

HOUSE BILL NO. 413

INTRODUCED BY QUILICI, MENAHAN, BACHINI, WANZENRIED
BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 11, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 12, 1993	PRINTING REPORT.
FEBRUARY 15, 1993	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 16, 1993	ENGROSSING REPORT.
FEBRUARY 17, 1993	THIRD READING, PASSED. AYES, 99; NOES, 0.
FEBRUARY 18, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 5, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 8, 1993	SECOND READING, CONCURRED IN.
APRIL 12, 1993	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 14, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 15, 1993	THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 413
 2 INTRODUCED BY Julie Menahan
 3 Backus BY REQUEST OF THE DEPARTMENT OF REVENUE amended

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE METHOD
 6 FOR DETERMINING THE PUBLIC SERVICE COMMISSION FEE AND
 7 CONSUMER COUNSEL FEE BY THE DEPARTMENT OF REVENUE; AND
 8 AMENDING SECTIONS 69-1-223, 69-1-224, 69-1-402, AND
 9 69-1-403, MCA."

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

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

13 "69-1-223. Funding of office of consumer counsel. (1)

14 There is an account in the state special revenue fund to
 15 which all fees collected hereunder ~~shall~~ under this section
 16 must be deposited and from which all appropriations to the
 17 office of the consumer counsel ~~shall~~ must be paid. An
 18 appropriation to the office of the consumer counsel may
 19 consist of a base appropriation for regular operating
 20 expenses and a contingency appropriation for expenses due to
 21 an unanticipated caseload.

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

24 (a) within 90 30 days after the close of each calendar
 25 quarter, file with the department of public service

1 regulation and the department of revenue a statement, in
 2 such a form as that the commission and department may
 3 determine, showing the gross operating revenue from all
 4 activities regulated by the commission within the state for
 5 that calendar quarter of operation or portion thereof of a
 6 quarter, separately stating gross revenues revenue from
 7 sales to other regulated companies for resale; and

8 (b) at that time pay to the department of revenue a fee
 9 based on a percentage of the gross operating revenue
 10 reported, as determined by the department of revenue under
 11 69-1-224.

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

19 **Section 2.** Section 69-1-224, MCA, is amended to read:

20 "69-1-224. Determination of fee. (1) ~~Within 30 days~~
 21 ~~following enactment of the legislative appropriation for the~~
 22 ~~office of the consumer counsel~~ On or before August 31 of
 23 each year, the department of revenue shall:

24 (a) determine the total gross operating revenue
 25 generated by all regulated activities within this state for

all regulated companies for the previous fiscal year;

(b) compute the percentage, subject to revision as provided in subsection (3)(2), of the amount determined in subsection (1)(a) which that will produce an amount equal to the base current appropriation to the office of the consumer counsel for the first year of the appropriation, except that no a regulated company owned and operated by any municipal corporation within this state shall may not be required to pay a sum in excess of .06 of 1% of its gross operating revenue;

(c) adjust the percentage multiplier computed in subsection (1)(b) to ensure that sufficient funds are generated to meet the appropriation and that excess funds are not generated or retained by:

(i) determining the appropriation to the office of the consumer counsel for the previous fiscal year and comparing it to the fees collected from the previous fiscal year;

(ii) reducing or increasing the percentage determined in (1)(b) for the current year in order to account for any difference determined in subsection (1)(c)(i); and

(iii) if necessary, reducing the revenue to be collected for the current year by any funds remaining unspent at the close of the prior fiscal year; and

(4)(d) give notice by mail to each regulated company of the percentage determined in subsections (1)(a) and (b) to

be applied to the gross operating revenue reported under 69-1-223(2) to determine the amount of the fee to be paid in the first year of the appropriation.

~~(2) On or before May 30 of the first year of the biennium, the department of revenue shall repeat the steps required by subsection (1) and compute the percentage multiplier for the second year, giving notice to the regulated companies.~~

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

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

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

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

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

(d) Any change in the percentage multiplier is

effective at the beginning of the next calendar quarter.

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

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

"69-1-402. Funding of the department of public service regulation. (1) All fees collected under this section must be deposited in the general fund an account in the state special revenue fund to the credit of the department. ~~All appropriations to the department must be paid from the general fund.~~ An appropriation to the department 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, within 90 30 days after the close of each calendar quarter, pay to the department of revenue a fee based on a percentage of gross operating revenue reported pursuant to 69-1-223(2)(a), as determined by the department of revenue under 69-1-403.

(3) The amount of money that may be raised by the fee on the regulated companies during a fiscal year may not be increased from the amount appropriated to the department by the legislature for that fiscal year, including both base and contingency appropriations. Any additional money required for operation of the department must be obtained from other sources in a manner authorized by the legislature."

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

"69-1-403. Determination and collection of fee. (1) The fee provided for in 69-1-402 to be paid by regulated companies must be determined in the manner set forth in 69-1-224 for determining the consumer counsel fee, except that gross revenues from sales to other regulated companies for resale, as calculated by the public service commission, must be excluded from the determination of the total gross operating revenue pursuant to 69-1-224.

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

(3) The fee provided for in 69-1-402 may be computed

1 and collected in the manner provided in 69-1-225 through
2 69-1-227.

3 (4) All fees paid by a regulated company pursuant to
4 this section are immediately recoverable by the regulated
5 company in its rates and charges. Within 30 days after the
6 issuance by the department of revenue of notices the notice
7 required by 69-1-224(1) and--(2), the public service
8 commission shall by separate order authorize each regulated
9 company to fully recover in its rates and charges, on an
10 annual basis, the fees levied by this part."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0413, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying the method for determining the Public Service Commission fee and Consumer Counsel fee by the Department of Revenue.


ASSUMPTIONS:

1. The effective and applicability dates of the proposed legislation are both October 1, 1993 (MDOR).
2. General fund appropriations for the Public Service Commission are \$2,419,000 in FY94 and \$2,092,000 in FY95 (OBPP).
3. Total appropriations for the Consumer Counsel are \$1,002,000 in FY94 and \$1,003,000 in FY95 (OBPP).
4. At FYE93, both agencies will have spent their entire FY93 appropriations and will have no excess revenue or special revenue fund balances leftover from previous years (MDOR).
5. The fee rates for both agencies will be set according to current law in May of 1993 to raise the appropriated amounts for FY94 (MDOR).
6. Under current law, regulated utilities report their gross receipts and pay the appropriate fee 90 days following the close of each calendar quarter (MDOR).
7. Under proposed law, regulated utilities report their gross receipts and pay the appropriate fee 30 days following the close of each calendar quarter (MDOR).
8. One additional quarter of revenue for both agencies will be accrued to FY94 because of the change in payment dates (MDOR).
9. The fee rates for both agencies will be set in August of 1994 to raise the FY95 appropriated amounts minus any funds remaining unspent from prior years (MDOR).
10. Revenue attributable to a particular fiscal year that is received within 60 days of the close of that fiscal year is accrued as a receipt of that fiscal year (MDOR).

FISCAL IMPACT:Revenues:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
PSC Fee (01)	2,419,000	1,210,000	(1,209,000)	2,092,000	0	(2,092,000)
PSC Fee (02)	0	1,814,000	1,814,000	0	1,487,000	1,487,000
Total	2,419,000	3,024,000	605,000	2,092,000	1,487,000	(605,000)

(continued)

 2-4-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

2-9-93
 JOE QUILICI, PRIMARY SPONSOR DATE

Fiscal Note for HB0413, as introduced.

HB 413

FISCAL IMPACT: (continued)

<u>Revenues:</u>	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Consumer Counsel Fee (02)	1,002,000	1,253,000	251,000	1,003,000	752,000	(251,000)

TECHNICAL NOTES:

The Joint Subcommittee for Natural Resources action to date on the general appropriations act recommends a general fund appropriation for the Public Service Commission. It is assumed that the appropriation for the PSC would be revised contingent upon passage and approval of this bill. If the general appropriations act was not coordinated with this bill, there would be an adverse impact to the general fund of \$1.2 million in FY94 and \$2.1 million in FY95.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0413, as second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying the method for determining the Public Service Commission fee and Consumer Counsel fee by the Department of Revenue.

ASSUMPTIONS:

1. General fund appropriations for the Public Service Commission are \$2,419,000 in FY94 and \$2,092,000 in FY95 (OBPP).
2. Total appropriations for the Consumer Counsel are \$1,002,000 in FY94 and \$1,003,000 in FY95 (OBPP).
3. At FYE93, both agencies will have spent their entire FY93 appropriations (MDOR).
4. The fee rates for both agencies will be set according to current law in May of 1993 to raise the appropriated amounts for FY94 (MDOR).
5. Under current law, regulated utilities report their gross receipts and pay the appropriate fee 90 days following the close of each calendar quarter (MDOR).
6. Under proposed law, regulated utilities report their gross receipts and pay the appropriate fee 30 days following the close of each calendar quarter (MDOR).
7. Revenue attributable to a particular fiscal year that is received within 60 days of the close of that fiscal year is accrued as a receipt of that fiscal year (MDOR).
8. One additional quarter of revenue for both agencies will be accrued to FY93 because of the change in payment dates and the applicability date of the bill. The accelerated revenue will total \$302,500 for the PSC fee and \$60,600 for the consumer counsel fee (based on FY92 collection pattern). These excess FY93 revenues will be "rebated" to taxpayers in FY94 through a reduction in the rates as required by law.

FISCAL IMPACT:Revenues:

The change in the payment date coupled with the applicability date of the bill will accelerate \$302,500 in PSC fees and \$60,600 in consumer counsel fees into FY93 because of revenue accruals.

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
PSC Fee (01)	2,419,000	2,116,500	(302,500)	2,092,000	2,092,000	0
Consumer Counsel Fee (02)	1,002,000	941,400	(60,600)	1,003,000	1,003,000	0

David Lewis 2-12-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Joe Quilici 2-13-93

JOE QUILICI, PRIMARY SPONSOR DATE

Fiscal Note for HB0413, second reading.

HB 413 - #2

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 413

INTRODUCED BY QUILICI, MENAHAN, BACHINI, WANZENRIED
BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE METHOD
FOR DETERMINING THE PUBLIC SERVICE COMMISSION FEE AND
CONSUMER COUNSEL FEE BY THE DEPARTMENT OF REVENUE; AND
AMENDING SECTIONS 69-1-223, 69-1-224, 69-1-402, AND
69-1-403, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY
DATE AND AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. 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 under this section
must be deposited and from which all appropriations to the
office of the consumer counsel shall must 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 30 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 a form as that the commission and department 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 of a
quarter, separately stating gross revenues revenue 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, EXCEPT AS PROVIDED IN 69-1-224(1)(C), 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 other sources in a
manner authorized by the legislature."

Section 2. Section 69-1-224, MCA, is amended to read:

"69-1-224. Determination of fee. (1) ~~Within 30 days~~
~~following enactment of the legislative appropriation for the~~
~~office of the consumer counsel~~ On or before August 31 of
each year, the department of revenue shall:

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

(b) compute the percentage, subject to revision as provided in subsection ~~(3)~~ (2), of the amount determined in subsection (1)(a) which that will produce an amount equal to the base current appropriation to the office of the consumer counsel ~~for the first year of the appropriation~~, except that no a regulated company owned and operated by any municipal corporation within this state ~~shall~~ may not be required to pay a sum in excess of .06 of 1% of its gross operating revenue;

(c) adjust the percentage multiplier computed in subsection (1)(b) to ensure that sufficient funds are generated to meet the appropriation and that excess funds are not generated or retained by:

(i) determining the appropriation to the office of the consumer counsel for the previous fiscal year and comparing it to the fees collected from the previous fiscal year;

(ii) reducing or increasing the percentage determined in (1)(b) for the current year in order to account for any difference determined in subsection (1)(c)(i); and

(iii) if necessary, reducing the revenue to be collected for the current year by any funds remaining unspent at the close of the prior fiscal year; and

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

~~(2) On or before May 30 of the first year of the biennium, the department of revenue shall repeat the steps required by subsection (1) and compute the percentage multiplier for the second year, giving notice to the regulated companies.~~

~~(3)(2)~~ (a) The department of revenue shall adjust the percentage multiplier quarterly if the department considers a change necessary to meet or to not exceed the amount to be raised by the fee because of:

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

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

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

(c) Regulated companies must be given at least 30 days'

notice of any change in the percentage multiplier.

(d) Any change in the percentage multiplier is effective at the beginning of the next calendar quarter.

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

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

"69-1-402. Funding of the department of public service regulation. (1) All fees collected under this section must be deposited in the ~~general fund~~ an account in the state special revenue fund to the credit of the department ~~THE GENERAL FUND. ALL APPROPRIATIONS TO THE DEPARTMENT MUST BE PAID FROM THE GENERAL FUND. All--appropriations--to--the department--must--be--paid--from--the--general--fund.~~ An appropriation to the department 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, within 90 30

days after the close of each calendar quarter, pay to the department of revenue a fee based on a percentage of gross operating revenue reported pursuant to 69-1-223(2)(a), as determined by the department of revenue under 69-1-403.

(3) The amount of money that may be raised by the fee on the regulated companies during a fiscal year may not be increased, EXCEPT AS PROVIDED IN 69-1-224(1)(C), from the amount appropriated to the department by the legislature for that fiscal year, including both base and contingency appropriations. Any additional money required for operation of the department must be obtained from other sources in a manner authorized by the legislature."

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

"69-1-403. Determination and collection of fee. (1) The fee provided for in 69-1-402 to be paid by regulated companies must be determined in the manner set forth in 69-1-224 for determining the consumer counsel fee, except that gross revenues from sales to other regulated companies for resale, as calculated by the public service commission, must be excluded from the determination of the total gross operating revenue pursuant to 69-1-224.

(2) The department of revenue shall give notice by mail to each regulated company of the percentage determined pursuant to 69-1-224 and this section to be applied to gross operating revenues reported under 69-1-223, excluding gross

revenues from sales to other regulated companies for resaler
to-determine-the-amount-of-the-fee-to-be-paid-in--the--first
year-of-the-appropriation.

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

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

NEW SECTION. SECTION 5. RETROACTIVE APPLICABILITY.
[THIS ACT] APPLIES RETROACTIVELY, WITHIN THE MEANING OF
1-2-109, TO REVENUE GENERATED BY REGULATED ACTIVITY
BEGINNING AFTER APRIL 1, 1993.

NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS
EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

HOUSE BILL NO. 413

INTRODUCED BY QUILICI, MENAHAN, BACHINI, WANZENRIED

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE METHOD FOR DETERMINING THE PUBLIC SERVICE COMMISSION FEE AND CONSUMER COUNSEL FEE BY THE DEPARTMENT OF REVENUE; AND AMENDING SECTIONS 69-1-223, 69-1-224, 69-1-402, AND 69-1-403, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. 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 under this section must be deposited and from which all appropriations to the office of the consumer counsel shall must 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 30 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 a form as that the commission and department 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 of a quarter, separately stating gross revenues revenue 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, EXCEPT AS PROVIDED IN 69-1-224(1)(C), 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 other sources in a manner authorized by the legislature."

Section 2. Section 69-1-224, MCA, is amended to read:

"69-1-224. Determination of fee. (1) Within-30-days following-enactment-of-the-legislative-appropriation-for-the office-of-the-consumer-counsel On or before August 31 of each year, the department of revenue shall:

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

(b) compute the percentage, subject to revision as provided in subsection (3) (2), of the amount determined in subsection (1)(a) which that will produce an amount equal to the base current appropriation to the office of the consumer counsel ~~for the first year of the appropriation~~, except that no a regulated company owned and operated by any municipal corporation within this state ~~shall~~ may not be required to pay a sum in excess of .06 of 1% of its gross operating revenue;

(c) adjust the percentage multiplier computed in subsection (1)(b) to ensure that sufficient funds are generated to meet the appropriation and that excess funds are not generated or retained by:

(i) determining the appropriation to the office of the consumer counsel for the previous fiscal year and comparing it to the fees collected from the previous fiscal year;

(ii) reducing or increasing the percentage determined in (1)(b) for the current year in order to account for any difference determined in subsection (1)(c)(i); and

(iii) if necessary, reducing the revenue to be collected for the current year by any funds remaining unspent at the close of the prior fiscal year; and

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

~~(2) On or before May 30 of the first year of the biennium, the department of revenue shall repeat the steps required by subsection (1) and compute the percentage multiplier for the second year, giving notice to the regulated companies.~~

~~(3)(2)~~ (a) The department of revenue shall adjust the percentage multiplier quarterly if the department considers a change necessary to meet or to not exceed the amount to be raised by the fee because of:

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

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

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

(c) Regulated companies must be given at least 30 days'

notice of any change in the percentage multiplier.

(d) Any change in the percentage multiplier is effective at the beginning of the next calendar quarter.

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

(4) IN THE EVENT THE FEE CHARGED IN ONE YEAR IS IN EXCESS OF THE AMOUNT ACTUALLY EXPENDED IN THAT YEAR, THE EXCESS SHALL BE DEDUCTED FROM THE AMOUNT REQUIRED TO BE RAISED BY THE FEE FOR THE NEXT YEAR BEFORE THE DETERMINATION REQUIRED BY SUBSECTION (1) IS MADE. MONEY REMAINING UNSPENT AT THE CLOSE OF THE FISCAL YEAR SHALL BE USED TO REDUCE THE PERCENTAGE CALCULATED IN 69-1-224 IN THE SUBSEQUENT FISCAL YEAR."

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

"69-1-402. Funding of the department of public service regulation. (1) All fees collected under this section must be deposited in the general fund an account in the state special revenue fund to the credit of the department THE GENERAL FUND. ALL APPROPRIATIONS TO THE DEPARTMENT MUST BE

PAID FROM THE GENERAL FUND. All appropriations to the department must be paid from the general fund. An appropriation to the department 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, within 90 30 days after the close of each calendar quarter, pay to the department of revenue a fee based on a percentage of gross operating revenue reported pursuant to 69-1-223(2)(a), as determined by the department of revenue under 69-1-403.

(3) The amount of money that may be raised by the fee on the regulated companies during a fiscal year may not be increased, EXCEPT AS PROVIDED IN 69-1-224(1)(C), from the amount appropriated to the department by the legislature for that fiscal year, including both base and contingency appropriations. Any additional money required for operation of the department must be obtained from other sources in a manner authorized by the legislature."

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

"69-1-403. Determination and collection of fee. (1) The fee provided for in 69-1-402 to be paid by regulated companies must be determined in the manner set forth in 69-1-224 for determining the consumer counsel fee, except

1 that gross revenues from sales to other regulated companies
2 for resale, as calculated by the public service commission,
3 must be excluded from the determination of the total gross
4 operating revenue pursuant to 69-1-224.

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

12 (3) The fee provided for in 69-1-402 may be computed
13 and collected in the manner provided in 69-1-225 through
14 69-1-227.

15 (4) All fees paid by a regulated company pursuant to
16 this section are immediately recoverable by the regulated
17 company in its rates and charges. Within 30 days after the
18 issuance by the department of revenue of notices the notice
19 required by 69-1-224(1) and--(2), the public service
20 commission shall by separate order authorize each regulated
21 company to fully recover in its rates and charges, on an
22 annual basis, the fees levied by this part."

23 NEW SECTION. SECTION 5. RETROACTIVE APPLICABILITY.
24 [THIS ACT] APPLIES RETROACTIVELY, WITHIN THE MEANING OF
25 1-2-109, TO REVENUE GENERATED BY REGULATED ACTIVITY

1 BEGINNING AFTER APRIL 1, 1993.

2 NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS
3 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 5, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 413 (third reading copy -- blue), respectfully report that House Bill No. 413 be amended as follows and as so amended be concurred in.

Signed: 

Senator Mike Halligan, Chair

That such amendments read:


1. Page 5, line 24 through page 6, line 1.

Strike: "THE" on page 5, line 24 through "FUND" on page 6, line 1

Insert: "an account in the state special revenue fund to the credit of the department"

-END-

SENATE

 Amd. Coord.
Sec. of Senate

Harp
Senator Carrying Bill

H B 413
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HOUSE BILL NO. 413

INTRODUCED BY QUILICI, MENAHAN, BACHINI, WANZENRIED

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE METHOD FOR DETERMINING THE PUBLIC SERVICE COMMISSION FEE AND CONSUMER COUNSEL FEE BY THE DEPARTMENT OF REVENUE; AND AMENDING SECTIONS 69-1-223, 69-1-224, 69-1-402, AND 69-1-403, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. 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 under this section must be deposited and from which all appropriations to the office of the consumer counsel shall must 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 30 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 a form as that the commission and department 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 of a quarter, separately stating gross revenues revenue 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, EXCEPT AS PROVIDED IN 69-1-224(1)(C), 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 other sources in a manner authorized by the legislature."

Section 2. Section 69-1-224, MCA, is amended to read:

"69-1-224. Determination of fee. (1) ~~Within 30 days following enactment of the legislative appropriation for the office of the consumer counsel~~ On or before August 31 of each year, the department of revenue shall:

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

(b) compute the percentage, subject to revision as provided in subsection (3) (2), of the amount determined in subsection (1)(a) which that will produce an amount equal to the base current appropriation to the office of the consumer counsel ~~for the first year of the appropriation~~, except that no a regulated company owned and operated by any municipal corporation within this state ~~shall~~ may not be required to pay a sum in excess of .06 of 1% of its gross operating revenue;

(c) adjust the percentage multiplier computed in subsection (1)(b) to ensure that sufficient funds are generated to meet the appropriation and that excess funds are not generated or retained by:

(i) determining the appropriation to the office of the consumer counsel for the previous fiscal year and comparing it to the fees collected from the previous fiscal year;

(ii) reducing or increasing the percentage determined in (1)(b) for the current year in order to account for any difference determined in subsection (1)(c)(i); and

(iii) if necessary, reducing the revenue to be collected for the current year by any funds remaining unspent at the close of the prior fiscal year; and

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

~~(2) On or before May 30 of the first year of the biennium, the department of revenue shall repeat the steps required by subsection (1) and compute the percentage multiplier for the second year giving notice to the regulated companies.~~

~~(3)(2)~~ (a) The department of revenue shall adjust the percentage multiplier quarterly if the department considers a change necessary to meet or to not exceed the amount to be raised by the fee because of:

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

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

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

(c) Regulated companies must be given at least 30 days'

1 notice of any change in the percentage multiplier.

2 (d) Any change in the percentage multiplier is
3 effective at the beginning of the next calendar quarter.

4 ~~(4) In the event the fee charged in one year is in~~
5 ~~excess of the amount actually expended in that year, the~~
6 ~~excess shall be deducted from the amount required to be~~
7 ~~raised by the fee for the next year before the determination~~
8 ~~required by subsection (1) is made. Money remaining unspent~~
9 ~~at the close of a fiscal year shall be used to reduce the~~
10 ~~percentage calculated in 69-1-224 in the subsequent fiscal~~
11 ~~year.~~

12 (3) IN THE EVENT THE FEE CHARGED IN ONE YEAR IS IN
13 EXCESS OF THE AMOUNT ACTUALLY EXPENDED IN THAT YEAR, THE
14 EXCESS SHALL BE DEDUCTED FROM THE AMOUNT REQUIRED TO BE
15 RAISED BY THE FEE FOR THE NEXT YEAR BEFORE THE DETERMINATION
16 REQUIRED BY SUBSECTION (1) IS MADE. MONEY REMAINING UNSPENT
17 AT THE CLOSE OF THE FISCAL YEAR SHALL BE USED TO REDUCE THE
18 PERCENTAGE CALCULATED IN 69-1-224 IN THE SUBSEQUENT FISCAL
19 YEAR."

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

21 "69-1-402. Funding of the department of public service
22 regulation. (1) All fees collected under this section must
23 be deposited in the ~~general fund~~ an account in the state
24 special revenue fund to the credit of the department ~~THE~~
25 ~~GENERAL FUND; ALL APPROPRIATIONS TO THE DEPARTMENT MUST BE~~

1 ~~PAID FROM THE GENERAL FUND~~ AN ACCOUNT IN THE STATE SPECIAL
2 REVENUE FUND TO THE CREDIT OF THE DEPARTMENT. ~~All~~
3 ~~appropriations to the department must be paid from the~~
4 ~~general fund.~~ An appropriation to the department may consist
5 of a base appropriation for regular operating expenses and a
6 contingency appropriation for expenses due to an
7 unanticipated caseload.

8 (2) In addition to all other licenses, fees, and taxes
9 imposed by law, all regulated companies shall, within 90 30
10 days after the close of each calendar quarter, pay to the
11 department of revenue a fee based on a percentage of gross
12 operating revenue reported pursuant to 69-1-223(2)(a), as
13 determined by the department of revenue under 69-1-403.

14 (3) The amount of money that may be raised by the fee
15 on the regulated companies during a fiscal year may not be
16 increased, EXCEPT AS PROVIDED IN 69-1-224(1)(C), from the
17 amount appropriated to the department by the legislature for
18 that fiscal year, including both base and contingency
19 appropriations. Any additional money required for operation
20 of the department must be obtained from other sources in a
21 manner authorized by the legislature."

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23 "69-1-403. Determination and collection of fee. (1) The
24 fee provided for in 69-1-402 to be paid by regulated
25 companies must be determined in the manner set forth in

69-1-224 for determining the consumer counsel fee, except that gross revenues from sales to other regulated companies for resale, as calculated by the public service commission, must be excluded from the determination of the total gross operating revenue pursuant to 69-1-224.

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

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

(4) All fees paid by a regulated company pursuant to this section are immediately recoverable by the regulated company in its rates and charges. Within 30 days after the issuance by the department of revenue of notices the notice required by 69-1-224(1) and--(2), the public service commission shall by separate order authorize each regulated company to fully recover in its rates and charges, on an annual basis, the fees levied by this part."

NEW SECTION. SECTION 5. RETROACTIVE APPLICABILITY.
[THIS ACT] APPLIES RETROACTIVELY, WITHIN THE MEANING OF

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BEGINNING AFTER APRIL 1, 1993.

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EFFECTIVE ON PASSAGE AND APPROVAL.

-End-