

HOUSE BILL NO. 583

INTRODUCED BY DONALDSON, QUILICI

BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION

IN THE HOUSE

FEBRUARY 3, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
FEBRUARY 23, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 24, 1987	PRINTING REPORT.
MARCH 2, 1987	SECOND READING, DO PASS.
MARCH 3, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 89; NOES, 9.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 4, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
MARCH 27, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 31, 1987	SECOND READING, CONCURRED IN.
APRIL 1, 1987	THIRD READING, CONCURRED IN. AYES, 44; NOES, 4.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1987

RECEIVED FROM SENATE.

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

APRIL 10, 1987

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 14, 1987

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 16, 1987

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 20, 1987

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 21, 1987

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 21, 1987

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 21, 1987

SENT TO ENROLLING.

1 *House* BILL NO. *513*
 2 INTRODUCED BY *Comedian Justice*
 3 BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONTINUE FUNDING OF
 6 THE DEPARTMENT OF PUBLIC SERVICE REGULATION BY FEES LEVIED
 7 ON REGULATED COMPANIES; TO EXCLUDE FROM TAX CERTAIN SALES
 8 FOR RESALE; AMENDING SECTION 7, CHAPTER 32, LAWS OF 1986,
 9 AND SECTIONS 69-1-223, 69-1-402, AND 69-1-403, MCA; AND
 10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 7, Chapter 32, Laws of 1986, is
 14 amended to read:

15 "Section 7. Effective date ~~---termination---date~~. This
 16 act is effective July 1, 1986. ~~This act terminates July 1,~~
 17 ~~1987."~~

18 Section 2. Section 69-1-223, MCA, is amended to read:

19 "69-1-223. Funding of office of consumer counsel. (1)
 20 There is an account in the state special revenue fund to
 21 which all fees collected hereunder shall be deposited and
 22 from which all appropriations to the office of the consumer
 23 counsel shall be paid. An appropriation to the office of the
 24 consumer counsel may consist of a base appropriation for
 25 regular operating expenses and a contingency appropriation

1 for expenses due to an unanticipated caseload.

2 (2) In addition to all other licenses, fees, and taxes
 3 imposed by law, all regulated companies shall:

4 (a) within 90 days after the close of each calendar
 5 quarter, file with the department of public service
 6 regulation and the department of revenue a statement, in
 7 such form as the commission may determine, showing the gross
 8 operating revenue from all activities regulated by the
 9 commission within the state for that calendar quarter of
 10 operation or portion thereof, separately stating gross
 11 revenues from sales to other regulated companies for resale;
 12 and

13 (b) at that time pay to the department of revenue a
 14 fee based on a percentage of the gross operating revenue
 15 reported, as determined by the department of revenue under
 16 69-1-224.

17 (3) The amount of money which may be raised by the fee
 18 on the regulated companies during a fiscal year may not be
 19 increased from the amount appropriated, including both base
 20 and contingency appropriations, by the legislature for that
 21 fiscal year. Any additional money required for operation of
 22 the office of the consumer counsel must be obtained from
 23 other sources in a manner authorized by the legislature."

24 Section 3. Section 69-1-402, MCA, is amended to read:

25 "69-1-402. (Temporary) Funding of the department of

1 public service regulation. (1) There is an account in the
 2 state special revenue fund to which all fees collected under
 3 this section must be deposited and from which all
 4 appropriations to the department must be paid. An
 5 appropriation to the department may consist of a base
 6 appropriation for regular operating expenses and a
 7 contingency appropriation for expenses due to an
 8 unanticipated caseload.

9 (2) In addition to all other licenses, fees, and taxes
 10 imposed by law, all regulated companies shall, within 90
 11 days after the close of each calendar quarter, pay to the
 12 department of revenue a fee based on a percentage of gross
 13 operating revenue reported pursuant to 69-1-223(2)(a),
 14 excluding gross revenues from sales to other regulated
 15 companies for resale, as determined by the department of
 16 revenue under 69-1-403.

17 (3) The amount of money that may be raised by the fee
 18 on the regulated companies during a fiscal year may not be
 19 increased from the amount appropriated to the department by
 20 the legislature for that fiscal year, including both base
 21 and contingency appropriations. Any additional money
 22 required for operation of the department must be obtained
 23 from other sources in a manner authorized by the
 24 legislature. (Effective July 1, 1986, and terminates July
 25 1, 1987--sec. 7, Ch. 32, Sp. L. June 1986.)"

1 Section 4. Section 69-1-403, MCA, is amended to read:
 2 "69-1-403. (Temporary) Determination and collection of
 3 fee. (1) The fee provided for in 69-1-402 to be paid by
 4 regulated companies must be determined in the manner set
 5 forth in 69-1-224 for determining the consumer counsel fee,
 6 except that gross revenues from sales to other regulated
 7 companies for resale must be excluded from the determination
 8 of the total gross operating revenue pursuant to 69-1-224.

9 (2) The department of revenue shall give notice by
 10 mail to each regulated company of the percentage determined
 11 pursuant to 69-1-224 and this section to be applied to gross
 12 operating revenues reported under 69-1-223, excluding gross
 13 revenues from sales to other regulated companies for resale,
 14 to determine the amount of the fee to be paid in the first
 15 year of the appropriation.

16 ~~{2}~~{3} The fee provided for in 69-1-402 may be
 17 computed and collected in the manner provided in 69-1-225
 18 through 69-1-227.

19 ~~{3}~~{4} All fees paid by a regulated company pursuant
 20 to this section are immediately recoverable by the regulated
 21 company in its rates and charges. Within 30 days after the
 22 issuance by the department of revenue of notices required by
 23 69-1-224(1) and (2), the public service commission shall by
 24 separate order authorize each regulated company to fully
 25 recover in its rates and charges, on an annual basis, the

1 fees levied by this part. (Effective July 1, 1986, and
2 terminates July 1, 1987--sec. 7, Ch. 32, Sp. L. June
3 1986.)"

4 NEW SECTION. Section 5. Extension of authority. Any
5 existing authority of the department of revenue to make
6 rules on the subject of the provisions of this act is
7 extended to the provisions of this act.

8 NEW SECTION. Section 6. Effective date. This act is
9 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB583, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to continue funding of the Department of Public Service Regulation by fees levied on regulated companies; to exclude from tax certain sales for resale; amending Section 7, Chapter 32, Laws of 1986, and Sections 69-1-223, 69-1-402, and 69-1-403, MCA; and providing an immediate effective date.

ASSUMPTIONS:

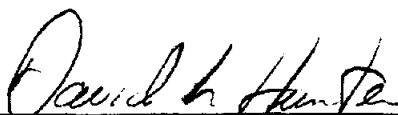
1. The 1988-89 Biennium appropriation as recommended by OBPP.
2. Revenues collected during 1988-89 Biennium equal the appropriation.


FISCAL IMPACT:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>	\$ 1,698,724	\$ 1,698,724	\$ 0	\$ 1,676,207	\$ 1,676,207	\$ 0
<u>Funding:</u>						
General Fund	\$ 1,644,164	\$ 0	(\$1,644,164)	\$ 1,618,705	\$ 0	(\$1,618,705)
State Special Revenue Fund	\$ 0	\$ 1,644,164	\$1,644,164	\$ 0	\$ 1,618,705	\$1,618,705
Federal and Other Special Revenue	\$ 39,560	\$ 39,560	\$ 0	\$ 42,502	\$ 42,502	\$ 0
Proprietary Fund	\$ 15,000	\$ 15,000	\$ 0	\$ 15,000	\$ 15,000	\$ 0
<u>Revenues:</u>						
General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
State Special Revenue Fund	\$ 0	\$ 1,644,164	\$1,644,164	\$ 0	\$ 1,618,705	\$1,618,705
Federal and Other Special Revenue	\$ 39,560	\$ 39,560	\$ 0	\$ 42,502	\$ 42,502	\$ 0
Proprietary Fund	\$ 15,000	\$ 15,000	\$ 0	\$ 15,000	\$ 15,000	\$ 0
TOTAL	\$ 54,560	\$ 1,698,724	\$1,644,164	\$ 57,502	\$ 1,676,207	\$1,618,705

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Municipal utilities will pay total fees of approximately \$13,627 in each fiscal year. (.0006 x annual revenues of \$22,710,981)

 DATE 2/9/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

 DATE Feb 10, 87
 GENE DONALDSON, PRIMARY SPONSOR
 Fiscal Note for HB583, as introduced.

HB 583

Fiscal Note Request, HB583, as introduced.

Form BD-15

Page 2

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

The collection of revenue under this proposal is not assured. The proposed legislation would raise issues regarding the calculation of deductions from the base of the tax. To resolve these issues the courts may require public input through the rule making process. The provision in the proposed law, extending the rule making authority of the Department of Revenue has no effect because the Department currently has no rule making authority for this fee. Because the Department has no rule making authority for the public service fee, a court could hold the collection of the fee to be invalid.

HB 583

APPROVED BY COMMITTEE
ON TAXATION

1 HOUSE BILL NO. 583

2 INTRODUCED BY DONALDSON, QUILICI

3 BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONTINUE FUNDING OF
6 THE DEPARTMENT OF PUBLIC SERVICE REGULATION BY FEES LEVIED
7 ON REGULATED COMPANIES; TO EXCLUDE FROM TAX CERTAIN SALES
8 FOR RESALE; TO PROVIDE FOR THE DISTRIBUTION OF THE FEES
9 THROUGH THE GENERAL FUND; AMENDING SECTION 7, CHAPTER 32,
10 LAWS OF 1986, AND SECTIONS 69-1-223, 69-1-224, 69-1-402, AND
11 69-1-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
12 A TERMINATION DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 7, Chapter 32, Laws of 1986, is
16 amended to read:

17 "Section 7. Effective date ~~----termination--date --~~
18 TERMINATION DATE. This act is effective July 1, 1986. ~~This~~
19 ~~act-terminates-July-17-1987:~~ THIS ACT TERMINATES JULY 1,
20 1989."

21 Section 2. Section 69-1-223, MCA, is amended to read:

22 "69-1-223. Funding of office of consumer counsel. (1)
23 There is an account in the state special revenue fund to
24 which all fees collected hereunder shall be deposited and
25 from which all appropriations to the office of the consumer

1 counsel shall be paid. An appropriation to the office of the
2 consumer counsel may consist of a base appropriation for
3 regular operating expenses and a contingency appropriation
4 for expenses due to an unanticipated caseload.

5 (2) In addition to all other licenses, fees, and taxes
6 imposed by law, all regulated companies shall:

7 (a) within 90 days after the close of each calendar
8 quarter, file with the department of public service
9 regulation and the department of revenue a statement, in
10 such form as the commission may determine, showing the gross
11 operating revenue from all activities regulated by the
12 commission within the state for that calendar quarter of
13 operation or portion thereof, separately stating gross
14 revenues from sales to other regulated companies for resale;
15 and

16 (b) at that time pay to the department of revenue a
17 fee based on a percentage of the gross operating revenue
18 reported, as determined by the department of revenue under
19 69-1-224.

20 (3) The amount of money which may be raised by the fee
21 on the regulated companies during a fiscal year may not be
22 increased from the amount appropriated, including both base
23 and contingency appropriations, by the legislature for that
24 fiscal year. Any additional money required for operation of
25 the office of the consumer counsel must be obtained from

1 other sources in a manner authorized by the legislature."
 2 SECTION 3. SECTION 69-1-224, MCA, IS AMENDED TO READ:
 3 "69-1-224. Determination of fee. (1) Within 30 days
 4 following enactment of the legislative appropriation for the
 5 office of the consumer counsel, the department of revenue
 6 shall:
 7 (a) determine the total gross operating revenue
 8 generated by all regulated activities within this state for
 9 all regulated companies for the previous fiscal year;
 10 (b) compute the percentage, subject to revision as
 11 provided in subsection (3), of the amount determined in
 12 subsection (1)(a) which will produce an amount equal to the
 13 base appropriation to the office of the consumer counsel for
 14 the first year of the appropriation, except that no
 15 regulated company owned and operated by any municipal
 16 corporation within this state shall be required to pay a sum
 17 in excess of .06 of 1% of its gross operating revenue; and
 18 (c) give notice by mail to each regulated company of
 19 the percentage determined in subsections (1)(a) and (b) to
 20 be applied to the gross operating revenue reported under
 21 69-1-223(2) to determine the amount of the fee to be paid in
 22 the first year of the appropriation.
 23 (2) On or before May 30 of the first year of the
 24 biennium, the department of revenue shall repeat the steps
 25 required by subsection (1) and compute the percentage

1 multiplier for the second year, giving notice to the
 2 regulated companies.
 3 (3) (a) The department of revenue ~~may~~ shall adjust the
 4 percentage multiplier quarterly if the department considers
 5 a change necessary to meet or to not exceed the amount to be
 6 raised by the fee because of:
 7 (i) fluctuations in the actual gross operating revenue
 8 subject to the fee; or
 9 (ii) submission and approval of a budget amendment
 10 authorizing the spending of money from a contingency
 11 appropriation included in the appropriation measure for the
 12 office of the consumer counsel and authorized to be raised
 13 by means of the fee.
 14 (b) Adjustments of the percentage multiplier are
 15 subject to the exception provided in subsection (1)(b) for
 16 municipally owned and operated regulated companies.
 17 (c) Regulated companies must be given at least 30
 18 days' notice of any change in the percentage multiplier.
 19 (4) In the event the fee charged in one year is in
 20 excess of the amount actually expended in that year, the
 21 excess shall be deducted from the amount required to be
 22 raised by the fee for the next year before the determination
 23 required by subsection (1) is made. Money ~~in-the-account~~
 24 remaining unspent at the close of a fiscal year shall be
 25 used to reduce the percentage calculated in 69-1-224 in the

1 subsequent fiscal year."

2 Section 4. Section 69-1-402, MCA, is amended to read:

3 "69-1-402. (Temporary) Funding of the department of
4 public service regulation. (1) ~~There is an account in the~~
5 ~~state special revenue fund to which all~~ ALL fees collected
6 under this section must be deposited ~~and from which all~~ IN
7 THE GENERAL FUND. ALL appropriations to the department must
8 be paid FROM THE GENERAL FUND. An appropriation to the
9 department may consist of a base appropriation for regular
10 operating expenses and a contingency appropriation for
11 expenses due to an unanticipated caseload.

12 (2) In addition to all other licenses, fees, and taxes
13 imposed by law, all regulated companies shall, within 90
14 days after the close of each calendar quarter, pay to the
15 department of revenue a fee based on a percentage of gross
16 operating revenue reported pursuant to 69-1-223(2)(a),
17 excluding gross revenues from sales to other regulated
18 companies for resale, as determined by the department of
19 revenue under 69-1-403.

20 (3) The amount of money that may be raised by the fee
21 on the regulated companies during a fiscal year may not be
22 increased from the amount appropriated to the department by
23 the legislature for that fiscal year, including both base
24 and contingency appropriations. Any additional money
25 required for operation of the department must be obtained

1 from other sources in a manner authorized by the
2 legislature. (Effective July 1, 1986, and terminates July
3 1, 1987--sec. 7, Ch. 32, Sp. L. June 1986.)"

4 Section 5. Section 69-1-403, MCA, is amended to read:

5 "69-1-403. (Temporary) Determination and collection of
6 fee. (1) The fee provided for in 69-1-402 to be paid by
7 regulated companies must be determined in the manner set
8 forth in 69-1-224 for determining the consumer counsel fee,
9 except that gross revenues from sales to other regulated
10 companies for resale must be excluded from the determination
11 of the total gross operating revenue pursuant to 69-1-224.

12 (2) The department of revenue shall give notice by
13 mail to each regulated company of the percentage determined
14 pursuant to 69-1-224 and this section to be applied to gross
15 operating revenues reported under 69-1-223, excluding gross
16 revenues from sales to other regulated companies for resale,
17 to determine the amount of the fee to be paid in the first
18 year of the appropriation.

19 (2)(3) The fee provided for in 69-1-402 may be
20 computed and collected in the manner provided in 69-1-225
21 through 69-1-227.

22 (3)(4) All fees paid by a regulated company pursuant
23 to this section are immediately recoverable by the regulated
24 company in its rates and charges. Within 30 days after the
25 issuance by the department of revenue of notices required by

1 69-1-224(1) and (2), the public service commission shall by
2 separate order authorize each regulated company to fully
3 recover in its rates and charges, on an annual basis, the
4 fees levied by this part. (Effective July 1, 1986, and
5 terminates July 1, 1987--sec. 7, Ch. 32, Sp. L. June
6 1986.)"

7 ~~NEW SECTION. Section 5. Extension of authority. Any~~
8 ~~existing authority of the department of revenue to make~~
9 ~~rules on the subject of the provisions of this act is~~
10 ~~extended to the provisions of this act.~~

11 NEW SECTION. Section 6. Effective date -- TERMINATION
12 DATE. This act is effective on passage and approval. THIS
13 ACT TERMINATES JULY 1, 1989.

-End-

1 HOUSE BILL NO. 583

2 INTRODUCED BY DONALDSON, QUILICI

3 BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONTINUE FUNDING OF
6 THE DEPARTMENT OF PUBLIC SERVICE REGULATION BY FEES LEVIED
7 ON REGULATED COMPANIES; TO EXCLUDE FROM TAX CERTAIN SALES
8 FOR RESALE; TO PROVIDE FOR THE DISTRIBUTION OF THE FEES
9 THROUGH THE GENERAL FUND; AMENDING SECTION 7, CHAPTER 32,
10 LAWS OF 1986, AND SECTIONS 69-1-223, 69-1-224, 69-1-402, AND
11 69-1-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
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18 TERMINATION DATE. This act is effective July 1, 1986. This
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1 counsel shall be paid. An appropriation to the office of the
2 consumer counsel may consist of a base appropriation for
3 regular operating expenses and a contingency appropriation
4 for expenses due to an unanticipated caseload.

5 (2) In addition to all other licenses, fees, and taxes
6 imposed by law, all regulated companies shall:

7 (a) within 90 days after the close of each calendar
8 quarter, file with the department of public service
9 regulation and the department of revenue a statement, in
10 such form as the commission may determine, showing the gross
11 operating revenue from all activities regulated by the
12 commission within the state for that calendar quarter of
13 operation or portion thereof, separately stating gross
14 revenues from sales to other regulated companies for resale;
15 and

16 (b) at that time pay to the department of revenue a
17 fee based on a percentage of the gross operating revenue
18 reported, as determined by the department of revenue under
19 69-1-224.

20 (3) The amount of money which may be raised by the fee
21 on the regulated companies during a fiscal year may not be
22 increased from the amount appropriated, including both base
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24 fiscal year. Any additional money required for operation of
25 the office of the consumer counsel must be obtained from

1 other sources in a manner authorized by the legislature."

2 SECTION 3. SECTION 69-1-224, MCA, IS AMENDED TO READ:

3 "69-1-224. Determination of fee. (1) Within 30 days
4 following enactment of the legislative appropriation for the
5 office of the consumer counsel, the department of revenue
6 shall:

7 (a) determine the total gross operating revenue
8 generated by all regulated activities within this state for
9 all regulated companies for the previous fiscal year;

10 (b) compute the percentage, subject to revision as
11 provided in subsection (3), of the amount determined in
12 subsection (1)(a) which will produce an amount equal to the
13 base appropriation to the office of the consumer counsel for
14 the first year of the appropriation, except that no
15 regulated company owned and operated by any municipal
16 corporation within this state shall be required to pay a sum
17 in excess of .06 of 1% of its gross operating revenue; and

18 (c) give notice by mail to each regulated company of
19 the percentage determined in subsections (1)(a) and (b) to
20 be applied to the gross operating revenue reported under
21 69-1-223(2) to determine the amount of the fee to be paid in
22 the first year of the appropriation.

23 (2) On or before May 30 of the first year of the
24 biennium, the department of revenue shall repeat the steps
25 required by subsection (1) and compute the percentage

1 multiplier for the second year, giving notice to the
2 regulated companies.

3 (3) (a) The department of revenue may shall adjust the
4 percentage multiplier quarterly if the department considers
5 a change necessary to meet or to not exceed the amount to be
6 raised by the fee because of:

7 (i) fluctuations in the actual gross operating revenue
8 subject to the fee; or

9 (ii) submission and approval of a budget amendment
10 authorizing the spending of money from a contingency
11 appropriation included in the appropriation measure for the
12 office of the consumer counsel and authorized to be raised
13 by means of the fee.

14 (b) Adjustments of the percentage multiplier are
15 subject to the exception provided in subsection (1)(b) for
16 municipally owned and operated regulated companies.

17 (c) Regulated companies must be given at least 30
18 days' notice of any change in the percentage multiplier.

19 (4) In the event the fee charged in one year is in
20 excess of the amount actually expended in that year, the
21 excess shall be deducted from the amount required to be
22 raised by the fee for the next year before the determination
23 required by subsection (1) is made. Money in-the-account
24 remaining unspent at the close of a fiscal year shall be
25 used to reduce the percentage calculated in 69-1-224 in the

1 subsequent fiscal year."

2 Section 4. Section 69-1-402, MCA, is amended to read:

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7 THE GENERAL FUND. ALL appropriations to the department must
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12 (2) In addition to all other licenses, fees, and taxes
13 imposed by law, all regulated companies shall, within 90
14 days after the close of each calendar quarter, pay to the
15 department of revenue a fee based on a percentage of gross
16 operating revenue reported pursuant to 69-1-223(2)(a),
17 excluding gross revenues from sales to other regulated
18 companies for resale, as determined by the department of
19 revenue under 69-1-403.

20 (3) The amount of money that may be raised by the fee
21 on the regulated companies during a fiscal year may not be
22 increased from the amount appropriated to the department by
23 the legislature for that fiscal year, including both base
24 and contingency appropriations. Any additional money
25 required for operation of the department must be obtained

1 from other sources in a manner authorized by the
2 legislature. (Effective July 1, 1986, and terminates July
3 1, 1987--sec. 7, Ch. 32, Sp. L. June 1986.)"

4 Section 5. Section 69-1-403, MCA, is amended to read:

5 "69-1-403. (Temporary) Determination and collection of
6 fee. (1) The fee provided for in 69-1-402 to be paid by
7 regulated companies must be determined in the manner set
8 forth in 69-1-224 for determining the consumer counsel fee,
9 except that gross revenues from sales to other regulated
10 companies for resale must be excluded from the determination
11 of the total gross operating revenue pursuant to 69-1-224.

12 (2) The department of revenue shall give notice by
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15 operating revenues reported under 69-1-223, excluding gross
16 revenues from sales to other regulated companies for resale,
17 to determine the amount of the fee to be paid in the first
18 year of the appropriation.

19 (2)(3) The fee provided for in 69-1-402 may be
20 computed and collected in the manner provided in 69-1-225
21 through 69-1-227.

22 (3)(4) All fees paid by a regulated company pursuant
23 to this section are immediately recoverable by the regulated
24 company in its rates and charges. Within 30 days after the
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1 69-1-224(1) and (2), the public service commission shall by
2 separate order authorize each regulated company to fully
3 recover in its rates and charges, on an annual basis, the
4 fees levied by this part. (Effective July 1, 1986, and
5 terminates July 1, 1987--sec. 7, Ch. 32, Sp. L. June
6 1986.)"

7 ~~NEW SECTION:--Section 5--Extension-of-authority:--Any~~
8 ~~existing--authority--of--the--department--of--revenue--to--make~~
9 ~~rules--on--the--subject--of--the--provisions--of--this--act--is~~
10 ~~extended--to--the--provisions--of--this--act:~~

11 NEW SECTION. Section 6. Effective date -- TERMINATION
12 DATE. This act is effective on passage and approval. THIS
13 ACT TERMINATES JULY 1, 1989.

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 2 INTRODUCED BY DONALDSON, QUILICI
 3 BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION
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 6 THE DEPARTMENT OF PUBLIC SERVICE REGULATION BY FEES LEVIED
 7 ON REGULATED COMPANIES; TO EXCLUDE FROM TAX CERTAIN SALES
 8 FOR RESALE; TO PROVIDE FOR THE DISTRIBUTION OF THE FEES
 9 THROUGH THE GENERAL FUND; AMENDING SECTION 7, CHAPTER 32,
 10 LAWS OF 1986, AND SECTIONS 69-1-223, 69-1-224, 69-1-402, AND
 11 69-1-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
 12 A-TERMINATION-DATE."
 13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 Section 1. Section 7, Chapter 32, Laws of 1986, is
 16 amended to read:
 17 "Section 7. Effective date ~~---~~~~termination--date~~ --
 18 TERMINATION--DATE. This act is effective July 1, 1986. ~~This~~
 19 ~~act-terminates-July-17-1987. THIS--ACT--TERMINATES--JULY--17~~
 20 1989."
 21 Section 2. Section 69-1-223, MCA, is amended to read:
 22 "69-1-223. Funding of office of consumer counsel. (1)
 23 There is an account in the state special revenue fund to
 24 which all fees collected hereunder shall be deposited and
 25 from which all appropriations to the office of the consumer

1 counsel shall be paid. An appropriation to the office of the
 2 consumer counsel may consist of a base appropriation for
 3 regular operating expenses and a contingency appropriation
 4 for expenses due to an unanticipated caseload.
 5 (2) In addition to all other licenses, fees, and taxes
 6 imposed by law, all regulated companies shall:
 7 (a) within 90 days after the close of each calendar
 8 quarter, file with the department of public service
 9 regulation and the department of revenue a statement, in
 10 such form as the commission may determine, showing the gross
 11 operating revenue from all activities regulated by the
 12 commission within the state for that calendar quarter of
 13 operation or portion thereof, separately stating gross
 14 revenues from sales to other regulated companies for resale;
 15 and
 16 (b) at that time pay to the department of revenue a
 17 fee based on a percentage of the gross operating revenue
 18 reported, as determined by the department of revenue under
 19 69-1-224.
 20 (3) The amount of money which may be raised by the fee
 21 on the regulated companies during a fiscal year may not be
 22 increased from the amount appropriated, including both base
 23 and contingency appropriations, by the legislature for that
 24 fiscal year. Any additional money required for operation of
 25 the office of the consumer counsel must be obtained from

1 other sources in a manner authorized by the legislature."

2 SECTION 3. SECTION 69-1-224, MCA, IS AMENDED TO READ:

3 "69-1-224. Determination of fee. (1) Within 30 days
4 following enactment of the legislative appropriation for the
5 office of the consumer counsel, the department of revenue
6 shall:

7 (a) determine the total gross operating revenue
8 generated by all regulated activities within this state for
9 all regulated companies for the previous fiscal year;

10 (b) compute the percentage, subject to revision as
11 provided in subsection (3), of the amount determined in
12 subsection (1)(a) which will produce an amount equal to the
13 base appropriation to the office of the consumer counsel for
14 the first year of the appropriation, except that no
15 regulated company owned and operated by any municipal
16 corporation within this state shall be required to pay a sum
17 in excess of .06 of 1% of its gross operating revenue; and

18 (c) give notice by mail to each regulated company of
19 the percentage determined in subsections (1)(a) and (b) to
20 be applied to the gross operating revenue reported under
21 69-1-223(2) to determine the amount of the fee to be paid in
22 the first year of the appropriation.

23 (2) On or before May 30 of the first year of the
24 biennium, the department of revenue shall repeat the steps
25 required by subsection (1) and compute the percentage

1 multiplier for the second year, giving notice to the
2 regulated companies.

3 (3) (a) The department of revenue ~~may~~ shall adjust the
4 percentage multiplier quarterly if the department considers
5 a change necessary to meet or to not exceed the amount to be
6 raised by the fee because of:

7 (i) fluctuations in the actual gross operating revenue
8 subject to the fee; or

9 (ii) submission and approval of a budget amendment
10 authorizing the spending of money from a contingency
11 appropriation included in the appropriation measure for the
12 office of the consumer counsel and authorized to be raised
13 by means of the fee.

14 (b) Adjustments of the percentage multiplier are
15 subject to the exception provided in subsection (1)(b) for
16 municipally owned and operated regulated companies.

17 (c) Regulated companies must be given at least 30
18 days' notice of any change in the percentage multiplier.

19 (4) In the event the fee charged in one year is in
20 excess of the amount actually expended in that year, the
21 excess shall be deducted from the amount required to be
22 raised by the fee for the next year before the determination
23 required by subsection (1) is made. Money ~~in-the-account~~
24 remaining unspent at the close of a fiscal year shall be
25 used to reduce the percentage calculated in 69-1-224 in the

1 subsequent fiscal year."

2 Section 4. Section 69-1-402, MCA, is amended to read:

3 "69-1-402. (Temporary) Funding of the department of
4 public service regulation. (1) ~~There is an account in the~~
5 ~~state special revenue fund to which all~~ ALL fees collected
6 under this section must be deposited ~~and from which all~~ IN
7 THE GENERAL FUND. ALL appropriations to the department must
8 be paid FROM THE GENERAL FUND. An appropriation to the
9 department may consist of a base appropriation for regular
10 operating expenses and a contingency appropriation for
11 expenses due to an unanticipated caseload.

12 (2) In addition to all other licenses, fees, and taxes
13 imposed by law, all regulated companies shall, within 90
14 days after the close of each calendar quarter, pay to the
15 department of revenue a fee based on a percentage of gross
16 operating revenue reported pursuant to 69-1-223(2)(a) ~~7~~
17 ~~excluding gross revenues from sales to other regulated~~
18 ~~companies for resale~~, as determined by the department of
19 revenue under 69-1-403.

20 (3) The amount of money that may be raised by the fee
21 on the regulated companies during a fiscal year may not be
22 increased from the amount appropriated to the department by
23 the legislature for that fiscal year, including both base
24 and contingency appropriations. Any additional money
25 required for operation of the department must be obtained

1 from other sources in a manner authorized by the
2 legislature. (Effective July 1, 1986, and terminates July
3 1, 1987--sec. 7, Ch. 32, Sp. L. June 1986.)"

4 Section 5. Section 69-1-403, MCA, is amended to read:

5 "69-1-403. (Temporary) Determination and collection of
6 fee. (1) The fee provided for in 69-1-402 to be paid by
7 regulated companies must be determined in the manner set
8 forth in 69-1-224 for determining the consumer counsel fee,
9 except that gross revenues from sales to other regulated
10 companies for resale, AS CALCULATED BY THE PUBLIC SERVICE
11 COMMISSION, must be excluded from the determination of the
12 total gross operating revenue pursuant to 69-1-224.

13 (2) The department of revenue shall give notice by
14 mail to each regulated company of the percentage determined
15 pursuant to 69-1-224 and this section to be applied to gross
16 operating revenues reported under 69-1-223, excluding gross
17 revenues from sales to other regulated companies for resale,
18 to determine the amount of the fee to be paid in the first
19 year of the appropriation.

20 ~~2~~(3) The fee provided for in 69-1-402 may be
21 computed and collected in the manner provided in 69-1-225
22 through 69-1-227.

23 ~~3~~(4) All fees paid by a regulated company pursuant
24 to this section are immediately recoverable by the regulated
25 company in its rates and charges. Within 30 days after the

1 issuance by the department of revenue of notices required by
2 69-1-224(1) and (2), the public service commission shall by
3 separate order authorize each regulated company to fully
4 recover in its rates and charges, on an annual basis, the
5 fees levied by this part. (Effective July 1, 1986, and
6 terminates July 1, 1987--sec. 7, Ch. 32, Sp. L. June
7 1986.)"

8 ~~NEW SECTION. Section 5. Extension of authority. Any~~
9 ~~existing authority of the department of revenue to make~~
10 ~~rules on the subject of the provisions of this act is~~
11 ~~extended to the provisions of this act.~~

12 NEW SECTION. Section 6. Effective date ~~---~~TERMINATION
13 DATE. This act is effective on passage and approval. THIS
14 ACT TERMINATES JULY 17 1989.

-End-

STANDING COMMITTEE REPORT

SENATE

March 27 1987

MR. PRESIDENT

We, your committee on SENATE TAXATION

having had under consideration HOUSE BILL No. 583

third reading copy (blue color)

DONALDSON (MAZUREK)

CONTINUE TO FUND PSC BY UTILITY FEES

Respectfully report as follows: That HOUSE BILL No. 583

be amended as follows:

1. Title, lines 11 and 12.
Following: "DATE" on line 11
Strike: "AND A TERMINATION DATE"

2. Page 1, lines 17 and 18.
Following: "date" on line 17
Strike: "-- TERMINATION DATE"

3. Page 1, lines 19 and 20.
Following: "1987-" on line 19
Strike: "THIS ACT TERMINATES JULY 1, 1989."

4. Page 5, lines 16 through 18.
Following: "69-1-223(2)(a)" on line 16
Strike: remainder of line 16 through "resale" on line 18

5. Page 6, line 10.
Following: "resale"
Insert: ", as calculated by the public service commission,"

6. Page 7, lines 11 through 13.
Following: "date" on line 11
Strike: "-- TERMINATION DATE"
Following: "approval." on line 12
Strike: "THIS ACT TERMINATES JULY 1, 1989."

AND AS AMENDED
BE CONCURRED IN
~~XXXXXXXX~~

XXXXXXXXXXXX

George McCallum
SENATOR GEORGE McCALLUM, Chairman.

3-27-87
H:35

CONFERENCE COMMITTEE REPORT

Report No.One.....

.....4-16..... 19.87....

MR. SPEAKER

We, your _____ Free _____ Conference Committee on

HB 583

met and considered _____ House Bill 583 in its entirety.

We recommend as follows:

THAT HOUSE BILL 583, reference copy salmon, BE AMENDED AS FOLLOWS:

- 1) Page 7, line 13.
- Following: "effective"
- Strike: "on passage and approval"
- Insert: "July 1, 1987"

And that this Conference Committee report be adopted.

FOR THE SENATE

FOR THE HOUSE

Bob Brown
SENATOR BROWN, Chairman

Donaldson
REP. DONALDSON

Melso Walker
SENATOR MANNING

Quilici
REP. QUILICI

Richard E. Manning
SENATOR WALKER

Sands
REP. SANDS

HOUSE BILL NO. 583

INTRODUCED BY DONALDSON, QUILICI

BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO CONTINUE FUNDING OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION BY FEES LEVIED ON REGULATED COMPANIES; TO EXCLUDE FROM TAX CERTAIN SALES FOR RESALE; TO PROVIDE FOR THE DISTRIBUTION OF THE FEES THROUGH THE GENERAL FUND; AMENDING SECTION 7, CHAPTER 32, LAWS OF 1986, AND SECTIONS 69-1-223, 69-1-224, 69-1-402, AND 69-1-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A-TERMINATION-DATE."

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

Section 1. Section 7, Chapter 32, Laws of 1986, is amended to read:

"Section 7. Effective date ----termination--date -- PERMINATION--DATE. This act is effective July 1, 1986. This act-terminates-July-17-1987. THIS--ACT--TERMINATES--JULY--17 1989."

Section 2. Section 69-1-223, MCA, is amended to read:

"69-1-223. Funding of office of consumer counsel. (1) There is an account in the state special revenue fund to which all fees collected hereunder shall be deposited and from which all appropriations to the office of the consumer

counsel shall be paid. An appropriation to the office of the consumer counsel may consist of a base appropriation for regular operating expenses and a contingency appropriation for expenses due to an unanticipated caseload.

(2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall:

(a) within 90 days after the close of each calendar quarter, file with the department of public service regulation and the department of revenue a statement, in such form as the commission may determine, showing the gross operating revenue from all activities regulated by the commission within the state for that calendar quarter of operation or portion thereof, separately stating gross revenues from sales to other regulated companies for resale; and

(b) at that time pay to the department of revenue a fee based on a percentage of the gross operating revenue reported, as determined by the department of revenue under 69-1-224.

(3) The amount of money which may be raised by the fee on the regulated companies during a fiscal year may not be increased from the amount appropriated, including both base and contingency appropriations, by the legislature for that fiscal year. Any additional money required for operation of the office of the consumer counsel must be obtained from



1 other sources in a manner authorized by the legislature."
 2 SECTION 3. SECTION 69-1-224, MCA, IS AMENDED TO READ:
 3 "69-1-224. Determination of fee. (1) Within 30 days
 4 following enactment of the legislative appropriation for the
 5 office of the consumer counsel, the department of revenue
 6 shall:
 7 (a) determine the total gross operating revenue
 8 generated by all regulated activities within this state for
 9 all regulated companies for the previous fiscal year;
 10 (b) compute the percentage, subject to revision as
 11 provided in subsection (3), of the amount determined in
 12 subsection (1)(a) which will produce an amount equal to the
 13 base appropriation to the office of the consumer counsel for
 14 the first year of the appropriation, except that no
 15 regulated company owned and operated by any municipal
 16 corporation within this state shall be required to pay a sum
 17 in excess of .06 of 1% of its gross operating revenue; and
 18 (c) give notice by mail to each regulated company of
 19 the percentage determined in subsections (1)(a) and (b) to
 20 be applied to the gross operating revenue reported under
 21 69-1-223(2) to determine the amount of the fee to be paid in
 22 the first year of the appropriation.
 23 (2) On or before May 30 of the first year of the
 24 biennium, the department of revenue shall repeat the steps
 25 required by subsection (1) and compute the percentage

1 multiplier for the second year, giving notice to the
 2 regulated companies.
 3 (3) (a) The department of revenue may shall adjust the
 4 percentage multiplier quarterly if the department considers
 5 a change necessary to meet or to not exceed the amount to be
 6 raised by the fee because of:
 7 (i) fluctuations in the actual gross operating revenue
 8 subject to the fee; or
 9 (ii) submission and approval of a budget amendment
 10 authorizing the spending of money from a contingency
 11 appropriation included in the appropriation measure for the
 12 office of the consumer counsel and authorized to be raised
 13 by means of the fee.
 14 (b) Adjustments of the percentage multiplier are
 15 subject to the exception provided in subsection (1)(b) for
 16 municipally owned and operated regulated companies.
 17 (c) Regulated companies must be given at least 30
 18 days' notice of any change in the percentage multiplier.
 19 (4) In the event the fee charged in one year is in
 20 excess of the amount actually expended in that year, the
 21 excess shall be deducted from the amount required to be
 22 raised by the fee for the next year before the determination
 23 required by subsection (1) is made. ~~Money in the account~~
 24 remaining unspent at the close of a fiscal year shall be
 25 used to reduce the percentage calculated in 69-1-224 in the

1 subsequent fiscal year."

2 Section 4. Section 69-1-402, MCA, is amended to read:
 3 "69-1-402. (Temporary) Funding of the department of
 4 public service regulation. (1) ~~There is an account in the~~
 5 ~~state special revenue fund to which all~~ ALL fees collected
 6 under this section must be deposited ~~and from which all~~ IN
 7 THE GENERAL FUND. ALL appropriations to the department must
 8 be paid FROM THE GENERAL FUND. An appropriation to the
 9 department may consist of a base appropriation for regular
 10 operating expenses and a contingency appropriation for
 11 expenses due to an unanticipated caseload.

12 (2) In addition to all other licenses, fees, and taxes
 13 imposed by law, all regulated companies shall, within 90
 14 days after the close of each calendar quarter, pay to the
 15 department of revenue a fee based on a percentage of gross
 16 operating revenue reported pursuant to 69-1-223(2)(a) ~~7~~
 17 ~~excluding gross revenues from sales to other regulated~~
 18 ~~companies for resale~~, as determined by the department of
 19 revenue under 69-1-403.

20 (3) The amount of money that may be raised by the fee
 21 on the regulated companies during a fiscal year may not be
 22 increased from the amount appropriated to the department by
 23 the legislature for that fiscal year, including both base
 24 and contingency appropriations. Any additional money
 25 required for operation of the department must be obtained

1 from other sources in a manner authorized by the
 2 legislature. (Effective July 1, 1986, and terminates July
 3 1, 1987--sec. 7, Ch. 32, Sp. L. June 1986.)"

4 Section 5. Section 69-1-403, MCA, is amended to read:
 5 "69-1-403. (Temporary) Determination and collection of
 6 fee. (1) The fee provided for in 69-1-402 to be paid by
 7 regulated companies must be determined in the manner set
 8 forth in 69-1-224 for determining the consumer counsel fee,
 9 except that gross revenues from sales to other regulated
 10 companies for resale, AS CALCULATED BY THE PUBLIC SERVICE
 11 COMMISSION, must be excluded from the determination of the
 12 total gross operating revenue pursuant to 69-1-224.

13 (2) The department of revenue shall give notice by
 14 mail to each regulated company of the percentage determined
 15 pursuant to 69-1-224 and this section to be applied to gross
 16 operating revenues reported under 69-1-223, excluding gross
 17 revenues from sales to other regulated companies for resale,
 18 to determine the amount of the fee to be paid in the first
 19 year of the appropriation.

20 ~~(3)~~(3) The fee provided for in 69-1-402 may be
 21 computed and collected in the manner provided in 69-1-225
 22 through 69-1-227.

23 ~~(3)~~(4) All fees paid by a regulated company pursuant
 24 to this section are immediately recoverable by the regulated
 25 company in its rates and charges. Within 30 days after the

1 issuance by the department of revenue of notices required by
2 69-1-224(1) and (2), the public service commission shall by
3 separate order authorize each regulated company to fully
4 recover in its rates and charges, on an annual basis, the
5 fees levied by this part. (Effective July 1, 1986, and
6 terminates July 1, 1987--sec. 7, Ch. 32, Sp. L. June
7 1986.)"

8 ~~NEW SECTION:--Section-5:--Extension--of--authority:--Any~~
9 ~~existing-authority-of-the--department--of--revenue--to--make~~
10 ~~rules--on--the--subject--of--the--provisions--of--this-act-is~~
11 ~~extended-to-the-provisions-of-this-act:~~

12 ~~NEW SECTION. Section 6. Effective date ---TERMINATION~~
13 ~~DATE. This act is effective on-passage-and-approval JULY 1,~~
14 ~~1987. THIS-ACT-TERMINATES-JULY-1-1987~~

-End-