house, and express employees; and

(b) to inspect the same and enforce regulations with regard thereto.

(2) Such inspection, rules, and regulations to be from time to time coextensive with the requirements of and in conformity to the provisions of the acts of congress and rules and regulations of the interstate commerce commission and the department of transportation, as then effective."

Section 24. Section 69-14-202, MCA, is amended to read:

"69-14-202. Duty to furnish shipping and passenger facilities. ~~(1) Every~~ Each person, corporation, or association operating a railroad in the state ~~shall maintain and staff~~ which maintains and staffs facilities for shipment and delivery of freight and ~~shall ship and deliver freight and~~ accommodate which ships and delivers freight and ~~accommodates passengers, or both, in at least one location,~~ preferably the county seat, in each county through which the line of the railway passes and at any point upon the line of such railway where there is a city or town having a population according to the last federal census, of not

1 less--than-1988; provided, however, that this section shall
 2 not require the maintenance and staffing of such facilities
 3 in any county or at any city or town in which such
 4 facilities were not maintained and staffed on duty in 1969.

5 (2) Nothing in this section authorizes the
 6 discontinuance of may discontinue or remove any agency or
 7 any station facility presently established in any city,
 8 town, or other location having a population of less than
 9 1988 without a hearing before the public service
 10 commission, as provided by law.*

11 NEW SECTION. Section 25. Codification instruction.
 12 Section 3 is intended to be codified as an integral part of
 13 Title 69, chapter 1, part 1, and the provisions of Title 69,
 14 chapter 1, part 1, apply to section 3.

15 NEW SECTION. Section 26. Effective date. This act is
 16 effective July 1, 1983.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 436

3 Senate Business and Industry Committee

4
5 A statement of intent is required for Senate Bill 436
6 because it grants the Public Service Commission authority to
7 charge fees commensurate with costs.

8 The Legislature intends that the fees be set in an
9 amount sufficient to provide funds to administer the
10 function for which the fee is charged. Fees may not be set
11 so high as to generate revenue in excess of expenses.

SECOND READING

SB436

Approved by Committee
on Business and Industry

1 SENATE BILL NO. 436
2 INTRODUCED BY BLAYLOCK, HIMSL
3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE
6 PUBLIC SERVICE COMMISSION UNDER EXISTING STATUTORY AUTHORITY
7 AND RULES; REVISING PUBLIC SERVICE COMMISSION AUTHORITY;
8 PROVIDING FOR FEES COMMENSURATE WITH COSTS; MAKING TEMPORARY
9 MUNICIPAL REGULATORY AUTHORITY OVER UTILITIES PERMANENT;
10 EXEMPTING PRIVATELY OWNED AND COUNTY WATER AND SEWER SYSTEMS
11 FROM PUBLIC SERVICE COMMISSION REGULATION; AUTHORIZING
12 TEMPORARY UTILITY RATE DECREASES; CLARIFYING TIME LIMITS ON
13 MUNICIPAL RATE INCREASES; MODIFYING MUNICIPAL RATE HEARING
14 NOTICE REQUIREMENTS; EXTENDING SPECIAL PROVISIONS RELATING
15 TO WASTE DISPOSAL TO LOCAL GOVERNMENTS; ESTABLISHING
16 RATEMAKING AUTHORITY OVER CLASS--B--MOTOR--CARRIERS; MAKING
17 RAILROAD SAFETY FUNCTIONS PERMISSIVE RATHER THAN MANDATORY;
18 ~~DELETING THE REQUIREMENT THAT RAILROADS--SERVE--ALL--COUNTY~~
19 ~~SEATS--AND--CITIES--OVER--1,000;~~ AMENDING SECTION 9, CHAPTER
20 607, LAWS OF 1981; AMENDING SECTIONS 2-8-103, 69-3-101,
21 69-3-204, 69-3-304, 69-7-101, 69-7-102, 69-7-111, 69-12-311
22 THROUGH 69-12-313, 69-12-321, 69-12-324, 69-12-406,
23 69-12-421, 69-12-423, ~~69-12-501, 69-12-502,~~ 69-14-115, AND
24 69-14-116, AND ~~69-14-202,~~ MCA; AND PROVIDING AN EFFECTIVE
25 DATE."

1
2 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
3 MCA, terminates the Public Service Commission and requires a
4 performance evaluation of the Commission by the Legislative
5 Audit Committee; and
6 WHEREAS, as a result of the performance evaluation, the
7 Legislative Audit Committee recommends that the Public
8 Service Commission be reestablished.
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 ~~NEW SECTION.~~ Section 1. Reestablishment. The public
12 service commission, department of public service regulation,
13 created by 69-1-102, is reestablished for 6 years pursuant
14 to 2-8-122, with existing statutory authority and rules.
15 Section 2. Section 2-8-103, MCA, is amended to read:
16 "2-8-103. Agencies to terminate. (1) The following
17 agencies shall terminate on July 1, 1979:
18 (a) board of abstracters, department of professional
19 and occupational licensing, created by 2-15-1643;
20 (b) board of real estate, department of professional
21 and occupational licensing, created by 2-15-1642;
22 (c) state board of warm air heating, ventilation, and
23 air conditioning, department of professional and
24 occupational licensing, created by 2-15-1656;
25 (d) board of institutions, department of institutions,

1 created by 2-15-2303.

2 (2) The following agencies shall terminate on July 1,

3 1981:

4 (a) board of athletics, department of professional and

5 occupational licensing, created by 2-15-1661;

6 (b) board of massage therapists, department of

7 professional and occupational licensing, created by

8 2-15-1627;

9 (c) board of osteopathic physicians, department of

10 professional and occupational licensing, created by

11 2-15-1607;

12 (d) board of podiatry examiners, department of

13 professional and occupational licensing, created by

14 2-15-1608;

15 (3) The following units of state government shall

16 terminate on July 1, 1983:

17 (a) board of aeronautics, department of commerce,

18 created by 2-15-1812;

19 (b) state board of hail insurance, department of

20 agriculture, created by 2-15-3003;

21 (c) board of horseracing, department of commerce,

22 created by 2-15-1881;

23 (d) board of livestock, department of livestock,

24 created by 2-15-3102;

25 (e) board of milk control, department of commerce,

1 created by 2-15-1802;

2 (f) board of oil and gas conservation, department of

3 natural resources and conservation, created by 2-15-3303;

4 (g) Montana outfitters' council, department of fish,

5 wildlife, and parks, created by 2-15-3403;

6 ~~(h) public service commission, department of public~~

7 ~~service regulation, created by 69-1-102;~~

8 ~~(i) board of water and wastewater operators,~~

9 department of health and environmental sciences, created by

10 2-15-2105;

11 ~~(j) board of water well contractors, department of~~

12 commerce, created by 2-15-1862.

13 (4) The following agencies terminate on July 1, 1985:

14 (a) the board of public accountants, department of

15 commerce, created by 2-15-1866;

16 (b) the board of architects, department of commerce,

17 created by 2-15-1871;

18 (c) state banking board, department of commerce,

19 created by 2-15-1803;

20 (d) the state electrical board, department of

21 commerce, created by 2-15-1874;

22 (e) the board of professional engineers and land

23 surveyors, department of commerce, created by 2-15-1873;

24 (f) office of commissioner of insurance and the

25 insurance department, state auditor's office, created by

1 2-15-1902 and 2-15-1903;

2 (g) office of the securities commissioner, state
3 auditor's office, created by 2-15-1901;

4 (n) the board of landscape architects, department of
5 commerce, created by 2-15-1872;

6 (i) the board of county printing, department of
7 commerce, created by 2-15-1811;

8 (j) the board of plumbers, department of commerce,
9 created by 2-15-1875;

10 (k) board of physical therapy examiners, department of
11 commerce, created by 2-15-1858.

12 (5) The following agencies terminate on July 1, 1987:

13 (a) commission for human rights, department of labor
14 and industry, created by 2-15-1706;

15 (b) Montana state board of medical examiners,
16 department of commerce, created by 2-15-1841;

17 (c) board of dentistry, department of commerce,
18 created by 2-15-1842;

19 (d) board of pharmacists, department of commerce,
20 created by 2-15-1843;

21 (e) board of nursing, department of commerce, created
22 by 2-15-1844;

23 (f) board of nursing home administrators, department
24 of commerce, created by 2-15-1845;

25 (g) board of optometrists, department of commerce,

1 created by 2-15-1846;

2 (h) board of chiropractors, department of commerce,
3 created by 2-15-1847;

4 (i) board of radiologic technologists, department of
5 commerce, created by 2-15-1849;

6 (j) board of speech pathologists and audiologists,
7 department of commerce, created by 2-15-1849;

8 (k) board of hearing aid dispensers, department of
9 commerce, created by 2-15-1850;

10 (l) board of psychologists, department of commerce,
11 created by 2-15-1851;

12 (m) board of veterinarians, department of commerce,
13 created by 2-15-1852;

14 (n) board of morticians, department of commerce,
15 created by 2-15-1853;

16 (o) board of barbers, department of commerce, created
17 by 2-15-1856;

18 (p) board of cosmetologists, department of commerce,
19 created by 2-15-1857;

20 (q) board of sanitarians, department of commerce,
21 created by 2-15-1861;

22 (r) board of veterans' affairs, department of social
23 and rehabilitation services, created by 2-15-2202.

24 ~~(6) The following agency terminates July 1, 1989:~~
25 ~~public service commission, department of public service~~

1 ~~regulation, created by 69-1-102.~~"

2 ~~NEW SECTION. Section 3. Fees. Each fee charged by the~~
 3 ~~commission must be commensurate with the costs incurred in~~
 4 ~~administering the function for which the fee is charged~~
 5 ~~EXCEPT THOSE FEES SET BY FEDERAL STATUTE. NO FEE SET BY THE~~
 6 ~~COMMISSION MAY EXCEED \$500.~~

7 Section 4. Section 9, Chapter 607, Laws of 1981, is
 8 amended to read:

9 "Section 9. Effective date and termination date. This
 10 act shall become effective on July 1, 1981. ~~It shall~~
 11 ~~terminate on July 1, 1983.~~"

12 Section 5. Section 69-3-101, MCA, is amended to read:

13 "69-3-101. Meaning of term "public utility". (1) The
 14 term "public utility", within the meaning of this chapter,
 15 shall embrace every corporation, both public and private,
 16 company, individual, association of individuals, their
 17 lessees, trustees, or receivers appointed by any court
 18 whatsoever, that now or hereafter may own, operate, or
 19 control any plant or equipment, any part of a plant or
 20 equipment, or any water right within the state for the
 21 production, delivery, or furnishing for or to other persons,
 22 firms, associations, or corporations, private or municipal:

23 ~~(1)(a) heat;~~

24 ~~(1)(b) street-railway service;~~

25 ~~(1)(c) light;~~

1 ~~transmit~~ power in any form or by any agency;

2 ~~(5)(a) except as provided in chapter 7, water for~~
 3 ~~business, manufacturing, household use, or sewerage service,~~
 4 ~~whether within the limits of municipalities, towns, and~~
 5 ~~villages or elsewhere;~~

6 ~~(6)(f) telegraph or telephone service.~~

7 ~~(2) The term "public utility" does not include:~~

8 ~~(a) privately owned and operated water, sewer, or~~
 9 ~~combination systems that do not serve the public; or~~

10 ~~(b) county or consolidated city and county water or~~
 11 ~~sewer districts as defined in title 7, chapter 13, parts 22~~
 12 ~~and 23."~~

13 Section 6. Section 69-3-204, MCA, is amended to read:

14 "69-3-204. Fees to be charged by commission. (1) The
 15 public service commission ~~shall~~ ~~may~~, except as otherwise
 16 provided by law, require and receive fees before filing
 17 annual reports, schedules, ~~applications~~ and supplements of
 18 ~~these and shall require and receive fees for copies of~~
 19 ~~orders, documents, classifications, blank forms and other~~
 20 ~~instruments prepared by it or on file in its office, unless~~
 21 ~~not~~ provided by law to be furnished free of charge, under
 22 the following schedules:

23 ~~(a) filing annual reports, each \$5.00;~~

24 ~~(b) filing rate schedules, each \$2.00;~~

25 ~~(c) classification for public utilities, each \$1.50;~~

~~(1) -- for blank forms of annual reports for utilities --~~

~~-----cost.~~

(2) The commission shall require and receive an additional sum to be set by the commission to pay the cost of publishing notice as required by this chapter.

(3) This section does not require or authorize the public service commission to collect fees for the filing of annual reports, schedules, and supplements of these which relate solely to interstate commerce."

Section 7. Section 69-3-304, MCA, is amended to read:

"69-3-304. Temporary approval of rate increases ~~or decreases~~. The commission may, in its discretion, temporarily approve increases ~~or decreases~~ pending a hearing or final decision. If the final decision is to disapprove the ~~an~~ increase, the commission ~~shall~~ may order a rebate to all consumers for the amount collected retroactive to the date of the temporary approval. ~~If the final decision is to disapprove a decrease, the commission may order a surcharge to be paid by all consumers for the amount not collected retroactive to the date of the temporary approval. The commission may SHALL order interest to be paid on a rebate or surcharge as determined by the commission.~~ An order of the commission approving or denying a temporary rate increase ~~or decrease~~ shall be BASED ON IDENTICAL STANDARDS ~~AND SHALL BE~~ an intermediate agency action subject to

judicial review under the Montana Administrative Procedure Act."

Section 8. Section 69-7-101, MCA, is amended to read:

"69-7-101. Municipal utilities -- regulation by municipality -- limitation. A municipality has the power and authority to regulate, establish, and change, as it considers proper, rates, charges, and classifications imposed for utility services to its inhabitants and other persons served by municipal utility systems. Rates, charges, and classifications shall be reasonable and just and, except as provided in 69-7-102, they may not be raised to yield more than a 12% increase in total annual revenues or, in the case of mandated federal and state capital improvements, the increase may not exceed amounts necessary to meet the requirements of bond indentures or loan agreements required to finance the local government's share of the mandated improvements. Annual revenues must be computed on any consecutive 12-month period for purposes of this chapter."

Section 9. Section 69-7-102, MCA, is amended to read:

"69-7-102. Rate increases over maximum. (1) If a municipal utility requires rate increases that yield an increase in total revenues in excess of 12% in any one year or rate increases for mandated federal and state capital improvements for which the increase exceeds amounts necessary to meet the requirements of bond indentures or

loan agreements required to finance the local government's share of the mandated improvements, it must make application for such increases to the public service commission.

~~(2) If the public service commission issues a rate order approving such an increase, the municipality may not increase any rates and charges under this chapter within 12 months of the commission's order unless an increase is necessary to meet the requirements of bond indentures or loan agreements required to finance the local government's share for mandated federal and state capital improvements.~~

Section 10. Section 69-7-111, MCA, is amended to read:

"69-7-111. Municipal rate hearing required -- notice.

(1) If the governing body of a municipality considers it advisable to regulate, establish, or change rates, charges, or classifications imposed on its customers, it shall order a hearing to be held before it at a time and place specified.

(2) Notice of the hearing shall be published in a newspaper as provided in 7-1-4127.

(3) (a) The notice shall be published three times with at least 6 days separating each publication. The first publication may be no more than 28 days prior to the hearing, and the last publication may be no less than 3 days prior to the hearing.

(b) The notice must also be mailed at least 7 days and

not more than 30 days prior to the hearing to persons served by the utility. The notice ~~shall accompany the bill for services of that utility~~ and must be mailed within the prescribed time period. This notice must contain an estimate of the amount the customer's average monthly bill will increase.

(4) The published notice must contain:

(a) the date, time, and place of the hearing;

(b) a brief statement of the proposed action; and

(c) the address and telephone number of a person who may be contacted for further information regarding the hearing.

(5) Notice of all hearings shall be mailed first class, postage prepaid, to the Montana consumer counsel."

Section 11. Section 69-12-311, MCA, is amended to read:

"69-12-311. Class A motor carrier certificate. (1) No Class A motor carrier shall operate for the transportation of persons and/or property for hire on any public highway in this state without first having obtained from the commission, under the provisions of this chapter, a certificate declaring that public convenience and necessity require such operation.

(2) A motor carrier making application for such certificate shall do so in writing, separately for each

1 route, which petition shall be verified by the applicant and
2 shall specify the following matters:

3 (a) the name and address of the applicant and the
4 names and addresses of its officers, if any;

5 (b) the public highway or highways over which and the
6 fixed termini between which or the regular route or routes
7 over which it intends to operate;

8 (c) the kind of transportation, whether passenger,
9 freight, or both, together with a full and complete
10 description of the character of the vehicle or vehicles to
11 be used, including the seating capacity of any vehicle to be
12 used for passenger traffic and the tonnage capacity of any
13 vehicle to be used in freight traffic;

14 (d) the proposed time schedule;

15 (e) a schedule of the tariff or rates desired to be
16 charged for the transportation of freight and/or passengers;

17 (f) a complete and detailed description of the
18 property proposed to be devoted to the public service;

19 (g) a detailed statement showing the assets and
20 liabilities of such applicant; and

21 (h) such other or additional information as the
22 commission may by order require.

23 (3) Such application shall be accompanied by a filing
24 fee of ~~\$100--to--\$300~~, to be set by rule of the commission
25 ~~based on the number of counties for which the certificate is~~

1 requested."

2 Section 12. Section 69-12-312, MCA, is amended to
3 read:

4 "69-12-312. Class B motor carrier certificate. (1) No
5 Class A motor carrier shall operate for the transportation
6 of persons and/or property for hire on any public highway in
7 this state without first having obtained from the
8 commission, under the provisions of this chapter, a
9 certificate that public convenience and necessity require
10 such operations.

11 (2) A motor carrier making application for such permit
12 shall do so in writing, separately for each locality for
13 which consideration is desired, which petition shall be
14 verified and shall specify the following matters:

15 (a) name and address of the applicant and the names
16 and addresses of its officers, if any;

17 (b) the kind of transportation, whether passenger,
18 freight, or both, together with a full and complete
19 description of the character of the vehicle or vehicles to
20 be used, including the seating capacity of any vehicle to be
21 used for passenger traffic and the tonnage capacity of any
22 vehicle to be used in freight traffic;

23 (c) the locality and character of operations to be
24 conducted;

25 (d) a schedule of the tariff of rates desired to be

charged for the transportation of freight and/or passengers;

(e) a complete and detailed description of the property proposed to be devoted to the public service;

(f) a detailed statement showing the assets and liabilities of such applicant; and

(g) such other or additional information as the commission may by order require.

(3) Such application shall be accompanied by a filing fee of ~~\$100--to--\$300~~ to be set by rule of the commission ~~based-on-the-number-of-counties-for-which-the-certificate-is requested.~~

Section 13. Section 69-12-313, MCA, is amended to read:

"69-12-313. Class C motor carrier certificate. (1) No Class C motor carrier, except any Class C motor carrier operating pursuant to the terms and conditions of a contract ~~with-the-United-States-government-or-an-agency-or-department thereof--or--of-a-contract-for-transporting-solid-waste-with the-state-or-an-agency-or-department-thereof~~ as provided in 69-12-324, shall operate for the distribution, delivery, or collection of goods, wares, merchandise, or commodities or for the transportation of persons on any public highway in this state without first having obtained from the commission, under the provisions of this chapter, a certificate that public convenience and necessity require

such operation.

(2) A motor carrier making application for such permit shall do so in writing, separately for each route or locality for which consideration is desired, which petition shall be verified by the applicant and shall specify the following matters:

(a) the name and address of the applicant and the names and addresses of its officers, if any;

(b) the public highways or highways over which and the fixed termini between which or the route or routes over which it intends to operate, if the same are fixed, or the particular city, town, station, or locality from and/or to which the applicant intends to operate;

(c) the kind of transportation and the character of the goods, wares, merchandise, or commodities to be distributed, delivered, or collected, together with a full and complete description of the character of the vehicle or vehicles, including the rated tonnage capacity of such vehicles, to be used in such service of distribution, delivery, or collection; and

(d) such other or additional information as the commission may by order require.

(3) Such application shall be accompanied by a fee of ~~\$100--to--\$300~~ to be set by rule of the commission ~~based-on the-number-of-counties-for-which-the-certificate-is~~

1 requested.

2 (4) The submission of a Class C motor carrier
3 application must be accompanied by the names and addresses
4 of any person, corporation, or other legal entity with whom
5 the applicant has executed a contract for the distribution,
6 delivery, or collection of wares, merchandise, or
7 commodities or transporting persons. Such contracts must be
8 in writing, executed by the parties and submitted to the
9 commission for examination."

10 Section 14. Section 69-12-321, MCA, is amended to
11 read:

12 "69-12-321. Hearing on application for motor carrier
13 certificate. (1) Upon the filing of such application by a
14 Class A, Class B, Class C, or Class D motor carrier, except
15 a Class C motor carrier authorized to operate under the
16 terms of a contract ~~with the United States government for an~~
17 ~~agency or department thereof~~ as provided in 69-12-324, or
18 upon the filing of a request for a transfer of authority,
19 the commission shall give notice thereof to any interested
20 party. The commission shall fix a time and place for hearing
21 thereon whenever a protest or a request for a hearing is
22 received. The hearing is to be set for a date not later than
23 60 days after receipt of a protest or a hearing request by
24 the commission. Whenever no protests or hearing requests are
25 received, the commission may act on the application without

1 a hearing as prescribed by commission rules.

2 (2) Any motor carrier referred to in 69-12-322, the
3 department of highways, the governing board or boards of any
4 such county, town, or city into or through which the route
5 or service as proposed may extend, and any person or
6 corporation concerned are hereby declared to be interested
7 parties to the proceedings and may offer testimony for or
8 against the granting of the certificate.

9 (3) The contracting parties referred to in
10 69-12-313(4) must appear and offer testimony in support of
11 the applicant.

12 (4) However, an application by a Class A, Class B,
13 Class C, or Class D motor carrier for a certificate may be
14 disallowed without a public hearing thereon when it appears
15 from the records of the commission that the route or
16 territory sought to be served by the applicant has
17 previously been made the basis of a public investigation and
18 finding by the commission that public convenience and
19 necessity do not require the proposed motor carrier service
20 unless it is made to affirmatively appear in the application
21 by a recital of the facts that conditions obtaining over the
22 route or in the territory and affecting transportation
23 facilities therein have materially changed since said public
24 investigation and finding and that public convenience and
25 necessity do now require the motor carrier operation."

Section 15. Section 69-12-324, MCA, is amended to read:

"69-12-324. Special provisions when federal, or state, or local government contract involved. (1) The transportation--for--hire--of--any--persons--or--commodities between any two--points--within--the--state--by--any--motor carrier--pursuant--to--the--terms--of--a--written--contract--between said carrier and the United States government or--an--agency or--department--thereof--or--the--state--or--an--agency--or department thereof for the transportation of solid waste shall be deemed a transportation movement subject to the provisions of this chapter. However, the presentation of the written contract to the commission shall be deemed sufficient proof of public convenience and necessity in accordance with the terms and conditions contained within the United States government or state contract. Subject to the provisions of this section, a transportation movement is considered to be:

(a) the transportation for hire of persons or commodities between two points within the state by a motor carrier pursuant to the terms of a written contract between the carrier and the United States government or an agency or department thereof; or

(b) the transportation for hire of solid waste between two points within the state by a motor carrier pursuant to

the terms of a written contract between the carrier and the state government or an agency or department thereof or a local government, including but not limited to cities and counties.

(2) The Class C certificate of public convenience and necessity issued pursuant to the terms and conditions of the United States government or state or local government contract may be issued by the commission upon receipt of an executed copy of the United States government or state or local government contract. The certificate of public convenience and necessity may be issued thereafter without requiring the commission to fix a time and place for public hearing.

(3) The certificate of public convenience and necessity, issued pursuant to the terms of the United States government or state or local government contract, is authorized only for the duration of the United States government or state or local government contract concerned. The certificate may be renewed for another definite term if the same motor carrier is the motor carrier authorized to operate under the United States government or state or local government contract."

Section 16. Section 69-12-406, MCA, is amended to read:

"69-12-406. Restriction on transportation of certain

1 waste. No ~~Except as provided in 69-12-324, no~~ Class A, B, or
 2 C carrier will be authorized or permitted to transport
 3 ashes, trash, waste, refuse, rubbish, garbage, or organic
 4 and inorganic matter within the state."

5 Section 17. Section 69-12-421, MCA, is amended to
 6 read:

7 "69-12-421. Annual fee for motor carriers. (1) Except
 8 as provided in subsection (2), in addition to all of the
 9 licenses, fees, or taxes imposed upon motor vehicles in this
 10 state and in consideration of the use of the public highways
 11 of this state, every motor carrier shall, at the time of the
 12 issuance of a certificate and annually thereafter, on or
 13 between January ~~October~~ 1 and the following January ~~15~~ 31 of
 14 each ~~calendar~~ year, pay to the public service commission of
 15 Montana ~~the sum of \$5 a fee set by rule of the commission~~
 16 for every motor vehicle operated by the carrier over or upon
 17 the public highways of this state.

18 (2) (a) A motor carrier engaged in seasonal operations
 19 only, where its operations do not extend continuously over a
 20 period of not to exceed 6 months in any calendar year, shall
 21 only be required to pay compensation and fees in a sum equal
 22 to one-half of the compensation and fees herein provided.

23 (b) The compensation and fees herein imposed shall not
 24 apply to motor vehicles maintained and used by a motor
 25 carrier as standby or emergency equipment. The commission

1 shall have the power and it is hereby made its duty to
 2 determine what motor vehicles shall be classed as standby or
 3 emergency equipment."

4 Section 18. Section 69-12-423, MCA, is amended to
 5 read:

6 "69-12-423. Fees to be charged by commission. (1) The
 7 public service commission ~~shall~~ may, except as otherwise
 8 provided by law, require and receive fees before filing
 9 annual reports, tariffs, schedules, ~~applications~~, and
 10 supplements ~~of these and shall require and receive fees for~~
 11 ~~copies of orders, documents, classifications, blank forms,~~
 12 ~~and other instruments prepared by it or on file in its~~
 13 ~~office unless~~ not provided by law to be furnished free of
 14 charge under the following schedule:

15 (a) ~~fitting annual reports each \$5.00~~
 16 (b) ~~fitting tariffs, time schedules, and supplements~~
 17 ~~thereof each \$2.00~~
 18 (c) ~~for issuing certificates of public convenience and~~
 19 ~~necessity to motor carriers each \$2.00~~
 20 (d) ~~classification for motor carriers each \$1.50~~
 21 (e) ~~for a copy of the rates for motor carriers and~~
 22 ~~blank forms of annual reports for common carriers per cost.~~

23 (2) The commission shall require and receive an
 24 additional sum to be set by the commission to pay the cost
 25 of publishing such notice as may be required by this

1 chapter.

2 (3) This section does not require or authorize the
3 public service commission to collect fees for the filing of
4 annual reports, tariffs, schedules, and supplements of these
5 which relate solely to interstate commerce."

6 Section 19--Section--69-12-501v--MCAv--is--amended--to
7 read:

8 "69-12-501v--Rate-schedules-to-be-maintainedv (1)-Every
9 Class-Ax or-Bx-or-B motor-carrier-holding-a-certificate-must
10 maintain-on-file-with-the-commission-a--full--and--complete
11 schedule--of-its-ratesv-faresv-chargesv-classificationsv-and
12 rules-of-service-and-any-and-all-tariff-provisions--relating
13 to--such--ratesv-faresv-chargesv-classificationsv-or-rulesv
14 Every Class-A-or-Class-B-motor-carrier schedule-on-file--and
15 approved--on--March--7v-1961v-shall-remain-in-full-force-and
16 effect-until-changed-or-modified-by-the-commission-or-by-the
17 carrier-with-the-approval-of-the-commissionv

18 (2)--No-changev-modificationv-alterationv-increases--or
19 decrease--in-any-ratesv-faresv-chargesv-classificationsv-or-rate
20 of-service-shall-be-made-by-any-motor-carrier-without--first
21 obtaining--the--approval--of--the-commissionv-The-commission
22 shall-prescribe-rules-providing-for-the-form--and--style--of
23 all--schedules--and--tariffs--and--for--the-procedures-to-be
24 followed--in--filing--or--publishing--any--changes--or
25 modifications-of-the-samev"

1 NEW-SECTION--Section-20v--Existing--Class--B--carrier
2 rates-in-effects-The-ratesv-to-tolls--and--charges--levied--by
3 Class--B--motor--carriers--that-were-in-effect-on-January-1v
4 1983v-are-the-lawful-ratesv-to-tolls--and--charges--until--they
5 are-changedv-as-provided-in-Title-69v-chapter-12v

6 Section-21v--Section--69-12-502v--MCAv--is--amended--to
7 read:

8 "69-12-502v--Prohibition--on--deviation--from--rate
9 schedulesv It-shall-be-unlawful-for-any-Class-Ax or-Bx-or-B
10 motor-carrier-to-chargev-demandv-receivev-or--collect--any
11 greater-or-less-ratev-chargev-or-fare-than-that-fixed-by-the
12 commission--for--the--transportation-service-providedv--When
13 maximum-or-minimum--rates--have--been--established--for--any
14 service--provided--by--any--Class--C-motor-carriersv-it-shall
15 likewise-be-unlawful-for-such--carrier--to--chargev--demandv
16 receivev-or--collect--any-greater-compensation-or-rate-than
17 that-established-for-the-service-by-any--applicable--maximum
18 rate--or-any-less-compensation-or-rate-than-that-established
19 by-any-applicable-minimum-ratesv-it-also--shall--be--unlawful
20 for--any--Class--Ax or-Bx-or-B motor-carrier-or-any-Class-C
21 motor-carrier-subject-to-maximum-or-minimum-rates-to--refund
22 or-remity-in-any-manner-or-by-any-devicev-any-portion-of-the
23 ratesv-faresv-and-charges-required-to-be-collected-under-the
24 schedule-of-the-Class-Ax or-Bx-or-B carrier-on-file-with-the
25 commission-or-under-the-maximum-or-minimum-rates-established

1 ~~by the commission for the Class 6 carriers"~~

2 Section 19. Section 69-14-115, MCA, is amended to
3 read:

4 "69-14-115. Investigation, enforcement, and report
5 concerning railroad safety laws. (1) The commission ~~shall~~
6 ~~may~~:

7 (a) make inquiry into the observance by all railroads
8 within this state of the laws of the United States and of
9 Montana intended to safeguard the lives of the employees of
10 persons or corporations engaged in operating the same;

11 (b) lay complaint before the proper state or federal
12 officer, of any infraction of any of such laws; and

13 (c) prosecute before the proper court or tribunal any
14 person guilty of violation of the penal provisions thereof.

15 (2) The commission shall in the annual report required
16 by 2-7-102 set out what effort it has made to carry out the
17 provisions of this section, with the result thereof, and in
18 detail what steps it has taken to prosecute any violations
19 of any such acts of which it has secured information. A copy
20 of this annual report shall be mailed to the secretary of
21 the department of transportation."

22 Section 20. Section 69-14-116, MCA, is amended to
23 read:

24 "69-14-116. General protection of health and safety on
25 railroads. (1) The commission ~~shall have full authority may~~:

1 (a) after notice and hearing, to make and enforce
2 rules providing for the installation on and equipment of
3 trains, cars, or engines with safety appliances and
4 providing for sanitation and adequate shelter as it affects
5 the health of all railroad employees, including but not
6 limited to trainmen, enginemen, yardmen, maintenance-of-way
7 employees, highway crossing watchmen, and clerical,
8 platform, freight house, and express employees; and

9 (b) to inspect the same and enforce regulations with
10 regard thereto.

11 (2) Such inspection, rules, and regulations to be from
12 time to time coextensive with the requirements of and in
13 conformity to the provisions of the acts of congress and
14 rules and regulations of the interstate commerce commission
15 and the department of transportation, as then effective."

16 ~~Section 24. Section 69-14-202, MCA, is amended to~~
17 ~~read:~~

18 "69-14-202. ~~Buty to furnish shipping and passenger~~
19 ~~facilities. (1) Every~~ ~~no~~ ~~person, corporation, or association~~
20 ~~operating a railroad in the state shall maintain and staff~~
21 ~~which maintain and staff~~ ~~facilities for shipment and~~
22 ~~delivery of freight and shall ship and deliver freight and~~
23 ~~accommodate which ships and delivers freight and~~
24 ~~accommodates passengers or both in at least one location~~
25 ~~preferably the county seat in each county through which the~~

line-of-the-railway-passes-and-at-any-point-upon-the-line-of
 such-railway--where--there--is--a--city--or--town--having-a
 population--according-to-the-last--federal--census--of--not
 less--than-1,000--provided--however--that--this-section-shall
 not-require-the-maintenance-and-staffing-of-such--facilities
 in--any--county--or--at--any--city--or--town--in--which-such
 facilities-were-not-maintained-and-staffed-on-duty-in-1969.

(2)--Nothing---in---this---section---authorizes---the
 discontinuance-of ~~any-discontinuous-or-removes-any-agency-or~~
 any station facility--presently--established--in-any-city,
 town-or-other-location-having-a-population-of--less--than
 1,000---without---a---hearing---before--the--public--service
 commission--as-provided-by-law."

NEW SECTION. Section 21. Codification instruction.
 Section 3 is intended to be codified as an integral part of
 Title 69, chapter 1, part 1, and the provisions of Title 69,
 chapter 1, part 1, apply to section 3.

NEW SECTION. Section 22. Effective date. This act is
 effective July 1, 1983.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 436

3 Senate Business and Industry Committee

4
5 A statement of intent is required for Senate Bill 436
6 because it grants the Public Service Commission authority to
7 charge fees commensurate with costs.

8 The Legislature intends that the fees be set in an
9 amount sufficient to provide funds to administer the
10 function for which the fee is charged. Fees may not be set
11 so high as to generate revenue in excess of expenses.

THIRD READING

SB 436

SENATE BILL NO. 436

INTRODUCED BY BLAYLOCK, HIMSL

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE PUBLIC SERVICE COMMISSION UNDER EXISTING STATUTORY AUTHORITY AND RULES; REVISING PUBLIC SERVICE COMMISSION AUTHORITY; PROVIDING FOR FEES COMMENSURATE WITH COSTS; MAKING TEMPORARY MUNICIPAL REGULATORY AUTHORITY OVER UTILITIES PERMANENT; EXEMPTING PRIVATELY OWNED AND COUNTY WATER AND SEWER SYSTEMS FROM PUBLIC SERVICE COMMISSION REGULATION; AUTHORIZING TEMPORARY UTILITY RATE DECREASES; CLARIFYING TIME LIMITS ON MUNICIPAL RATE INCREASES; MODIFYING MUNICIPAL RATE HEARING NOTICE REQUIREMENTS; EXTENDING SPECIAL PROVISIONS RELATING TO WASTE DISPOSAL TO LOCAL GOVERNMENTS; ESTABLISHING RATE-MAKING-AUTHORITY-OVER-CLASS--D--MOTOR-CARRIERS; MAKING RAILROAD SAFETY FUNCTIONS PERMISSIVE RATHER THAN MANDATORY; DELETING-THE-REQUIREMENT-THAT--RAILROADS--SERVE--ALL--COUNTY SEATS--AND--CITIES--OVER--1,000; AMENDING SECTION 9, CHAPTER 607, LAWS OF 1981; AMENDING SECTIONS 2-8-103, 69-3-101, 69-3-204, 69-3-304, 69-7-101, 69-7-102, 69-7-111, 69-12-311 THROUGH 69-12-313, 69-12-321, 69-12-324, 69-12-406, 69-12-421, 69-12-423, 69-12-501, 69-12-502, 69-14-115, AND 69-14-116, AND 69-14-202, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Public Service Commission and requires a performance evaluation of the Commission by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation, the Legislative Audit Committee recommends that the Public Service Commission be reestablished.

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

~~NEW SECTION.~~ Section 1. Reestablishment. The public service commission, department of public service regulation, created by 69-1-102, is reestablished for 6 years pursuant to 2-8-122, with existing statutory authority and rules.

Section 2. Section 2-8-103, MCA, is amended to read: "2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstractors, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions.

1 created by 2-15-2303.

2 (2) The following agencies shall terminate on July 1,
3 1981:

4 (a) board of athletics, department of professional and
5 occupational licensing, created by 2-15-1661;

6 (b) board of massage therapists, department of
7 professional and occupational licensing, created by
8 2-15-1627;

9 (c) board of osteopathic physicians, department of
10 professional and occupational licensing, created by
11 2-15-1607;

12 (d) board of podiatry examiners, department of
13 professional and occupational licensing, created by
14 2-15-1608†_A

15 (3) The following units of state government shall
16 terminate on July 1, 1983:

17 (a) board of aeronautics, department of commerce,
18 created by 2-15-1812;

19 (b) state board of hail insurance, department of
20 agriculture, created by 2-15-3003;

21 (c) board of horseracing, department of commerce,
22 created by 2-15-1881;

23 (d) board of livestock, department of livestock,
24 created by 2-15-3102;

25 (e) board of milk control, department of commerce,

1 created by 2-15-1802;

2 (f) board of oil and gas conservation, department of
3 natural resources and conservation, created by 2-15-3303;

4 (g) Montana outfitters' council, department of fish,
5 wildlife, and parks, created by 2-15-3403;

6 ~~{h}--public--service--commission--department-of-public~~
7 ~~service-regulatory-created-by-69-1-192†~~

8 ~~{†}{h}~~ board of water and wastewater operators,
9 department of health and environmental sciences, created by
10 2-15-2105;

11 ~~{†}{il}~~ board of water well contractors, department of
12 commerce, created by 2-15-1862.

13 (4) The following agencies terminate on July 1, 1985:

14 (a) the board of public accountants, department of
15 commerce, created by 2-15-1866;

16 (b) the board of architects, department of commerce,
17 created by 2-15-1871;

18 (c) state banking board, department of commerce,
19 created by 2-15-1803;

20 (d) the state electrical board, department of
21 commerce, created by 2-15-1874;

22 (e) the board of professional engineers and land
23 surveyors, department of commerce, created by 2-15-1873;

24 (f) office of commissioner of insurance and the
25 insurance department, state auditor's office, created by

1 2-15-1902 and 2-15-1903;
 2 (g) office of the securities commissioner, state
 3 auditor's office, created by 2-15-1901;
 4 (h) the board of landscape architects, department of
 5 commerce, created by 2-15-1872;
 6 (i) the board of county printing, department of
 7 commerce, created by 2-15-1811;
 8 (j) the board of plumbers, department of commerce,
 9 created by 2-15-1875;
 10 (k) board of physical therapy examiners, department of
 11 commerce, created by 2-15-1858.
 12 (5) The following agencies terminate on July 1, 1987:
 13 (a) commission for human rights, department of labor
 14 and industry, created by 2-15-1706;
 15 (b) Montana state board of medical examiners,
 16 department of commerce, created by 2-15-1841;
 17 (c) board of dentistry, department of commerce,
 18 created by 2-15-1842;
 19 (d) board of pharmacists, department of commerce,
 20 created by 2-15-1843;
 21 (e) board of nursing, department of commerce, created
 22 by 2-15-1844;
 23 (f) board of nursing home administrators, department
 24 of commerce, created by 2-15-1845;
 25 (g) board of optometrists, department of commerce,

1 created by 2-15-1846;
 2 (h) board of chiropractors, department of commerce,
 3 created by 2-15-1847;
 4 (i) board of radiologic technologists, department of
 5 commerce, created by 2-15-1848;
 6 (j) board of speech pathologists and audiologists,
 7 department of commerce, created by 2-15-1849;
 8 (k) board of hearing aid dispensers, department of
 9 commerce, created by 2-15-1850;
 10 (l) board of psychologists, department of commerce,
 11 created by 2-15-1851;
 12 (m) board of veterinarians, department of commerce,
 13 created by 2-15-1852;
 14 (n) board of morticians, department of commerce,
 15 created by 2-15-1853;
 16 (o) board of barbers, department of commerce, created
 17 by 2-15-1856;
 18 (p) board of cosmetologists, department of commerce,
 19 created by 2-15-1857;
 20 (q) board of sanitarians, department of commerce,
 21 created by 2-15-1861;
 22 (r) board of veterans' affairs, department of social
 23 and rehabilitation services, created by 2-15-2202.
 24 (6) The following agency terminates July 1, 1989:
 25 public service commission, department of public service

~~regulation, created by 69-1-102.~~"

~~NEW SECTION. Section 3. Fees. Each fee charged by the commission must be commensurate with the costs incurred in administering the function for which the fee is charged EXCEPT THOSE FEES SET BY FEDERAL STATUTE. NO FEE SET BY THE COMMISSION MAY EXCEED \$500.~~

Section 4. Section 9, Chapter 607, Laws of 1981, is amended to read:

"Section 9. Effective date and termination date. This act shall become effective on July 1, 1981. ~~It shall terminate on July 1, 1983.~~"

Section 5. Section 69-3-101, MCA, is amended to read:

"69-3-101. Meaning of term "public utility". (1) The term "public utility", within the meaning of this chapter, shall embrace every corporation, both public and private, company, individual, association of individuals, their lessees, trustees, or receivers appointed by any court whatsoever, that now or hereafter may own, operate, or control any plant or equipment, any part of a plant or equipment, or any water right within the state for the production, delivery, or furnishing for or to other persons, firms, associations, or corporations, private or municipal:

(1)(a) heat;

(2)(b) street-railway service;

(3)(c) light;

(4)(d) power in any form or by any agency;

(5)(e) except as provided in chapter 7, water for business, manufacturing, household use, or sewerage service, whether within the limits of municipalities, towns, and villages or elsewhere;

(6)(f) telegraph or telephone service.

(2) The term "public utility" does not include:

(a) privately owned and operated water, sewer, or combination systems that do not serve the public; or

(b) county or consolidated city and county water or sewer districts as defined in Title 7, chapter 13, parts 22 and 23."

Section 6. Section 69-3-204, MCA, is amended to read:

"69-3-204. Fees to be charged by commission. (1) The public service commission shall ~~may~~, except as otherwise provided by law, require and receive fees before filing annual reports, schedules, ~~applications~~ and supplements of these and shall require and receive fees for copies of orders, documents, classifications, blank forms, and other instruments prepared by it or on file in its office, unless not provided by law to be furnished free of charge under the following schedule:

(a) filing annual reports, each \$5.00;

(b) filing rate schedules, each \$2.00;

(c) classification for public utilities, each \$1.50;

1 ~~td)--for-blank-forms-of-annual-reports-for-utilities--~~
 2 ~~-----cost.~~

3 (2) The commission shall require and receive an
 4 additional sum to be set by the commission to pay the cost
 5 of publishing notice as required by this chapter.

6 (3) This section does not require or authorize the
 7 public service commission to collect fees for the filing of
 8 annual reports, schedules, and supplements of these which
 9 relate solely to interstate commerce."

10 Section 7. Section 69-3-304, MCA, is amended to read:

11 ~~"69-3-304. Temporary approval of rate increases or~~
 12 ~~decreases. The commission may, in its discretion,~~
 13 ~~temporarily approve increases or decreases pending a hearing~~
 14 ~~or final decision. If the final decision is to disapprove~~
 15 ~~the an increase, the commission shall may order a rebate to~~
 16 ~~all consumers for the amount collected retroactive to the~~
 17 ~~date of the temporary approval. If the final decision is to~~
 18 ~~disapprove a decrease, the commission may order a surcharge~~
 19 ~~to be paid by all consumers for the amount not collected~~
 20 ~~retroactive to the date of the temporary approval. The~~
 21 ~~commission may SHALL order interest to be paid on a rebate~~
 22 ~~or surcharge as determined by the commission. An order of~~
 23 ~~the commission approving or denying a temporary rate~~
 24 ~~increase or decrease shall be BASED ON IDENTICAL STANDARDS~~
 25 ~~AND SHALL BE~~ an intermediate agency action subject to

1 judicial review under the Montana Administrative Procedure
 2 Act."

3 Section 8. Section 69-7-101, MCA, is amended to read:

4 ~~"69-7-101. Municipal utilities -- regulation by~~
 5 ~~municipality -- limitation. A municipality has the power and~~
 6 ~~authority to regulate, establish, and change, as it~~
 7 ~~considers proper, rates, charges, and classifications~~
 8 ~~imposed for utility services to its inhabitants and other~~
 9 ~~persons served by municipal utility systems. Rates, charges,~~
 10 ~~and classifications shall be reasonable and just and, except~~
 11 ~~as provided in 69-7-102, they may not be raised to yield~~
 12 ~~more than a 12% increase in total annual revenues or, in the~~
 13 ~~case of mandated federal and state capital improvements, the~~
 14 ~~increase may not exceed amounts necessary to meet the~~
 15 ~~requirements of bond indentures or loan agreements required~~
 16 ~~to finance the local government's share of the mandated~~
 17 ~~improvements. Annual revenues must be computed on any~~
 18 ~~consecutive 12-month period for purposes of this chapter."~~

19 Section 9. Section 69-7-102, MCA, is amended to read:

20 ~~"69-7-102. Rate increases over maximum. (1) If a~~
 21 ~~municipal utility requires rate increases that yield an~~
 22 ~~increase in total revenues in excess of 12% in any one year~~
 23 ~~or rate increases for mandated federal and state capital~~
 24 ~~improvements for which the increase exceeds amounts~~
 25 ~~necessary to meet the requirements of bond indentures or~~

loan agreements required to finance the local government's share of the mandated improvements, it must make application for such increases to the public service commission.

~~(2) If the public service commission issues a rate order approving such an increase, the municipality may not increase any rates and charges under this chapter within 12 months of the commission's order unless an increase is necessary to meet the requirements of bond indentures or loan agreements required to finance the local government's share for mandated federal and state capital improvements."~~

Section 10. Section 69-7-111, MCA, is amended to read:

"69-7-111. Municipal rate hearing required -- notice.

(1) If the governing body of a municipality considers it advisable to regulate, establish, or change rates, charges, or classifications imposed on its customers, it shall order a hearing to be held before it at a time and place specified.

(2) Notice of the hearing shall be published in a newspaper as provided in 7-1-4127.

(3) (a) The notice shall be published three times with at least 6 days separating each publication. The first publication may be no more than 28 days prior to the hearing, and the last publication may be no less than 3 days prior to the hearing.

(b) The notice must also be mailed at least 7 days and

not more than 30 days prior to the hearing to persons served by the utility. The notice ~~shall accompany the bill for services of that utility~~ and must be mailed within the prescribed time period. This notice must contain an estimate of the amount the customer's average monthly bill will increase.

(4) The published notice must contain:

(a) the date, time, and place of the hearing;

(b) a brief statement of the proposed action; and

(c) the address and telephone number of a person who may be contacted for further information regarding the hearing.

(5) Notice of all hearings shall be mailed first class, postage prepaid, to the Montana consumer counsel."

Section 11. Section 69-12-311, MCA, is amended to read:

"69-12-311. Class A motor carrier certificate. (1) No Class A motor carrier shall operate for the transportation of persons and/or property for hire on any public highway in this state without first having obtained from the commission, under the provisions of this chapter, a certificate declaring that public convenience and necessity require such operation.

(2) A motor carrier making application for such certificate shall do so in writing, separately for each

1 route, which petition shall be verified by the applicant and
2 shall specify the following matters:

3 (a) the name and address of the applicant and the
4 names and addresses of its officers, if any;

5 (b) the public highway or highways over which and the
6 fixed termini between which or the regular route or routes
7 over which it intends to operate;

8 (c) the kind of transportation, whether passenger,
9 freight, or both, together with a full and complete
10 description of the character of the vehicle or vehicles to
11 be used, including the seating capacity of any vehicle to be
12 used for passenger traffic and the tonnage capacity of any
13 vehicle to be used in freight traffic;

14 (d) the proposed time schedule;

15 (e) a schedule of the tariff or rates desired to be
16 charged for the transportation of freight and/or passengers;

17 (f) a complete and detailed description of the
18 property proposed to be devoted to the public service;

19 (g) a detailed statement showing the assets and
20 liabilities of such applicant; and

21 (h) such other or additional information as the
22 commission may by order require.

23 (3) Such application shall be accompanied by a filing
24 fee of ~~of--\$100--to--\$300,~~ to be set by rule of the commission
25 ~~based on the number of counties for which the certificate is~~

1 requested."

2 Section 12. Section 69-12-312, MCA, is amended to
3 read:

4 "69-12-312. Class 8 motor carrier certificate. (1) No
5 Class 8 motor carrier shall operate for the transportation
6 of persons and/or property for hire on any public highway in
7 this state without first having obtained from the
8 commission, under the provisions of this chapter, a
9 certificate that public convenience and necessity require
10 such operations.

11 (2) A motor carrier making application for such permit
12 shall do so in writing, separately for each locality for
13 which consideration is desired, which petition shall be
14 verified and shall specify the following matters:

15 (a) name and address of the applicant and the names
16 and addresses of its officers, if any;

17 (b) the kind of transportation, whether passenger,
18 freight, or both, together with a full and complete
19 description of the character of the vehicle or vehicles to
20 be used, including the seating capacity of any vehicle to be
21 used for passenger traffic and the tonnage capacity of any
22 vehicle to be used in freight traffic;

23 (c) the locality and character of operations to be
24 conducted;

25 (d) a schedule of the tariff of rates desired to be

1 charged for the transportation of freight and/or passengers;

2 (e) a complete and detailed description of the
3 property proposed to be devoted to the public service;

4 (f) a detailed statement showing the assets and
5 liabilities of such applicant; and

6 (g) such other or additional information as the
7 commission may by order require.

8 (3) Such application shall be accompanied by a filing
9 fee of ~~of--\$100--to--\$300,~~ to be set by rule of the commission
10 ~~based-on-the-number-of-counties-for-which-the-certificate-is~~
11 ~~requested."~~

12 Section 13. Section 69-12-313, MCA, is amended to
13 read:

14 "69-12-313. Class C motor carrier certificate. (1) No
15 Class C motor carrier, except any Class C motor carrier
16 operating pursuant to the terms and conditions of a contract
17 ~~with-the-United-States-government-or-an-agency-or-department~~
18 ~~thereof--or--of-a-contract-for-transporting-solid-waste-with~~
19 ~~the-state-or-an-agency-or-department-thereof as provided in~~
20 ~~69-12-324,~~ shall operate for the distribution, delivery, or
21 collection of goods, wares, merchandise, or commodities or
22 for the transportation of persons on any public highway in
23 this state without first having obtained from the
24 commission, under the provisions of this chapter, a
25 certificate that public convenience and necessity require

1 such operation.

2 (2) A motor carrier making application for such permit
3 shall do so in writing, separately for each route or
4 locality for which consideration is desired, which petition
5 shall be verified by the applicant and shall specify the
6 following matters:

7 (a) the name and address of the applicant and the
8 names and addresses of its officers, if any;

9 (b) the public highways or highways over which and the
10 fixed termini between which or the route or routes over
11 which it intends to operate, if the same are fixed, or the
12 particular city, town, station, or locality from and/or to
13 which the applicant intends to operate;

14 (c) the kind of transportation and the character of
15 the goods, wares, merchandise, or commodities to be
16 distributed, delivered, or collected, together with a full
17 and complete description of the character of the vehicle or
18 vehicles, including the rated tonnage capacity of such
19 vehicles, to be used in such service of distribution,
20 delivery, or collection; and

21 (d) such other or additional information as the
22 commission may by order require.

23 (3) Such application shall be accompanied by a fee of
24 ~~\$100-to-\$300,~~ to be set by rule of the commission based--on
25 ~~the--number--of--counties--for--which--the--certificate--is~~

requested.

(4) The submission of a Class C motor carrier application must be accompanied by the names and addresses of any person, corporation, or other legal entity with whom the applicant has executed a contract for the distribution, delivery, or collection of wares, merchandise, or commodities or transporting persons. Such contracts must be in writing, executed by the parties and submitted to the commission for examination."

Section 14. Section 69-12-321, MCA, is amended to read:

"69-12-321. Hearing on application for motor carrier certificate. (1) Upon the filing of such application by a Class A, Class B, Class C, or Class D motor carrier, except a Class C motor carrier authorized to operate under the terms of a contract with the United States government for on agency--or--department thereof) as provided in 69-12-324, or upon the filing of a request for a transfer of authority, the commission shall give notice thereof to any interested party. The commission shall fix a time and place for hearing thereon whenever a protest or a request for a hearing is received. The hearing is to be set for a date not later than 60 days after receipt of a protest or a hearing request by the commission. Whenever no protests or hearing requests are received, the commission may act on the application without

a hearing as prescribed by commission rules.

(2) Any motor carrier referred to in 69-12-322, the department of highways, the governing board or boards of any such county, town, or city into or through which the route or service as proposed may extend, and any person or corporation concerned are hereby declared to be interested parties to the proceedings and may offer testimony for or against the granting of the certificate.

(3) The contracting parties referred to in 69-12-313(4) must appear and offer testimony in support of the applicant.

(4) However, an application by a Class A, Class B, Class C, or Class D motor carrier for a certificate may be disallowed without a public hearing thereon when it appears from the records of the commission that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over the route or in the territory and affecting transportation facilities therein have materially changed since said public investigation and finding and that public convenience and necessity do now require the motor carrier operation."

1 Section 15. Section 69-12-324, MCA, is amended to
2 read:

3 "69-12-324. Special provisions when federal, or state,
4 or local government contract involved. (1) The
5 ~~transportation--for--hire--of--any--persons--or--commodities~~
6 ~~between--any--two--points--within--the--state--by--any--motor~~
7 ~~carrier--pursuant--to--the--terms--of--a--written--contract--between~~
8 ~~said--carrier--and--the--United--States--government--or--an--agency~~
9 ~~or--department--thereof--or--the--state--or--an--agency--or~~
10 ~~department--thereof--for--the--transportation--of--solid--waste~~
11 ~~shall--be--deemed--a--transportation--movement--subject--to--the~~
12 ~~provisions--of--this--chapter. However, the presentation of the~~
13 ~~written--contract--to--the--commission--shall--be--deemed~~
14 ~~sufficient--proof--of--public--convenience--and--necessity--in~~
15 ~~accordance--with--the--terms--and--conditions--contained--within~~
16 ~~the--United--States--government--or--state--contracts. THE~~
17 ~~PRESENTATION OF THE WRITTEN CONTRACT TO THE COMMISSION SHALL~~
18 ~~BE DEEMED SUFFICIENT PROOF OF PUBLIC CONVENIENCE AND~~
19 ~~NECESSITY IN ACCORDANCE WITH THE TERMS AND CONDITIONS~~
20 ~~CONTAINED WITHIN THE UNITED STATES GOVERNMENT OR STATE OR~~
21 ~~LOCAL GOVERNMENT CONTRACTS. Subject to the provisions of~~
22 ~~this section, a transportation movement is considered to be:~~
23 (a) the transportation for hire of persons or
24 commodities between two points within the state by a motor
25 carrier pursuant to the terms of a written contract between

1 the carrier and the United States government or an agency or
2 department thereof or

3 (b) the transportation for hire of solid waste between
4 two points within the state by a motor carrier pursuant to
5 the terms of a written contract between the carrier and the
6 state government or an agency or department thereof or a
7 local government, including but not limited to cities and
8 counties.

9 (2) The Class C certificate of public convenience and
10 necessity issued pursuant to the terms and conditions of the
11 United States government or state ~~or local~~ government
12 contract may be issued by the commission upon receipt of an
13 executed copy of the United States government or state ~~or~~
14 ~~local~~ government contract. The certificate of public
15 convenience and necessity may be issued thereafter without
16 requiring the commission to fix a time and place for public
17 hearing.

18 (3) The certificate of public convenience and
19 necessity, issued pursuant to the terms of the United States
20 government or state ~~or local~~ government contract, is
21 authorized only for the duration of the United States
22 government or state ~~or local~~ government contract concerned.
23 The certificate may be renewed for another definite term if
24 the same motor carrier is the motor carrier authorized to
25 operate under the United States government or state ~~or local~~

1 ~~government~~ contract."

2 Section 16. Section 69-12-406, MCA, is amended to
3 read:

4 "69-12-406. Restriction on transportation of certain
5 waste. No ~~Except as provided in 69-12-324, no~~ Class A, B, or
6 C carrier will be authorized or permitted to transport
7 ashes, trash, waste, refuse, rubbish, garbage, or organic
8 and inorganic matter within the state."

9 Section 17. Section 69-12-421, MCA, is amended to
10 read:

11 "69-12-421. Annual fee for motor carriers. (1) Except
12 as provided in subsection (2), in addition to all of the
13 licenses, fees, or taxes imposed upon motor vehicles in this
14 state and in consideration of the use of the public highways
15 of this state, every motor carrier shall, at the time of the
16 issuance of a certificate and annually thereafter, on or
17 between ~~January~~ October 1 and ~~the following~~ January 15 of
18 ~~each calendar year~~, pay to the public service commission of
19 Montana ~~the sum of \$5 a fee set by rule of the commission~~
20 for every motor vehicle operated by the carrier over or upon
21 the public highways of this state.

22 (2) (a) A motor carrier engaged in seasonal operations
23 only, where its operations do not extend continuously over a
24 period of not to exceed 6 months in any calendar year, shall
25 only be required to pay compensation and fees in a sum equal

1 to one-half of the compensation and fees herein provided.

2 (b) The compensation and fees herein imposed shall not
3 apply to motor vehicles maintained and used by a motor
4 carrier as standby or emergency equipment. The commission
5 shall have the power and it is hereby made its duty to
6 determine what motor vehicles shall be classed as standby or
7 emergency equipment."

8 Section 18. Section 69-12-423, MCA, is amended to
9 read:

10 "69-12-423. Fees to be charged by commission. (1) The
11 public service commission shall ~~pay~~, except as otherwise
12 provided by law, require and receive fees before filing
13 annual reports, tariffs, schedules, applications, and
14 supplements of ~~these and shall require and receive fees for~~
15 ~~copies of orders, documents, classifications, blank forms,~~
16 ~~and other instruments prepared by it or on file in its~~
17 ~~office, unless not provided by law to be furnished free of~~
18 ~~charge under the following schedules:~~

19 (a) ~~fitting annual reports, each \$5.00;~~

20 (b) ~~fitting tariffs, time schedules, and supplements~~
21 ~~thereof, each \$2.00;~~

22 (c) ~~for issuing certificates of public convenience and~~
23 ~~necessity to motor carriers, each \$2.00;~~

24 (d) ~~classification for motor carriers, each \$1.50;~~

25 (e) ~~for a copy of the rules for motor carriers and~~

1 blank forms of annual reports for common carriers and cost.
 2 (2) The commission shall require and receive an
 3 additional sum to be set by the commission to pay the cost
 4 of publishing such notice as may be required by this
 5 chapter.

6 (3) This section does not require or authorize the
 7 public service commission to collect fees for the filing of
 8 annual reports, tariffs, schedules, and supplements of these
 9 which relate solely to interstate commerce."

10 Section 19, Section 69-12-501, MCA, is amended to
 11 read:

12 "69-12-501. Rate schedules to be maintained. (1) Every
 13 Class A or B or C motor carrier holding a certificate must
 14 maintain on file with the commission a full and complete
 15 schedule of its rates, fares, charges, classifications, and
 16 rates of service and any and all tariff provisions relating
 17 to such rates, fares, charges, classifications, or rates.
 18 Every Class A or Class B motor carrier schedule on file and
 19 approved on March 7, 1961, shall remain in full force and
 20 effect until changed or modified by the commission or by the
 21 carrier with the approval of the commission.

22 (2) No change, modification, alteration, increase, or
 23 decrease in any rate, fare, charge, classification, or rate
 24 of service shall be made by any motor carrier without first
 25 obtaining the approval of the commission. The commission

1 shall prescribe rules providing for the form and style of
 2 all schedules and tariffs and for the procedures to be
 3 followed in filing or publishing any changes or
 4 modifications of the same."

5 NEW SECTION. Section 20. Existing Class B carrier
 6 rates in effect. The rates, tolls, and charges levied by
 7 Class B motor carriers that were in effect on January 1,
 8 1963, are the lawful rates, tolls, and charges until they
 9 are changed as provided in Title 69, Chapter 12.

10 Section 21, Section 69-12-502, MCA, is amended to
 11 read:

12 "69-12-502. Prohibition on deviation from rate
 13 schedules. It shall be unlawful for any Class A or B or C
 14 motor carrier to charge, demand, receive, or collect any
 15 greater or less rate, charge, or fare than that fixed by the
 16 commission for the transportation service provided when
 17 maximum or minimum rates have been established for any
 18 service provided by any Class C motor carrier; it shall
 19 likewise be unlawful for such carrier to charge, demand,
 20 receive, or collect any greater compensation or rate than
 21 that established for the service by any applicable maximum
 22 rate or any less compensation or rate than that established
 23 by any applicable minimum rate. It also shall be unlawful
 24 for any Class A or B or C motor carrier or any Class C
 25 motor carrier subject to maximum or minimum rates to refund

~~or-rent-in-any-manner-or-by-any-device-any-portion-of-the
rates-fares-and-charges-required-to-be-collected-under-the
schedule-of-the-Class-Ax or-Bx-BE-B carrier-on-file-with-the
commission-or-under-the-maximum-or-minimum-rates-established
by-the-commission-for-the-Class-B-carriers"~~

Section 19. Section 69-14-115, MCA, is amended to read:

"69-14-115. Investigation, enforcement, and report concerning railroad safety laws. (1) The commission ~~shall~~ **may SHALL:**

(a) make inquiry into the observance by all railroads within this state of the laws of the United States and of Montana intended to safeguard the lives of the employees of persons or corporations engaged in operating the same;

(b) lay complaint before the proper state or federal officer, of any infraction of any of such laws; and

(c) prosecute before the proper court or tribunal any person guilty of violation of the penal provisions thereof.

(2) The commission shall in the annual report required by 2-7-102 set out what effort it has made to carry out the provisions of this section, with the result thereof, and in detail what steps it has taken to prosecute any violations of any such acts of which it has secured information. A copy of this annual report shall be mailed to the secretary of the department of transportation."

Section 20. Section 69-14-116, MCA, is amended to read:

"69-14-116. General protection of health and safety on railroads. (1) The commission ~~shall have full authority~~ **may:**

(a) after notice and hearing, to make and enforce rules providing for the installation on and equipment of trains, cars, or engines with safety appliances and providing for sanitation and adequate shelter as it affects the health of all railroad employees, including but not limited to trainmen, enginemen, yardmen, maintenance-of-way employees, highway crossing watchmen, and clerical, platform, freight house, and express employees; and

(b) to inspect the same and enforce regulations with regard thereto.

(2) Such inspection, rules, and regulations to be from time to time coextensive with the requirements of and in conformity to the provisions of the acts of congress and rules and regulations of the interstate commerce commission and the department of transportation, as then effective."

~~Section 24--Section--69-14-202--MCA--is--amended--to read:~~

~~"69-14-202--Duty-to--furnish--shipping--and--passenger facilities: (1) Every~~ **no** ~~person--corporation--or--association operating--a--railroad--in--the--state shall maintain and staff~~

1 ~~which maintains and staffs facilities for shipment and~~
 2 ~~delivery of freight and shall ship and deliver freight and~~
 3 ~~accommodate which ships and delivers freight and~~
 4 ~~accommodates passengers or both in at least one location~~
 5 ~~preferably the county seat in each county through which the~~
 6 ~~line of the railway passes and at any point upon the line of~~
 7 ~~such railway where there is a city or town having a~~
 8 ~~population according to the last federal census of not~~
 9 ~~less than 1,000; provided, however, that this section shall~~
 10 ~~not require the maintenance and staffing of such facilities~~
 11 ~~in any county or at any city or town in which such~~
 12 ~~facilities were not maintained and staffed on July 1, 1969.~~
 13 (2) ~~Nothing in this section authorizes the~~
 14 ~~discontinuance of any discontinuance or closure of any agency or~~
 15 ~~any station facility presently established in any city~~
 16 ~~town or other location having a population of less than~~
 17 ~~1,000 without a hearing before the public service~~
 18 ~~commission as provided by law.~~

19 **NEW SECTION.** Section 21. Codification Instruction.
 20 Section 3 is intended to be codified as an integral part of
 21 Title 69, chapter 1, part 1, and the provisions of Title 69,
 22 chapter 1, part 1, apply to section 3.
 23 **NEW SECTION.** Section 22. Effective date. This act is
 24 effective July 1, 1983.

-End-

STATE ADMINISTRATION COMMITTEE
MARCH 23, 1983
SENATE BILL 436

1. Title, lines 16 and 17.
Strike: "MAKING" on line 16 through ";" on line 17
2. Title, line 23.
Following: "69-12-421,"
Insert: "AND"
Strike: "69-14-115, AND"
3. Title, line 24.
Strike: "69-14-116,"
Following: "PROVIDING"
Strike: "AN"
4. Title, line 25.
Strike: "DATE"
Insert: "DATES"
5. Page 9, line 24.
Strike: "ON IDENTICAL"
Insert: "upon consistent"
Following: "STANDARDS"
Insert: "appropriate for the nature of the case pending"
6. Page 19, line 21.
Following: "~~LOCAL~~"
Insert: "or local"
7. Page 20, line 8.
Following: "counties"
Insert: "or a local government, including but not limited to cities and counties"
8. Page 20, line 11.
Following: "~~local~~"
Insert: "or local:"
9. Page 20, line 14.
Following: "~~local~~"
Insert: "or local"
10. Page 20, line 20.
Following: "~~local~~"
Insert: "or local"
11. Page 20, line 22.
Following: "~~local~~"
Insert: "or local"
12. Page 20, line 25.
Following: "~~local~~"
Insert: "or local"

13. Page 25, line 6 through line 20 on page 26.
Strike: sections 19 and 20 in their entirety
Renumber: subsequent sections

14. Page 27, line 23.
Strike: "date"
Insert: "dates"
Following: "date."
Insert: "(1)"
Insert: "except for section 5"

15. Page 27.
Following: line 24
Insert: "(2) Section 5 is effective on passage and approval."

AND AS AMENDED BE CONCURRED IN

March 24, 1983

HOUSE COMMITTEE OF THE WHOLE AMENDMENTS TO SENATE BILL 436,
THIRD READING COPY (BLUE) WITH HOUSE STATE ADMINISTRATION COMMITTEE
AMENDMENTS OF March 23, 1983

Strike: State Administration Committee amendments 6 through 12

ADOPT

1 STATEMENT OF INTENT

2 SENATE BILL 436

3 Senate Business and Industry Committee

4
5 A statement of intent is required for Senate Bill 436
6 because it grants the Public Service Commission authority to
7 charge fees commensurate with costs.

8 The Legislature intends that the fees be set in an
9 amount sufficient to provide funds to administer the
10 function for which the fee is charged. Fees may not be set
11 so high as to generate revenue in excess of expenses.

REFERENCE BILL

SB 436

SENATE BILL NO. 436

INTRODUCED BY BLAYLOCK, HIMSL

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE PUBLIC SERVICE COMMISSION UNDER EXISTING STATUTORY AUTHORITY AND RULES; REVISING PUBLIC SERVICE COMMISSION AUTHORITY; PROVIDING FOR FEES COMMENSURATE WITH COSTS; MAKING TEMPORARY MUNICIPAL REGULATORY AUTHORITY OVER UTILITIES PERMANENT; EXEMPTING PRIVATELY OWNED AND COUNTY WATER AND SEWER SYSTEMS FROM PUBLIC SERVICE COMMISSION REGULATION; AUTHORIZING TEMPORARY UTILITY RATE DECREASES; CLARIFYING TIME LIMITS ON MUNICIPAL RATE INCREASES; MODIFYING MUNICIPAL RATE HEARING NOTICE REQUIREMENTS; EXTENDING SPECIAL PROVISIONS RELATING TO WASTE DISPOSAL TO LOCAL GOVERNMENTS; ESTABLISHING RATE-MAKING-AUTHORITY-OVER-CLASS--B--MOTOR--CARRIERS; MAKING RAILROAD--SAFETY-FUNCTIONS-PERMISSIVE-RATHER-THAN-MANDATORY; DELETING-THE-REQUIREMENT-THAT--RAILROADS--SERVE--ALL--COUNTY SEATS--AND--CITIES--OVER--1,000; AMENDING SECTION 9, CHAPTER 607, LAWS OF 1981; AMENDING SECTIONS 2-8-103, 69-3-101, 69-3-204, 69-3-304, 69-7-101, 69-7-102, 69-7-111, 69-12-311 THROUGH 69-12-313, 69-12-321, 69-12-324, 69-12-406, 69-12-421, AND 69-12-423, 69-12-501, 69-12-502, 69-14-115, AND 69-14-116, AND 69-14-202, MCA; AND PROVIDING AN EFFECTIVE DATE DATES."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Public Service Commission and requires a performance evaluation of the Commission by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation, the Legislative Audit Committee recommends that the Public Service Commission be reestablished.

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

~~NEW SECTION.~~ Section 1. Reestablishment. The public service commission, department of public service regulation, created by 69-1-102, is reestablished for 6 years pursuant to 2-8-122, with existing statutory authority and rules.

Section 2. Section 2-8-103, MCA, is amended to read: "2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions,

1 created by 2-15-2303.

2 (2) The following agencies shall terminate on July 1,
3 1981:

4 (a) board of athletics, department of professional and
5 occupational licensing, created by 2-15-1661;

6 (b) board of massage therapists, department of
7 professional and occupational licensing, created by
8 2-15-1627;

9 (c) board of osteopathic physicians, department of
10 professional and occupational licensing, created by
11 2-15-1607;

12 (d) board of podiatry examiners, department of
13 professional and occupational licensing, created by
14 2-15-1608;

15 (3) The following units of state government shall
16 terminate on July 1, 1983:

17 (a) board of aeronautics, department of commerce,
18 created by 2-15-1812;

19 (b) state board of hail insurance, department of
20 agriculture, created by 2-15-3003;

21 (c) board of horseracing, department of commerce,
22 created by 2-15-1881;

23 (d) board of livestock, department of livestock,
24 created by 2-15-3102;

25 (e) board of milk control, department of commerce,

1 created by 2-15-1802;

2 (f) board of oil and gas conservation, department of
3 natural resources and conservation, created by 2-15-3303;

4 (g) Montana outfitters' council, department of fish,
5 wildlife, and parks, created by 2-15-3403;

6 ~~(h) --public--service--commission--department-of-public~~
7 ~~service-regulatory-created-by-69-t-182~~

8 ~~++111~~ board of water and wastewater operators,
9 department of health and environmental sciences, created by
10 2-15-2105;

11 ~~++111~~ board of water well contractors, department of
12 commerce, created by 2-15-1862.

13 (4) The following agencies terminate on July 1, 1985:

14 (a) the board of public accountants, department of
15 commerce, created by 2-15-1866;

16 (b) the board of architects, department of commerce,
17 created by 2-15-1871;

18 (c) state banking board, department of commerce,
19 created by 2-15-1803;

20 (d) the state electrical board, department of
21 commerce, created by 2-15-1874;

22 (e) the board of professional engineers and land
23 surveyors, department of commerce, created by 2-15-1873;

24 (f) office of commissioner of insurance and the
25 insurance department, state auditor's office, created by

1 2-15-1902 and 2-15-1903;
 2 (g) office of the securities commissioner, state
 3 auditor's office, created by 2-15-1901;
 4 (h) the board of landscape architects, department of
 5 commerce, created by 2-15-1872;
 6 (i) the board of county printing, department of
 7 commerce, created by 2-15-1811;
 8 (j) the board of plumbers, department of commerce,
 9 created by 2-15-1875;
 10 (k) board of physical therapy examiners, department of
 11 commerce, created by 2-15-1858.
 12 (5) The following agencies terminate on July 1, 1987:
 13 (a) commission for human rights, department of labor
 14 and industry, created by 2-15-1706;
 15 (b) Montana state board of medical examiners,
 16 department of commerce, created by 2-15-1841;
 17 (c) board of dentistry, department of commerce,
 18 created by 2-15-1842;
 19 (d) board of pharmacists, department of commerce,
 20 created by 2-15-1843;
 21 (e) board of nursing, department of commerce, created
 22 by 2-15-1844;
 23 (f) board of nursing home administrators, department
 24 of commerce, created by 2-15-1845;
 25 (g) board of optometrists, department of commerce,

1 created by 2-15-1846;
 2 (h) board of chiropractors, department of commerce,
 3 created by 2-15-1847;
 4 (i) board of radiologic technologists, department of
 5 commerce, created by 2-15-1848;
 6 (j) board of speech pathologists and audiologists,
 7 department of commerce, created by 2-15-1849;
 8 (k) board of hearing aid dispensers, department of
 9 commerce, created by 2-15-1850;
 10 (l) board of psychologists, department of commerce,
 11 created by 2-15-1851;
 12 (m) board of veterinarians, department of commerce,
 13 created by 2-15-1852;
 14 (n) board of morticians, department of commerce,
 15 created by 2-15-1853;
 16 (o) board of barbers, department of commerce, created
 17 by 2-15-1856;
 18 (p) board of cosmetologists, department of commerce,
 19 created by 2-15-1857;
 20 (q) board of sanitarians, department of commerce,
 21 created by 2-15-1861;
 22 (r) board of veterans' affairs, department of social
 23 and rehabilitation services, created by 2-15-2202.
 24 ~~(6) The following agency terminates July 1, 1989:~~
 25 ~~public service commission, department of public service~~

1 ~~regulation, created by 69-1-102.~~"

2 ~~NEW SECTION.~~ Section 3. Fees. Each fee charged by the
3 commission must be commensurate with the costs incurred in
4 administering the function for which the fee is charged
5 ~~EXCEPT THOSE FEES SET BY FEDERAL STATUTE, NO FEE SET BY THE~~
6 ~~COMMISSION MAY EXCEED \$500.~~

7 Section 4. Section 9, Chapter 607, Laws of 1981, is
8 amended to read:

9 "Section 9. Effective date and termination date. This
10 act shall become effective on July 1, 1981. ~~It shall~~
11 ~~terminate on July 1, 1983.~~"

12 Section 5. Section 69-3-101, MCA, is amended to read:

13 "69-3-101. Meaning of term "public utility". (1) The
14 term "public utility", within the meaning of this chapter,
15 shall embrace every corporation, both public and private,
16 company, individual, association of individuals, their
17 lessees, trustees, or receivers appointed by any court
18 whatsoever, that now or hereafter may own, operate, or
19 control any plant or equipment, any part of a plant or
20 equipment, or any water right within the state for the
21 production, delivery, or furnishing for or to other persons,
22 firms, associations, or corporations, private or municipal:

23 (1) heat;

24 (2) street-railway service;

25 (3) light;

1 (4) power in any form or by any agency;

2 (5) ~~except as provided in chapter 7, water for~~
3 ~~business, manufacturing, household use, or sewerage service,~~
4 ~~whether within the limits of municipalities, towns, and~~
5 ~~villages or elsewhere;~~

6 (6) ~~telegraph or telephone service.~~

7 (2) ~~The term "public utility" does not include:~~

8 (a) ~~privately owned and operated water, sewer, or~~
9 ~~combination systems that do not serve the public; or~~
10 (b) ~~county or consolidated city and county water or~~
11 ~~sewer districts as defined in Title 7, chapter 13, parts 22~~
12 ~~and 23.~~"

13 Section 6. Section 69-3-204, MCA, is amended to read:

14 "69-3-204. Fees to be charged by commission. (1) The
15 public service commission ~~shall pay~~, except as otherwise
16 provided by law, require and receive fees before filing
17 annual reports, schedules, ~~applications~~, and supplements of
18 ~~these and shall require and receive fees for copies of~~
19 ~~orders, documents, classifications, blank forms, and other~~
20 ~~instruments prepared by it or on file in its office, unless~~
21 ~~not provided by law to be furnished free of charge under~~
22 ~~the following schedules:~~

23 (a) ~~filing annual reports, each \$5.00;~~

24 (b) ~~filing rate schedules, each \$2.00;~~

25 (c) ~~classification for public utilities, each \$1.50;~~

~~{d}--for-blank-forms-of-annual-reports-for-utilities--~~
~~-----cost.~~

(2) The commission shall require and receive an additional sum to be set by the commission to pay the cost of publishing notice as required by this chapter.

(3) This section does not require or authorize the public service commission to collect fees for the filing of annual reports, schedules, and supplements of these which relate solely to interstate commerce."

Section 7. Section 69-3-304, MCA, is amended to read:

"69-3-304. Temporary approval of rate increases or decreases. The commission may, in its discretion, temporarily approve increases or decreases pending a hearing or final decision. If the final decision is to disapprove the an increase, the commission ~~shall~~ may order a rebate to all consumers for the amount collected retroactive to the date of the temporary approval. If the final decision is to disapprove a decrease, the commission may order a surcharge to be paid by all consumers for the amount not collected retroactive to the date of the temporary approval. The commission may SHALL order interest to be paid on a rebate or surcharge as determined by the commission. An order of the commission approving or denying a temporary rate increase or decrease shall be BASED ON--IDENTICAL UPON CONSISTENT STANDARDS APPROPRIATE FOR THE NATURE OF THE CASE

PENDING AND SHALL BE an intermediate agency action subject to judicial review under the Montana Administrative Procedure Act."

Section 8. Section 69-7-101, MCA, is amended to read:

"69-7-101. Municipal utilities -- regulation by municipality -- limitation. A municipality has the power and authority to regulate, establish, and change, as it considers proper, rates, charges, and classifications imposed for utility services to its inhabitants and other persons served by municipal utility systems. Rates, charges, and classifications shall be reasonable and just and, except as provided in 69-7-102, they may not be raised to yield more than a 12% increase in total annual revenues or, in the case of mandated federal and state capital improvements, the increase may not exceed amounts necessary to meet the requirements of bond indentures or loan agreements required to finance the local government's share of the mandated improvements. Annual revenues must be computed on any consecutive 12-month period for purposes of this chapter."

Section 9. Section 69-7-102, MCA, is amended to read:

"69-7-102. Rate increases over maximum. (1) If a municipal utility requires rate increases that yield an increase in total revenues in excess of 12% in any one year or rate increases for mandated federal and state capital improvements for which the increase exceeds amounts

1 necessary to meet the requirements of bond indentures or
2 loan agreements required to finance the local government's
3 share of the mandated improvements, it must make application
4 for such increases to the public service commission.

5 ~~(2) If the public service commission issues a rate~~
6 ~~order approving such an increase, the municipality may not~~
7 ~~increase any rates and charges under this chapter within 12~~
8 ~~months of the commission's order unless an increase is~~
9 ~~necessary to meet the requirements of bond indentures or~~
10 ~~loan agreements required to finance the local government's~~
11 ~~share for mandated federal and state capital improvements."~~

12 Section 10. Section 69-7-111, MCA, is amended to read:

13 "69-7-111. Municipal rate hearing required -- notice.

14 (1) If the governing body of a municipality considers it
15 advisable to regulate, establish, or change rates, charges,
16 or classifications imposed on its customers, it shall order
17 a hearing to be held before it at a time and place
18 specified.

19 (2) Notice of the hearing shall be published in a
20 newspaper as provided in 7-1-4127.

21 (3) (a) The notice shall be published three times with
22 at least 6 days separating each publication. The first
23 publication may be no more than 28 days prior to the
24 hearing, and the last publication may be no less than 3 days
25 prior to the hearing.

1 (b) The notice must also be mailed at least 7 days and
2 not more than 30 days prior to the hearing to persons served
3 by the utility. The notice ~~shall accompany the bill for~~
4 ~~services of that utility and~~ must be mailed within the
5 prescribed time period. This notice must contain an estimate
6 of the amount the customer's average monthly bill will
7 increase.

8 (4) The published notice must contain:

9 (a) the date, time, and place of the hearing;

10 (b) a brief statement of the proposed action; and

11 (c) the address and telephone number of a person who
12 may be contacted for further information regarding the
13 hearing.

14 (5) Notice of all hearings shall be mailed first
15 class, postage prepaid, to the Montana consumer counsel."

16 Section 11. Section 69-12-311, MCA, is amended to
17 read:

18 "69-12-311. Class A motor carrier certificate. (1) No
19 Class A motor carrier shall operate for the transportation
20 of persons and/or property for hire on any public highway in
21 this state without first having obtained from the
22 commission, under the provisions of this chapter, a
23 certificate declaring that public convenience and necessity
24 require such operation.

25 (2) A motor carrier making application for such

1 certificate shall do so in writing, separately for each
2 route, which petition shall be verified by the applicant and
3 shall specify the following matters:

4 (a) the name and address of the applicant and the
5 names and addresses of its officers, if any;

6 (b) the public highway or highways over which and the
7 fixed termini between which or the regular route or routes
8 over which it intends to operate;

9 (c) the kind of transportation, whether passenger,
10 freight, or both, together with a full and complete
11 description of the character of the vehicle or vehicles to
12 be used, including the seating capacity of any vehicle to be
13 used for passenger traffic and the tonnage capacity of any
14 vehicle to be used in freight traffic;

15 (d) the proposed time schedule;

16 (e) a schedule of the tariff or rates desired to be
17 charged for the transportation of freight and/or passengers;

18 (f) a complete and detailed description of the
19 property proposed to be devoted to the public service;

20 (g) a detailed statement showing the assets and
21 liabilities of such applicant; and

22 (h) such other or additional information as the
23 commission may by order require.

24 (3) Such application shall be accompanied by a filing
25 fee of ~~\$100 to \$300~~, to be set by rule of the commission

1 ~~based-on-the-number-of-counties-for-which-the-certificate-is~~
2 ~~requested."~~

3 Section 12. Section 69-12-312, MCA, is amended to
4 read:

5 "69-12-312. Class B motor carrier certificate. (1) No
6 Class B motor carrier shall operate for the transportation
7 of persons and/or property for hire on any public highway in
8 this state without first having obtained from the
9 commission, under the provisions of this chapter, a
10 certificate that public convenience and necessity require
11 such operations.

12 (2) A motor carrier making application for such permit
13 shall do so in writing, separately for each locality for
14 which consideration is desired, which petition shall be
15 verified and shall specify the following matters:

16 (a) name and address of the applicant and the names
17 and addresses of its officers, if any;

18 (b) the kind of transportation, whether passenger,
19 freight, or both, together with a full and complete
20 description of the character of the vehicle or vehicles to
21 be used, including the seating capacity of any vehicle to be
22 used for passenger traffic and the tonnage capacity of any
23 vehicle to be used in freight traffic;

24 (c) the locality and character of operations to be
25 conducted;

(d) a schedule of the tariff of rates desired to be charged for the transportation of freight and/or passengers;

(e) a complete and detailed description of the property proposed to be devoted to the public service;

(f) a detailed statement showing the assets and liabilities of such applicant; and

(g) such other or additional information as the commission may by order require.

(3) Such application shall be accompanied by a filing fee of ~~\$100 to \$300~~ to be set by rule of the commission ~~based on the number of counties for which the certificate is requested.~~

Section 13. Section 69-12-313, MCA, is amended to read:

"69-12-313. Class C motor carrier certificate. (1) No Class C motor carrier, except any Class C motor carrier operating pursuant to the terms and conditions of a contract ~~with the United States government or an agency or department thereof or of a contract for transporting solid waste with the state or an agency or department thereof as provided in~~ 69-12-324, shall operate for the distribution, delivery, or collection of goods, wares, merchandise, or commodities or for the transportation of persons on any public highway in this state without first having obtained from the commission, under the provisions of this chapter, a

certificate that public convenience and necessity require such operation.

(2) A motor carrier making application for such permit shall do so in writing, separately for each route or locality for which consideration is desired, which petition shall be verified by the applicant and shall specify the following matters:

(a) the name and address of the applicant and the names and addresses of its officers, if any;

(b) the public highways or highways over which and the fixed termini between which or the route or routes over which it intends to operate, if the same are fixed, or the particular city, town, station, or locality from and/or to which the applicant intends to operate;

(c) the kind of transportation and the character of the goods, wares, merchandise, or commodities to be distributed, delivered, or collected, together with a full and complete description of the character of the vehicle or vehicles, including the rated tonnage capacity of such vehicles, to be used in such service of distribution, delivery, or collection; and

(d) such other or additional information as the commission may by order require.

(3) Such application shall be accompanied by a fee of ~~\$100 to \$300~~ to be set by rule of the commission ~~based on~~

1 ~~the number of counties for which the certificate is~~
2 ~~requested.~~

3 (4) The submission of a Class C motor carrier
4 application must be accompanied by the names and addresses
5 of any person, corporation, or other legal entity with whom
6 the applicant has executed a contract for the distribution,
7 delivery, or collection of wares, merchandise, or
8 commodities or transporting persons. Such contracts must be
9 in writing, executed by the parties and submitted to the
10 commission for examination."

11 Section 14. Section 69-12-321, MCA, is amended to
12 read:

13 "69-12-321. Hearing on application for motor carrier
14 certificate. (1) Upon the filing of such application by a
15 Class A, Class B, Class C, or Class D motor carrier, except
16 a Class C motor carrier authorized to operate under the
17 terms of a contract ~~with the United States government for an~~
18 ~~agency or department thereof as provided in 69-12-324,~~ or
19 upon the filing of a request for a transfer of authority,
20 the commission shall give notice thereof to any interested
21 party. The commission shall fix a time and place for hearing
22 thereon whenever a protest or a request for a hearing is
23 received. The hearing is to be set for a date not later than
24 60 days after receipt of a protest or a hearing request by
25 the commission. Whenever no protests or hearing requests are

1 received, the commission may act on the application without
2 a hearing as prescribed by commission rules.

3 (2) Any motor carrier referred to in 69-12-322, the
4 department of highways, the governing board or boards of any
5 such county, town, or city into or through which the route
6 or service as proposed may extend, and any person or
7 corporation concerned are hereby declared to be interested
8 parties to the proceedings and may offer testimony for or
9 against the granting of the certificate.

10 (3) The contracting parties referred to in
11 69-12-313(4) must appear and offer testimony in support of
12 the applicant.

13 (4) However, an application by a Class A, Class B,
14 Class C, or Class D motor carrier for a certificate may be
15 disallowed without a public hearing thereon when it appears
16 from the records of the commission that the route or
17 territory sought to be served by the applicant has
18 previously been made the basis of a public investigation and
19 finding by the commission that public convenience and
20 necessity do not require the proposed motor carrier service
21 unless it is made to affirmatively appear in the application
22 by a recital of the facts that conditions obtaining over the
23 route or in the territory and affecting transportation
24 facilities therein have materially changed since said public
25 investigation and finding and that public convenience and

1 necessity do now require the motor carrier operation."

2 Section 15. Section 69-12-324, MCA, is amended to
3 read:

4 "69-12-324. Special provisions when federal, or state,
5 or local government contract involved. (1) The
6 ~~transportation for hire of any persons or commodities~~
7 ~~between any two points within the state by any motor~~
8 ~~carrier pursuant to the terms of a written contract between~~
9 ~~said carrier and the United States government or an agency~~
10 ~~or department thereof or the state or an agency or~~
11 ~~department thereof for the transportation of solid waste~~
12 ~~shall be deemed a transportation movement subject to the~~
13 ~~provisions of this chapter. However, the presentation of the~~
14 ~~written contract to the commission shall be deemed~~
15 ~~sufficient proof of public convenience and necessity in~~
16 ~~accordance with the terms and conditions contained within~~
17 ~~the United States government or state contract. THE~~
18 PRESENTATION OF THE WRITTEN CONTRACT TO THE COMMISSION SHALL
19 BE DEEMED SUFFICIENT PROOF OF PUBLIC CONVENIENCE AND
20 NECESSITY IN ACCORDANCE WITH THE TERMS AND CONDITIONS
21 CONTAINED WITHIN THE UNITED STATES GOVERNMENT OR STATE OR
22 LOCAL OR LOCAL GOVERNMENT CONTRACTS. Subject to the
23 provisions of this section, a transportation movement is
24 considered to be:

25 (a) the transportation for hire of persons or

1 commodities between two points within the state by a motor
2 carrier pursuant to the terms of a written contract between
3 the carrier and the United States government or an agency or
4 department thereof or

5 (b) the transportation for hire of solid waste between
6 two points within the state by a motor carrier pursuant to
7 the terms of a written contract between the carrier and the
8 state government or an agency or department thereof or a
9 local government including but not limited to cities and
10 counties OR A LOCAL GOVERNMENT INCLUDING BUT NOT LIMITED TO
11 CITIES AND COUNTIES.

12 (2) The Class C certificate of public convenience and
13 necessity issued pursuant to the terms and conditions of the
14 United States government or state or local OR LOCAL
15 GOVERNMENT contract may be issued by the commission upon
16 receipt of an executed copy of the United States government
17 or state or local OR LOCAL government contract. The
18 certificate of public convenience and necessity may be
19 issued thereafter without requiring the commission to fix a
20 time and place for public hearing.

21 (3) The certificate of public convenience and
22 necessity, issued pursuant to the terms of the United States
23 government or state or local OR LOCAL government contract,
24 is authorized only for the duration of the United States
25 government or state or local OR LOCAL government contract

concerned. The certificate may be renewed for another definite term if the same motor carrier is the motor carrier authorized to operate under the United States government or state ~~or local~~ ~~88-1966~~ government contract."

Section 16. Section 69-12-406, MCA, is amended to read:

"69-12-406. Restriction on transportation of certain waste. ~~No Except as provided in 69-12-324, no~~ Class A, B, or C carrier will be authorized or permitted to transport ashes, trash, waste, refuse, rubbish, garbage, or organic and inorganic matter within the state."

Section 17. Section 69-12-421, MCA, is amended to read:

"69-12-421. Annual fee for motor carriers. (1) Except as provided in subsection (2), in addition to all of the licenses, fees, or taxes imposed upon motor vehicles in this state and in consideration of the use of the public highways of this state, every motor carrier shall, at the time of the issuance of a certificate and annually thereafter, on or between ~~January~~ ~~October~~ 1 and ~~the following~~ January 15 31 of each ~~calendar year~~, pay to the public service commission of Montana ~~the sum of \$5 a fee set by rule of the commission~~ for every motor vehicle operated by the carrier over or upon the public highways of this state.

(2) (a) A motor carrier engaged in seasonal operations

only, where its operations do not extend continuously over a period of not to exceed 6 months in any calendar year, shall only be required to pay compensation and fees in a sum equal to one-half of the compensation and fees herein provided.

(b) The compensation and fees herein imposed shall not apply to motor vehicles maintained and used by a motor carrier as standby or emergency equipment. The commission shall have the power and it is hereby made its duty to determine what motor vehicles shall be classed as standby or emergency equipment."

Section 18. Section 69-12-423, MCA, is amended to read:

"69-12-423. Fees to be charged by commission. (1) The public service commission ~~shall~~ ~~may~~, except as otherwise provided by law, require and receive fees before filing annual reports, tariffs, schedules, ~~applications~~, and supplements ~~of these and shall require and receive fees for~~ ~~copies of orders, documents, classifications, blank forms, and other instruments prepared by it or on file in its~~ ~~office, unless not provided by law to be furnished free of charge under the following schedule:~~

(a) ~~for filing annual reports, each~~ ~~-----\$-5.00~~

(b) ~~for filing tariffs, time schedules, and supplements~~ ~~thereof, each~~ ~~-----\$-2.00~~

(c) ~~for issuing certificates of public convenience and~~

necessity-to-motor-carriers-each-----\$-2-00+

(d)-classification-for-motor-carriers-each-vv-\$-v-50+

(e)-for-a-copy-of-the-rules-for-motor-carriers-and

blank-forms-of-annual-reports-for-common-carriers-vvv-cost.

(2) The commission shall require and receive an additional sum to be set by the commission to pay the cost of publishing such notice as may be required by this chapter.

(3) This section does not require or authorize the public service commission to collect fees for the filing of annual reports, tariffs, schedules, and supplements of these which relate solely to interstate commerce."

Section-19--Section--69-12-501v--MCAY--is--amended--to

read:

"69-12-501v--Rate-schedules-to-be-maintained: (1)-Every

Class-A₁ or-B₁-or-B₂ motor-carrier-holding-a-certificate-must

maintain-on-file-with-the-commission-a--full--and--complete

schedule--of-its-ratesy-faresy-chargey-classificationy-and

rules-of-service-and-any-and-all-tariff-provisions--relating

to--such--ratesy--faresy--chargey--classificationy--or--rules.

Every Class-A₁-or-Class-B₁-motor-carrier schedule-on-file--and

approved--on--March--7v-1961v-shall-remain-in-full-force-and

effect-until-changed-or-modified-by-the-commission-or-by-the

carrier-with-the-approval-of-the-commission.

(2)-No-change-modificationy-alterationy-increasey--or

decrease--in-any-ratey-farey-chargey-classificationy--or--rate

of-service-shall-be-made-by-any-motor-carrier-without--first

obtaining--the--approval--of--the-commission. The commission

shall prescribe rules providing for the form--and--style--of

all--schedules--and--tariffs--and--for--the-procedures-to-be

followed--in--filing--or--publishing--any--changey--or

modifications-of-the-same."

NEW-SECTION--Section-20v--Existing--Class-B--carrier

rates-in-effect. The ratesy-tolty-and--charges--levied--by

Class-B--motor-carriers--that-were-in-effect-on-January-1v

1983v-are-the-lawful-ratesy-tolty-and--charges--until--they

are-changedy-as-provided-in-Title-69v-chapter-12v.

Section-21v--Section--69-12-502v--MCAY--is--omended--to

read:

"69-12-502v--Prohibition--on--deviation--from--rate

schedules: It-shall-be-unlawful-for-any-Class-A₁ or-B₁-or-B₂

motor-carrier-to-chargey-demandy--receivey--or--collect--any

greater-or-less-ratey-chargey-or-fare-than-that-fixed-by-the

commission--for--the--transportation-service-providedv--when

maximum-or-minimum--rates--have--been--established--for--any

service--provided--by--any--Class-B--motor-carriery-it-shall

likewise-be-unlawful-for-such-carrier--to--chargey--demandy

receivey--or--collect--any-greater-compensation-or-rate-than

that-established-for-the-service-by-any--applicable--maximum

rate--or--any-less-compensation-or-rate-than-that-established

1 by any applicable minimum rates it also shall be unlawful
 2 for any Class A or B ~~or C~~ motor carrier or any Class C
 3 motor carrier subject to maximum or minimum rates to refund
 4 or remit in any manner or by any device any portion of the
 5 rates, fares, and charges required to be collected under the
 6 schedule of the Class A or B ~~or C~~ carrier on file with the
 7 commission or under the maximum or minimum rates established
 8 by the commission for the Class C carriers.

9 Section 19, Section 69-14-115, MCA, is amended to
 10 read:

11 "69-14-115. Investigation, enforcement, and report
 12 concerning railroad safety laws. (1) The commission shall
 13 ~~may~~ **shall**

14 (a) make inquiry into the observance by all railroads
 15 within this state of the laws of the United States and of
 16 Montana intended to safeguard the lives of the employees of
 17 persons or corporations engaged in operating the same;

18 (b) lay complaint before the proper state or federal
 19 officers of any infraction of any of such laws; and

20 (c) prosecute before the proper court or tribunal any
 21 person guilty of violation of the penal provisions thereof;

22 (2) The commission shall in the annual report required
 23 by 2-7-182 set out what effort it has made to carry out the
 24 provisions of this section with the result thereof and in
 25 detail what steps it has taken to prosecute any violations

1 of any such acts of which it has secured information; a copy
 2 of this annual report shall be mailed to the secretary of
 3 the department of transportation.

4 Section 28, Section 69-14-116, MCA, is amended to
 5 read:

6 "69-14-116. General protection of health and safety on
 7 railroads. (1) The commission ~~shall have full authority~~
 8 shall have full authority ~~may~~

9 (a) after notice and hearing, to make and enforce
 10 rules providing for the installation on and equipment of
 11 trains, cars, or engines with safety appliances and
 12 providing for sanitation and adequate shelter as it affects
 13 the health of all railroad employees including but not
 14 limited to trainmen, engineers, yardmen, maintenance of way
 15 employees, highway crossing watchmen, and clerical
 16 platform, freight house, and express employees; and

17 (b) to inspect the same and enforce regulations with
 18 regard thereto;

19 (2) Such inspection, rules, and regulations to be from
 20 time to time coextensive with the requirements of and in
 21 conformity to the provisions of the acts of congress and
 22 rules and regulations of the interstate commerce commission
 23 and the department of transportation as then effective.

24 Section 24, Section 69-14-282, MCA, is amended to
 25 read:

1 "69-14-202"---Duty-to-furnish--shipping--and--passenger
 2 facilities--(1)--Every ~~no~~ person--corporation--or--association
 3 operating--a--railroad--in--the--state shall maintain--and--staff
 4 ~~which maintains--and--staffs~~ facilities--for--shipment--and
 5 delivery--of--freight--and--shall ship--and--deliver--freight--and
 6 accommodate ~~which--ships--and--delivers--freight--and~~
 7 ~~accommodates~~ passengers--~~or--both~~ in--at--least--one--location
 8 preferably--the--county--seat--in--each--county--through--which--the
 9 line--of--the--railway--passes--and--at--any--point--upon--the--line--of
 10 such--railway--where--there--is--a--city--or--town--having--a
 11 population--according--to--the--last--federal--census--of--not
 12 less--than--1,000;--provided--however--that--this--section--shall
 13 not--require--the--maintenance--and--staffing--of--such--facilities
 14 in--any--county--or--at--any--city--or--town--in--which--such
 15 facilities--were--not--maintained--and--staffed--on--duty--in--1969.
 16 (2)--Nothing--in--this--section--authorizes--the
 17 discontinuance--of ~~may--discontinue--or--remove--any--agency--or~~
 18 any ~~station~~ facility--presently--established--in--any--city,
 19 town--or--other--location--having--a--population--of--less--than
 20 1,000--without--a--hearing--before--the--public--service
 21 commission--as--provided--by--law."

22 NEW_SECTION. Section 19. Codification Instruction.
 23 Section 3 is intended to be codified as an integral part of
 24 Title 69, chapter 1, part 1, and the provisions of Title 69,
 25 chapter 1, part 1, apply to section 3.

1 NEW_SECTION. Section 20. Effective date DATE. (1)
 2 This act, EXCEPT FOR SECTION 5, is effective July 1, 1983.
 3 (2) SECTION 5 IS EFFECTIVE ON PASSAGE AND APPROVAL.

-End-