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Revenue and Transportation Interim Committee  
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# SJ 23: TAXES PAID BY PUBLIC UTILITY CUSTOMERS

## OVERVIEW

The Senate Joint Resolution No. 23 (SJ 23) study of the taxation of centrally assessed and industrial property calls for a comparison of the total state tax burdens imposed on utility customers in Montana and in neighboring states.

## MONTANA TAX TRACKER

Section [69-3-308](#), Montana Code Annotated, enacted in 2003, provides that the Public Service Commission (PSC) shall allow a public utility to file rate schedules that allow for the automatic adjustment and tracking of Montana state and local taxes and fees, except state income tax. The public utility may also separately disclose in a customer's bill the amount of state and local taxes and fees assessed against the public utility that the customer is paying. The rates must be filed with the PSC, whose role is limited to identifying errors within 45 days, asking for comment, and ordering that the utility address the errors.

Without section 69-3-308, which is often referred to as the "tax tracker," a public utility would have to file a rate case in order to revise customer rates to include updated taxes levied on the utility. A rate case is the method by which the PSC approves rates charged by a public utility and includes consideration of costs and revenues of the public utility. Three public utilities have used the tax tracker since its implementation: Energy West in 2004; NorthWestern Energy in every year between 2005 and 2017, except for 2007; and Montana-Dakota Utilities Co. in 2017.

## NEIGHBORING STATES' TREATMENT OF TAXES

The states that border Montana do not appear to allow a public electric or gas utility to automatically increase rates to recover taxes and fees. As in Montana, these states include taxes and fees as an operating cost considered during a regular rate case. Wyoming does include franchise fees directly on a consumer's bill. North Dakota and South Dakota allow riders for certain expenses of the utility, such as infrastructure, but those riders do not seem to include taxes and are not automatic.

## CONCLUSION

Determining the taxes paid by utility customers is an involved undertaking that was not fully understood when developing the committee's work plan. Taxes paid by the utility are included in the base rates and in tax tracker filings, which include a reconciliation of tax collections in prior years. A further complication is the allocation of property taxes between retail and wholesale customers.<sup>1</sup> If the committee wishes to collect this information, significantly more time will need to be allocated to the SJ 23 study. The topic is involved enough that an entire interim study could be devoted to determining taxes paid by utility customers. In addition, this topic may fall more within the expertise of the Energy and Telecommunications Interim Committee.

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<sup>1</sup> ["PSC Orders NorthWestern Energy to Reduce Rates for Property Tax Costs,"](#) Jonathon Ambarian, MTN News.