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.

DO PASS AS AMENDED. REPORT ADOPTED.

INTRODUCED AND REFERRED TO COMMITTEE

COMMITTEE RECOMMEND BILL

FIRST READING.

PRINTING REPORT.

- FEBRUARY 11, 1993
- FEBRUARY 12, 1993
- FEBRUARY 15, 1993 SECOND READING, DO PASS AS AMENDED.
- FEBRUARY 16, 1993 ENGROSSING REPORT.
- THIRD READING, PASSED. FEBRUARY 17, 1993 AYES, 99; NOES, 0.
- FEBRUARY 18, 1993 TRANSMITTED TO SENATE.

IN THE SENATE

ON TAXATION.

ADOPTED.

FIRST READING.

FEBRUARY 20, 1993

APRIL 5, 1993

APRIL 8, 1993

APRIL 12, 1993

AYES, 48; NOES, 0.

COMMITTEE RECOMMEND BILL BE

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN.

CONCURRED IN AS AMENDED. REPORT

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

SECOND READING, AMENDMENTS APRIL 14, 1993 CONCURRED IN.

THIRD READING, AMENDMENTS APRIL 15, 1993

CONCURRED IN. SENT TO ENROLLING. REPORTED CORRECTLY ENROLLED.

House BILL NO. 413 1 2 BY PRYJEST OF THE DEPARTMENT OF REVENUE 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE METHOD 5 6 FOR DETERMINING THE PUBLIC SERVICE COMMISSION FEE AND 7 CONSUMER COUNSEL FEE BY THE DEPARTMENT OF REVENUE: AND a AMENDING SECTIONS 69-1-223, 69-1-224. 69-1-402. AND 69-1-403, MCA." 9 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 which all fees collected hereunder-shall under this section 15 16 must be deposited and from which all appropriations to the 17 office of the consumer counsel shall must be paid. An appropriation to the office of the consumer counsel may 18 consist of a base appropriation for regular operating 19 20 expenses and a contingency appropriation for expenses due to 21 an unanticipated caseload.

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

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

regulation and the department of revenue a statement, in such <u>a</u> form as <u>that</u> the commission <u>and department</u> 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 <u>of a</u> <u>quarter</u>, separately stating gross revenues <u>revenue</u> from 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 authorised 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:

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

H& 4/3 INTRODUCED BILL -2-

all regulated companies for the previous fiscal year; 1 2 (b) compute the percentage, subject to revision as provided in subsection (3) (2), of the amount determined in 3 subsection (1)(a) which that will produce an amount equal to 4 the base current appropriation to the office of the consumer 5. counsel for-the-first-year-of-the-appropriation, except that 6 no a regulated company owned and operated by any municipal 7 corporation within this state shall may not be required to 8 pay a sum in excess of .06 of 1% of its gross operating 9 10 revenue; 11 (c) adjust the percentage multiplier computed in

subsection (1)(b) to ensure that sufficient funds are 12 generated to meet the appropriation and that excess funds 13 14 are not generated or retained by: (i) determining the appropriation to the office of the 15 16 consumer counsel for the previous fiscal year and comparing it to the fees collected from the previous fiscal year; 17 (ii) reducing or increasing the percentage determined in 18 (1)(b) for the current year in order to account for any 19 difference determined in subsection (1)(c)(i); and 20 (iii) if necessary, reducing the revenue to be collected 21 for the current year by any funds remaining unspent at the 22 23 close of the prior fiscal year; and (c) (d) give notice by mail to each regulated company of 24 the percentage determined-in-subsections-(1)(a)-and--(b) to 25

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.

4 (1)--On-or-before-Nay--30--of--the--first--year--of--the 5 bienniumy--the--department-of-revenue-shall-repeat-the-steps 6 required--by--subsection--(1)--and--compute--the--percentage 7 multiplier--for--the--second--yeary--giving--notice--to--the 8 regulated-companies.

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9 (3)(2) (a) The department of revenue shall adjust the
10 percentage multiplier quarterly if the department considers
11 a change necessary to meet or to not exceed the amount to be
12 raised by the fee because of:

13 (i) fluctuations in the actual gross operating revenue
14 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.

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

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

(d) Any change in the percentage multiplier is

-3-

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1 effective at the beginning of the next calendar quarter.

tet--in--the--event--the--fee--charged-in-one-year-is-in 2 excess-of-the-amount-actually-expended--in--that--yeary--the 3 excess--shall--be--deducted--from--the-amount-required-to-be 4 raised-by-the-fee-for-the-next-year-before-the-determination 5 required-by-subsection-(1)-is-mader-Money-remaining--unspent 6 at--the--close--of-s-fiscal-year-shall-be-used-to-reduce-the 7 percentage-calculated-in-69-1-224-in-the--subsequent--fiscal 8 9 Yeaf."

Section 3. Section 69-1-402, MCA, is amended to read: 10 *69-1-402. Funding of the department of public service 11 regulation. (1) All fees collected under this section must 12 be deposited in the--general-fund an account in the state 13 special revenue fund to the credit of the department. All 14 appropriations--to--the--department--must--be--paid-from-the 15 general-fundr An appropriation to the department may consist 16 of a base appropriation for regular operating expenses and a 17 contingency appropriation for expenses due to an 18 19 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.

1 (3) The amount of money that may be raised by the fee 2 on the regulated companies during a fiscal year may not be 3 increased from the amount appropriated to the department by 4 the legislature for that fiscal year, including both base 5 contingency appropriations. and Any additional money required for operation of the department must be obtained 6 7 from other sources in a manner authorized by the 8 legislature."

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

10 "69-1-403. Determination and collection of fee. (1) The 11 fee provided for in 69-1-402 to be paid by regulated 12 companies must be determined in the manner set forth in 69-1-224 for determining the consumer counsel fee, except 13 14 that gross revenues from sales to other regulated companies for resale, as calculated by the public service commission, 15 must be excluded from the determination of the total gross 16 17 operating revenue pursuant to 69-1-224.

18 (2) The department of revenue shall give notice by mail 19 to each regulated company of the percentage determined 20 pursuant to 69-1-224 and this section to be applied to gross 21 operating revenues reported under 69-1-223, excluding gross 22 revenues from sales to other regulated companies for resaler 23 to-determine-the-amount-of-the-fee-to-be-peid-in--the--first 24 year-of-the-appropriation.

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

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-5-

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

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

-End-

-7-

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:

<u>Revenues :</u>

	FY '94			FY_'95		
	Current Law	Proposed Law	<u>Difference</u>	Current Law	Proposed Law	<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)	Q	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)

DAVID LEWIS, BUDGET DIRECTOR DATE

Office of Budget and Program Planning

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JOE	QUILICI,	PRIMARY	SPONSOR	DA	TE

Fiscal Note for HB0413, as introduced

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Fiscal Note Request, <u>HB0413, as introduced</u>. Form BD-15 page 2 (continued)

FISCAL IMPACT: (continued)

<u>Revenues:</u>	FY '94			FY '95		
	<u>Current Law</u>	Proposed Law	Difference	Current Law	Proposed Law	<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 applicablity 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.

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
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, BUDGET DIRECTOR DATE Office of Budget and Program Planning

PRIMARY SPONSOR DATE Fiscal Note for HB0413, second reading

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HB 0413/02

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APPROVED BY COMMITTEE ON TAXATION

1	HOUSE BILL NO. 413
2	INTRODUCED BY QUILICI, MENAHAN, BACHINI, WANZENRIED
3	BY REQUEST OF THE DEPARTMENT OF REVENUE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE METHOD
6	POR DETERMINING THE PUBLIC SERVICE COMMISSION PEE AND
7	Consumer counsel pee by the department of revenue; and
8	AMENDING SECTIONS 69-1-223, 69-1-224, 69-1-402, AND
9	69-1-403, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY
10	DATE AND AN IMMEDIATE EFFECTIVE DATE."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	Section 1. Section 69-1-223, MCA, is amended to read:
14	69-1-223. Funding of office of consumer counsel. (1)
15	There is an account in the state special revenue fund to
16	which all fees collected hereunder-shall under this section
17	must be deposited and from which all appropriations to the
18	office of the consumer counsel shall must be paid. An
19	appropriation to the office of the consumer counsel may
20	consist of a base appropriation for regular operating
21	expenses and a contingency appropriation for expenses due to
22	an unanticipated caseload.

23 (2) In addition to all other licenses, fees, and taxes24 imposed by law, all regulated companies shall:

25

(a) within 9θ 30 days after the close of each calendar

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1 quarter, file with the department of public service 2 regulation and the department of revenue a statement, in such a form as that the commission and department, may 3 determine, showing the gross operating revenue from all 4 5 activities regulated by the commission within the state for 6 that calendar guarter of operation or portion thereof of a 7 guarter, separately stating gross revenues revenue from 8 sales to other regulated companies for resale; and

9 (b) at that time pay to the department of revenue a fee 10 based on a percentage of the gross operating revenue 11 reported, as determined by the department of revenue under 12 69-1-224.

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

-2-

HB 413 SECOND READING

(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 4 5 provided in subsection $\{3\}$ (2), of the amount determined in 6 subsection (1)(a) which that will produce an amount equal to 7 the base current appropriation to the office of the consumer 8 counsel for-the-first-year-of-the-appropriation, except that 9 no a regulated company owned and operated by any municipal 10 corporation within this state shall may not be required to 11 pay a sum in excess of .06 of 1% of its gross operating 12 revenue;

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

17 (i) determining the appropriation to the office of the 18 consumer counsel for the previous fiscal year and comparing 19 it to the fees collected from the previous fiscal year; (ii) reducing or increasing the percentage determined in 20 21 (1)(b) for the current year in order to account for any difference determined in subsection (1)(c)(i); and 22 23 (iii) if necessary, reducing the revenue to be collected 24 for the current year by any funds remaining unspent at the

close of the prior fiscal year; and

25

1 (e)(d) give notice by mail to each regulated company of 2 the percentage determined-in-subsections-(i)(a)-and--(b) to 3 be applied to the gross operating revenue reported under 4 69-1-223(2) to determine the amount of the fee to be paid in

the-first-year-of-the-appropriation.

5

6 (2)--On-or-before-May--30--of--the--first--year--of--the 7 biennium7--the--department-of-revenue-shall-repeat-the-steps 8 required--by--subsection--(1)--and--compute--the--percentage 9 multiplier--for--the--second--year7--giving--notice--to--the 10 requiated-companies.

11 (3)(2) (a) The department of revenue shall adjust the 12 percentage multiplier quarterly if the department considers 13 a change necessary to meet or to not exceed the amount to be 14 raised by the fee because of:

15 (i) fluctuations in the actual gross operating revenue 16 subject to the fee; or

17 (ii) submission and approval of a budget amendment
18 authorizing the spending of money from a contingency
19 appropriation included in the appropriation measure for the
20 office of the consumer counsel and authorized to be raised
21 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.

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

-4-

-3-

HB 413

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 guarter. 4 t4)--In--the--event--the--fee--charged-in-one-year-is-in 5 excess-of-the-amount-actually-expended--in--that--yeary--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 Section 3. Section 69-1-402, MCA, is amended to read: 13 "69-1-402. Funding of the department of public service 14 regulation. (1) All fees collected under this section must be deposited in the--general-fund an-account-in-the-state 15 16 special-revenue-fund-to-the-credit--of--the--department THE 17 GENERAL FUND. ALL APPROPRIATIONS TO THE DEPARTMENT MUST BE 18 PAID FROM THE GENERAL FUND. All--appropriations--to--the department---must---be---paid--from--the--general--fund- An 19 20 appropriation to the department may consist of a base 21 appropriation for regular operating expenses and a contingency appropriation for expenses due 22 to an 23 unanticipated caseload.

24 (2) In addition to all other licenses, fees, and taxes
25 imposed by law, all regulated companies shall, within 90 30

-5-

HB 413

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 5 on the regulated companies during a fiscal year may not be 6 increased, EXCEPT AS PROVIDED IN 69-1-224(1)(C), from the 7 8 amount appropriated to the department by the legislature for 9 that fiscal year, including both base and contingency appropriations. Any additional money required for operation 10 of the department must be obtained from other sources in a 11 manner authorized by the legislature." 12

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

14 "69-1-403. Determination and collection of fee. (1) The fee provided for in 69-1-402 to be paid by regulated. 15 companies must be determined in the manner set forth in 16 69-1-224 for determining the consumer counsel fee, except 17 18 that gross revenues from sales to other regulated companies for resale, as calculated by the public service commission, 19 20 must be excluded from the determination of the total gross 21 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

-6-

HB 413

HB 0413/02

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.

4 (3) The fee provided for in 69-1-402 may be computed 5 and collected in the manner provided in 69-1-225 through 6 69-1-227.

7 (4) All fees paid by a regulated company pursuant to this section are immediately recoverable by the regulated 8 9 company in its rates and charges. Within 30 days after the 10 issuance by the department of revenue of notices the notice 11 required by 69-1-224(1) and -- (2), the public service commission shall by separate order authorize each regulated 12 13 company to fully recover in its rates and charges, on an 14 annual basis, the fees levied by this part."

 15
 NEW SECTION,
 SECTION 5.
 RETROACTIVE
 APPLICABILITY.

 16
 [THIS ACT] APPLIES RETROACTIVELY, WITHIN THE MEANING OF
 17
 1-2-109, TO
 REVENUE
 GENERATED
 BY REGULATED
 ACTIVITY

 18
 BEGINNING AFTER APRIL 1, 1993.

19 NEW SECTION. SECTION 6. EPFECTIVE DATE. [THIS ACT] IS

20 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

-7-

HB 0413/03

1	HOUSE BILL NO. 413	1	quarter, file with the department of public service
2	INTRODUCED BY QUILICI, MENAHAN, BACHINI, WANZENRIED	2	regulation and the department of revenue a statement, in
3	BY REQUEST OF THE DEPARTMENT OF REVENUE	3	such a form as that the commission and department may
4		4	determine, showing the gross operating revenue from all
5	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE METHOD	5	activities regulated by the commission within the state for
6	FOR DETERMINING THE PUBLIC SERVICE COMMISSION FEE AND	6	that calendar quarter of operation or portion thereof of a
7	CONSUMER COUNSEL FEE BY THE DEPARTMENT OF REVENUE; AND	7	quarter, separately stating gross revenues revenue from
8	AMENDING SECTIONS 69-1-223, 69-1-224, 69-1-402, AND	8	sales to other regulated companies for resale; and
9	69-1-403, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY	9	(b) at that time pay to the department of revenue a fee
10	DATE AND AN IMMEDIATE EFFECTIVE DATE."	10	based on a percentage of the gross operating revenue
11		11	reported, as determined by the department of revenue under
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	12	69-1-224.
13	Section 1. Section 69-1-223, MCA, is amended to read:	13	(3) The amount of money which may be raised by the fee
14	69-1-223. Funding of office of consumer counsel. (1)	14	on the regulated companies during a fiscal year may not be
15	There is an account in the state special revenue fund to	15	increased, EXCEPT AS PROVIDED IN 69-1-224(1)(C), from the
16	which all fees collected hereunder-shall under this section	16	amount appropriated, including both base and contingency
17	must be deposited and from which all appropriations to the	17	appropriations, by the legislature for that fiscal year. Any
18	office of the consumer counsel shall must be paid. An	18	additional money required for operation of the office of the
19	appropriation to the office of the consumer counsel may	19	consumer counsel must be obtained from other sources in a
20	consist of a base appropriation for regular operating	20	manner authorized by the legislature."
21	expenses and a contingency appropriation for expenses due to	21	Section 2. Section 69-1-224, MCA, is amended to read;
22	an unanticipated caseload.	22	
23	(2) In addition to all other licenses, fees, and taxes	23	"69-1-224. Determination of fee. (1) Within-30-days
24	imposed by law, all regulated companies shall:	24	following-enactment-of-the-legislative-appropriation-for-the
25	(a) within 90 30 days after the close of each calendar	25	office-of-the-consumer-counsel On or before August 31 of
43	(a) writing by 30 days after the crost of dech carendar		each year, the department of revenue shall:

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-2-

HB 413 THIRD READING AS AMENDED

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

4 (b) compute the percentage, subject to revision as 5 provided in subsection (3) (2), of the amount determined in 6 subsection (1)(a) which that will produce an amount equal to 7 the base current appropriation to the office of the consumer 8 counsel for-the-first-year-of-the-appropriation, except that 9 no a regulated company owned and operated by any municipal 10 corporation within this state shall may not be required to pay a sum in excess of .06 of 1% of its gross operating 11 12 revenue:

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

17 (i) determining the appropriation to the office of the
18 consumer counsel for the previous fiscal year and comparing
19 it to the fees collected from the previous fiscal year;
20 (ii) reducing or increasing the percentage determined in

21 (1)(b) for the current year in order to account for any

22 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

HB 0413/03

fe)(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.

6 (2)--On-or-before-May--30--of--the--first--year--of--the
 7 biennium7--the--department-of-revenue-shall-repeat-the-steps
 8 required--by--subsection--(1)--and--compute--the--percentage
 9 multiplier--for--the--second--year7--giving--notice--to--the
 10 regulated-companies7

11 (3)(2) (a) The department of revenue shall adjust the 12 percentage multiplier quarterly if the department considers 13 a change necessary to meet or to not exceed the amount to be 14 raised by the fee because of:

15 (i) fluctuations in the actual gross operating revenue16 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'

-3-

HB 413

25

-4-

HB 0413/03

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)Intheeventthefeecharged-in-one-year-is-in
5	excess-of-the-amount-actually-expendedinthatyearthe
6	excessshailbedeductedfromthe-amount-required-to-be
7	raised-by-the-fee-for-the-next-year-before-the-determination
8	required-by-subsection-(1)-is-madeMoney-remainingunspent
9	atthecloseof-a-fiscal-year-shall-be-used-to-reduce-the
10	percentage-calculated-in-69-1-224-in-thesubsequentfiscal
11	year-
12	(4) 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:
	••••••••••••••••••••••••••••••••••••••

*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
 <u>special-revenue-fund-to-the-credit--of--the--department</u> THE
 <u>GENERAL</u> 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.

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

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

21 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

-5-

HB 413

-6-

HB 413

HB 0413/03

HB 413

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.

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 resale7 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.

(4) All fees paid by a regulated company pursuant to 15 this section are immediately recoverable by the regulated 16 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 $-\frac{1}{2}$, 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."

23NEW SECTION.SECTION 5.RETROACTIVEAPPLICABILITY.24[THIS ACT] APPLIES RETROACTIVELY, WITHIN THE MEANING OF251-2-109, TO REVENUE GENERATED BY REGULATED ACTIVITY

-7-

1 BEGINNING AFTER APRIL 1, 1993.

2 NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS

3 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

-8-

HB 413

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: Halligan, Chair Senátor

That such amendments read:

-END-

md. Coord. Sec. of Senate

Harp Senator Carrying Bill SENATE H B 4/3 761307SC.San HB 0413/04

1	HOUSE BILL NO. 413	1	qu
2	INTRODUCED BY QUILICI, MENAHAN, BACHINI, WANZENRIED	2	re
3	BY REQUEST OF THE DEPARTMENT OF REVENUE	3	54
4		4	de
5	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE METHOD	5	ac
6	FOR DETERMINING THE PUBLIC SERVICE COMMISSION FEE AND	6	th
7	CONSUMER COUNSEL FEE BY THE DEPARTMENT OF REVENUE; AND	7	qu
в	AMENDING SECTIONS 69-1-223, 69-1-224, 69-1-402, AND	8	88
9	69-1-403, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY	9	
10	DATE AND AN IMMEDIATE EFFECTIVE DATE."	10	ba
11		11	re
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	12	69
13	Section 1. Section 69-1-223, MCA, is amended to read:	13	
14	*69-1-223. Funding of office of consumer counsel. (1)	14	or
15	There is an account in the state special revenue fund to	15	ir
16	which all fees collected hereunder-shall under this section	16	an
17	must be deposited and from which all appropriations to the	17	aı
18	office of the consumer counsel shall must be paid. An	18	ad
19	appropriation to the office of the consumer counsel may	19	co
20	consist of a base appropriation for regular operating	20	na.
21	expenses and a contingency appropriation for expenses due to	21	
22	an unanticipated caseload.	22	
23	(2) In addition to all other licenses, fees, and taxes	23	£
24	imposed by law, all regulated companies shall:	24	01
25	(a) within 90 <u>30</u> days after the close of each calendar	25	ea

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arter, file with the department of public service gulation and the department of revenue a statement, in ch a form as that the commission and department may termine, showing the gross operating revenue from all tivities regulated by the commission within the state for at calendar quarter of operation or portion thereof of a larter, separately stating gross revenues revenue from ales to other regulated companies for resale; and

(b) at that time pay to the department of revenue a fee ased on a percentage of the gross operating revenue eported, as determined by the department of revenue under 9-1-224.

(3) The amount of money which may be raised by the fee n the regulated companies during a fiscal year may not be ncreased, EXCEPT AS PROVIDED IN 69-1-224(1)(C), from the mount appropriated, including both base and contingency ppropriations, by the legislature for that fiscal year. Any dditional money required for operation of the office of the onsumer counsel must be obtained from other sources in a anner 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

ollowing-enactment-of-the-legislative-appropriation-for-the ffice-of-the-consumer-counsel On or before August 31 of 25 each year, the department of revenue shall:

-2-

HB 413 REFERENCE BILL AS AMENDED

HB 0413/04

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

4 (b) compute the percentage, subject to revision as 5 provided in subsection (3) (2), of the amount determined in 6 subsection (1)(a) which that will produce an amount equal to 7 the base current appropriation to the office of the consumer 8 counsel for-the-first-year-of-the-appropriation, except that no a regulated company owned and operated by any municipal 9 10 corporation within this state shall may not be required to pay a sum in excess of .06 of 1% of its gross operating 11 12 revenue;

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

17 (i) determining the appropriation to the office of the
18 consumer counsel for the previous fiscal year and comparing
19 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

1 (=)(d) give notice by mail to each regulated company of 2 the percentage determined-in-subsections-(i)(a)-and--(b) to 3 be applied to the gross operating revenue reported under 4 69-1-223(2) to determine the amount of the fee to be paid in 5 the-first-year-of-the-appropriation.

6 (2)--On-or-before-May--30--of--the--first--year--of--the 7 biennium7--the--department-of-revenue-shall-repeat-the-steps 8 required--by--subsection--(1)--and--compute--the--percentage 9 multiplier--for--the--second--year7--giving--notice--to--the 10 regulated-companies.

11 (3)(2) (a) The department of revenue shall adjust the 12 percentage multiplier quarterly if the department considers 13 a change necessary to meet or to not exceed the amount to be 14 raised by the fee because of:

15 (i) fluctuations in the actual gross operating revenue16 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'

-3-

25

-4-

notice of any change in the percentage multiplier. 1 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--year7--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-fly-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. (3) IN THE EVENT THE FEE CHARGED IN ONE YEAR IS IN 12 13 EXCESS OF THE AMOUNT ACTUALLY EXPENDED IN THAT YEAR, THE EXCESS SHALL BE DEDUCTED FROM THE AMOUNT REQUIRED TO BE 14 RAISED BY THE FEE FOR THE NEXT YEAR BEFORE THE DETERMINATION 15 16 REQUIRED BY SUBSECTION (1) IS MADE. MONEY REMAINING UNSPENT 17 AT THE CLOSE OF THE FISCAL YEAR SHALL BE USED TO REDUCE THE PERCENTAGE CALCULATED IN 69-1-224 IN THE SUBSEQUENT FISCAL 18 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

regulation. (1) All fees collected under this section must
 be deposited in the--general-fund <u>an-account-in-the-state</u>
 <u>special-revenue-fund-to-the-credit--of--the--department</u> <u>THE</u>
 <u>GENERAL--FUND:--Abb-APPROPRIATIONS-TO-THE-DEPARTMENT-MUST-BE</u>

-5-

PAID-FROM-THE-GENERAL-FUND AN ACCOUNT IN THE STATE SPECIAL 1 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 98 <u>30</u> 10 days after the close of each calendar guarter, 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 of the department must be obtained from other sources in a 20 21 manner authorized by the legislature."

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

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

-6-

HB 413

HB 413

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.

6 (2) The department of revenue shall give notice by mail 7 to each regulated company of the percentage determined 8 pursuant to 69-1-224 and this section to be applied to gross 9 operating revenues reported under 69-1-223, excluding gross 10 revenues from sales to other regulated companies for resaler 11 to--determine--the-amount-of-the-fee-to-be-paid-in-the-first 12 year-of-the-appropriation.

13 (3) The fee provided for in 69-1-402 may be computed
14 and collected in the manner provided in 69-1-225 through
15 69-1-227.

16 (4) All fees paid by a regulated company pursuant to 17 this section are immediately recoverable by the regulated 18 company in its rates and charges. Within 30 days after the 19 issuance by the department of revenue of notices the notice required by 69-1-224(1) and--+2+, the public service 20 21 commission shall by separate order authorize each regulated 22 company to fully recover in its rates and charges, on an 23 annual basis, the fees levied by this part."

24 <u>NEW SECTION. SECTION 5. RETROACTIVE APPLICABILITY.</u> 25 [THIS ACT] APPLIES RETROACTIVELY, WITHIN THE MEANING OF

-7-

- 1 1-2-109, TO REVENUE GENERATED BY REGULATED ACTIVITY
- 2 BEGINNING AFTER APRIL 1, 1993.
- 3 NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS
- 4 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

-8-