EXHIBIT 2
DATE 1-25-05
HB 140

HB 140
Montana Consumer Debt Management Act

Fast Facts

- Consumer debt climbed to $2,001,830,670,000 by the end of 2003. This is a 5.21% increase from the previous year. This figure includes all consumer debt with the exception of mortgages.
- The amount of consumer debt per household averaged $18,707 in the United States.
- Of the total US consumer debt, approximately $735,000,000,000 is from the use of credit cards. In Montana, this equates to a staggering $2,463,574,748.
- As only 40% of Americans pay their credit card debt in full each month, the 60% who make payments carry an average balance of $12,000. With the current national average rate for interest on credit cards at 13%, this would equate to approximately $335,712,312 sent outside of the state each year by Montanans in interest payments alone.
- Interest rates for high-risk accounts rose to 29.9% in 2001 further strapping those who can least afford to pay. Furthermore, based on minimum payments, it would take as long as 42 years to pay off!
- The Federal Reserve Board estimates that the average household debt service ratio (an estimate of the ratio of all debt payments to disposable income) was 13.14% in the 3rd quarter of 2003. The total financial obligations ratio (a broader measure that includes automobile lease payments, rental payments, home owners insurance, and property tax payments) was an average of 18.32% during the same time in 2003. For homeowners this ratio was 13.91% and for renters this was 31.43%.
- In 2001, 7 percent of families reported at least one debt payment was overdue. This percentage was higher with low to moderate income families and those under 35 years old.
- According to the Federal Reserve Board, charge off rates by American banks in the fourth quarter of 2003 was 5.89%.
- Delinquency rates for American banks in the fourth quarter of 2003 was 4.49%
- Credit card companies mailed over 5 billion offers to US households in 2001.
- According to Nellie Mae, the average college student owes $3,262 in credit card debt and $17,140 in student loans after they graduate totaling $20,402.
- 84% of college students have at least one credit card an increase of 24% since 1998.

According to a report Retiring in the Red by Demos, a nonprofit organization dedicated to furthering issues regarding democracy reform, economic development, and America's long-range challenges:

- Americas Seniors over the age of 65 increased their credit card debt 89% between 1992 and 2001.
- Seniors between 65 and 69 years old, presumably the most recently retired, increased credit card debt 217% to an average of $5,844.
- Among seniors with incomes under $50,000 (70% of all seniors), about *one in five* families with credit card debt is in hardship – spending over 40% of their income on debt payments, including mortgage debt.
- Transitioners (people ages 55 to 64) experienced a 47% increase in credit card debt between 1992 and 2001, to an average of $4,041.
- Credit card debt of low to moderate transitioner families without health insurance increased 169% as opposed to 37% for similar families with health insurance.

HB 140 Montana Consumer Debt Management Act

1. This bill is aimed at creating a Montana Consumer Debt Management Services Act that would accomplish the following:

    - Establish requirements for debt management plans entered into between consumers and credit counseling services
    - Designate prohibited practices for credit counseling services
    - Provide remedies and penalties

2. Specifically, this bill will meet the above goals through the following provisions:

    - <u>A licensure section that requires</u>
        i. A license fee as established by the department by rule
        ii. The maintenance of a trust account for consumer funds
        iii. Accreditation by a bona fide third-party certification provider
        iv. Certification of credit counselors by a bona fide third-party certification provider
        v. A guarantee that a majority of the owners, principals, officers, board of directors, or employees are not persons who have a conflict of interest with applicant's mission
        vi. The maintenance of an office in this state with a credit counselor on premise
        vii. A surety bond
        viii. Annual audits by independent C.P.A.

    - <u>A debt management section that requires</u>
        i. Name and principal business address of credit counseling service and the name and address of the consumer
        ii. Detailed description of the services to be performed
        iii. A clear statement of costs to the consumer
        iv. A statement that the debt management plan may be terminated for any reason by the consumer
        v. A complete list of the obligations of each party
        vi. An indication of how disputes are to be resolved
        vii. A report for the consumer that shows the funds received from the consumer and how those funds were dispersed since the last report

    - <u>A prohibited practice section that prohibits</u>
        i. The purchase of any debt or obligation of a consumer
        ii. The lending of money or providing credit to a consumer
        iii. Obtaining a mortgage or other security interest in any property of the consumer
        iv. Operating as a collection agency
        v. Structuring a debt management plan in a way where the plan's conclusion does not fully amortize any debt of the consumer under the plan
        vi. Charging for or providing credit insurance
        vii. Causing or attempting to cause a consumer to waive any right or benefit as granted by Sections 1 through 7
        viii. The Advertising of a credit counseling service without being licensed by the department
        ix. The misrepresentation of any material fact or the making of promises by a credit counseling service to induce a consumer into entering a debt management plan

    - <u>A remedies section that provides the following:</u>
        i. Any violation constitutes unfair a deceptive trade practice and is a violation of 30-14-103
        ii. A person found in violation is liable t the person harmed for actual and consequential damages or $500, whichever is greater, for each violation, plus costs and attorney fees
        iii. A person harmed by a violation may sue for injunctive and other appropriate equitable relief
        iv. A person harmed by a violation may bring a class action law suit
        v. The department, attorney general, or county attorney, on behalf of state residents who have suffered a loss or harm as a result of violation may seek any remedy provided by Title 30, Chapter 14, Part 1