

HOUSE OF REPRESENTATIVES
Roll Call
FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS
COMMITTEE

DATE: March 26, 2007

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. ALAN OLSON, CHAIR	✓	
REP. HARRY KLOCK, VICE CHAIR	✓	
REP. GEORGE GROESBECK, VICE CHAIR	✓	
REP. SCOTT BOGGIO	✓	
REP. ROBYN DRISCOLL	✓	
REP. DAVE GALLIK	✓	
REP. DENNIS HIMMELBERGER	✓	
REP. LEW JONES	✓	
REP. DIANE RICE	✓	
REP. WAYNE STAHL	✓	
REP. BILL THOMAS	✓	
REP. JONATHAN WINDY BOY	✓	



HOUSE STANDING COMMITTEE REPORT

March 27, 2007

Page 1 of 4

Mr. Speaker:

We, your committee on **Federal Relations, Energy, and Telecommunications** recommend that **Senate Bill 448** (third reading copy -- blue) be concurred in as amended.

Signed: 
Representative Alan Olson, Chair

To be carried by Representative Alan Olson

And, that such amendments read:

1. Title, line 12.

Following: "ANALYSIS;"

Insert: "REQUIRING THAT AN APPLICANT PAY COSTS INCURRED BY THE OFFICE OF CONSUMER COUNSEL IN PREPARING A FISCAL IMPACT ANALYSIS;"

2. Title, line 12.

Following: "75-1-201,"

Insert: "75-1-205,"

3. Page 1, line 20.

Strike: the second "THE"

4. Page 7, line 1.

Insert: "**Section 4.** Section 75-1-205, MCA, is amended to read:

"75-1-205. Collection and use of fees and costs. (1) A person who applies to a state agency for a permit, license, or other authorization that the agency determines requires preparation of an environmental impact statement is responsible for paying:

(a) the agency's costs of preparing the environmental impact statement and conducting the environmental impact statement process if the agency makes a written determination, based on material evidence identified in the determination, that there will be a significant environmental impact or a potential for a significant environmental impact; or. If a customer fiscal impact analysis is required under [section 1], the applicant

Committee Vote:

Yes 8, No 4

Fiscal Note Required _____

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shall also pay the staff and consultant costs incurred by the office of consumer counsel in preparing the analysis.

(b) a fee as provided in 75-1-202 if the agency does not make the determination provided for in subsection (1)(a).

(2) Costs payable under subsection (1) include:

(a) the costs of generating, gathering, and compiling data and information that is not available from the applicant to prepare the draft environmental impact statement, any supplemental draft environmental impact statement, and the final environmental impact statement;

(b) the costs of writing, reviewing, editing, printing, and distributing a reasonable number of copies of the draft environmental impact statement;

(c) the costs of attending meetings and hearings on the environmental impact statement, including meetings and hearings held to determine the scope of the environmental impact statement; and

(d) the costs of preparing, printing, and distributing a reasonable number of copies of any supplemental draft environmental impact statement and the final environmental impact statement, including the cost of reviewing and preparing responses to public comment.

(3) Costs payable under subsection (1) include:

(a) payments to contractors hired to work on the environmental impact statement;

(b) salaries and expenses of an agency employee who is designated as the agency's coordinator for preparation of the environmental impact statement for time spent performing the activities described in subsection (2) or for managing those activities; and

(c) travel and per diem expenses for other agency personnel for attendance at meetings and hearings on the environmental impact statement.

(4) (a) Whenever the agency makes the determination in subsection (1)(a), it shall notify the applicant of the cost of conducting the process to determine the scope of the environmental impact statement. The applicant shall pay that cost, and the agency shall then conduct the scoping process. The timeframe in 75-1-208(4)(a)(i) and any statutory timeframe for a decision on the application are tolled until the applicant pays the cost of the scoping process.

(b) If the agency decides to hire a third-party contractor to prepare the environmental impact statement, the agency shall prepare a list of no fewer than four contractors acceptable to the agency and shall provide the applicant with a copy of the list. If fewer than four acceptable contractors are available, the agency shall include all acceptable contractors on the list. The applicant shall provide the agency with a list of at least 50% of the contractors from the agency's list. The agency shall select its contractor from the list provided by the applicant.

(c) Upon completion of the scoping process and subject to

subsection (1) (d), the agency and the applicant shall negotiate an agreement for the preparation of the environmental impact statement. The agreement must provide that:

(i) the applicant shall pay the cost of the environmental impact statement as determined by the agency after consultation with the applicant. In determining the cost, the agency shall identify and consult with the applicant regarding the data and information that must be gathered and studies that must be conducted.

(ii) the agency shall prepare the environmental impact statement within a reasonable time determined by the agency after consultation with the applicant and set out in the agreement. This timeframe supersedes any timeframe in statute or rule. If the applicant and the agency cannot agree on a timeframe, the agency shall prepare the environmental impact statement within any timeframe provided by statute or rule.

(iii) the applicant shall make periodic advance payments to cover work to be performed;

(iv) the agency may order work on the environmental impact statement to stop if the applicant fails to make advance payment as required by the agreement. The time for preparation of the environmental impact statement is tolled for any period during which a stop-work order is in effect for failure to make advance payment.

(v) (A) if the agency determines that the actual cost of preparing the environmental impact statement will exceed the cost set out in the agreement or that more time is necessary to prepare the environmental impact statement, the agency shall submit proposed modifications to the agreement to the applicant;

(B) if the applicant does not agree to an extension of the time for preparation of the environmental impact statement, the agency may initiate the informal review process under subsection (4) (d). Upon completion of the informal review process, the agreement may be amended only with the consent of the applicant.

(C) if the applicant does not agree with the increased costs proposed by the agency, the applicant may refuse to agree to the modification and may also provide the agency with a written statement providing the reason that payment of the increased cost is not justified or, if applicable, the reason that a portion of the increased cost is not justified. The applicant may also request an informal review as provided in subsection (4) (d). If the applicant provides a written statement pursuant to this subsection (4) (c) (v) (C), the agreement must be amended to require the applicant to pay all undisputed increased cost and 75% of the disputed increased cost and to provide that the agency is responsible for 25% of the disputed increased cost. If the applicant does not provide the statement, the agreement must be amended to require the applicant to pay all increased costs.

(d) If the applicant does not agree with costs determined under subsection (4) (c) (i) or proposed under subsection

(4) (c) (v), the applicant may initiate the informal review process pursuant to 75-1-208(3). If the applicant does not agree to a time extension proposed by the agency under subsection (4) (c) (v), the agency may initiate an informal review by an appropriate board under 75-1-208(3). The period of time for completion of the environmental impact statement provided in the agreement is tolled from the date of submission of a request for a review by the appropriate board until the date of completion of the review by the appropriate board. However, the agency shall continue to work on preparation of the environmental impact statement during this period if the applicant has advanced money to pay for this work.

(5) All fees and costs collected under this part must be deposited in the state special revenue fund as provided in 17-2-102. All fees and costs paid pursuant to this part must be used as provided in this part. Upon completion of the necessary work, each agency shall make an accounting to the applicant of the funds expended and refund all unexpended funds without interest."

Renumber: subsequent sections

5. Page 8, line 5.

Following: "regulation"

Insert: "and the consumer counsel"

6. Page 8, line 8.

Following: "reports"

Insert: "and to the office of consumer counsel"

7. Page 8, line 28.

Insert: "COORDINATION SECTION. **Section 8. Coordination instruction.** If both House Bill No. 610 and [this act] are passed and approved, then the amendments to 75-1-201(3) in [this act] are void."

Renumber: subsequent sections

- END -



HOUSE STANDING COMMITTEE REPORT

March 28, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Federal Relations, Energy, and Telecommunications** recommend that **House Joint Resolution 49** (first reading copy -- white) do pass.

Signed: _____

A handwritten signature in cursive script, appearing to read "Alan Olson".

Representative Alan Olson, Chair

- END -

Committee Vote:

Yes 12, No 0

Fiscal Note Required _____

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HOUSE OF REPRESENTATIVES
Roll Call Vote
FEDERAL RELATIONS, ENERGY & TELECOMMUNICATIONS
COMMITTEE

DATE 3-26-07 BILL NO. _____ MOTION NO. _____

MOTION: SB 448 Be amended
Ex. 2.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>If Proxy Vote, check here & include signed Proxy Form with minutes</u>
REP. HARRY KLOCK, VICE CHAIR	✓		
REP. GEORGE GROESBECK, VICE CHAIR	✓		
REP. SCOTT BOGGIO	✓		
REP. ROBYN DRISCOLL	✓		
REP. DAVE GALLIK		✓	
REP. DENNIS HIMMELBERGER		✓	
REP. LLEW JONES	✓ P		
REP. DIANE RICE	✓		
REP. WAYNE STAHL	✓		
REP. BILL THOMAS	✓		
REP. JONATHAN WINDY BOY	✓ P		
REP. ALAN OLSON, CHAIR	✓ P		

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HOUSE OF REPRESENTATIVES
Roll Call Vote
FEDERAL RELATIONS, ENERGY & TELECOMMUNICATIONS
COMMITTEE

DATE 3-26-07 BILL NO _____ MOTION NO. _____

MOTION: _____
SB448 be tabled

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. HARRY KLOCK, VICE CHAIR		✓	
REP. GEORGE GROESBECK, VICE CHAIR		✓	
REP. SCOTT BOGGIO		✓	
REP. ROBYN DRISCOLL		✓	
REP. DAVE GALLIK		✓	
REP. DENNIS HIMMELBERGER	✓		
REP. LLEW JONES	✓ P		
REP. DIANE RICE	✓		
REP. WAYNE STAHL	✓		
REP. BILL THOMAS		✓	
REP. JONATHAN WINDY BOY		✓ P	
REP. ALAN OLSON, CHAIR		✓ P	

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HOUSE OF REPRESENTATIVES
Roll Call Vote
FEDERAL RELATIONS, ENERGY & TELECOMMUNICATIONS
COMMITTEE

DATE 3-26-07 BILL NO _____ MOTION NO. _____

MOTION: _____

SB 448 BCI A

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. HARRY KLOCK, VICE CHAIR	✓		
REP. GEORGE GROESBECK, VICE CHAIR	✓		
REP. SCOTT BOGGIO	✓		
REP. ROBYN DRISCOLL	✓		
REP. DAVE GALLIK	✓		
REP. DENNIS HIMMELBERGER		✓	
REP. LLEW JONES		✓	
REP. DIANE RICE		✓	
REP. WAYNE STAHL		✓	
REP. BILL THOMAS	✓		
REP. JONATHAN WINDY BOY	✓		
REP. ALAN OLSON, CHAIR	✓		

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AUTHORIZED COMMITTEE PROXY

I request to be excused from the FRET

Committee because of other commitments. I desire to leave my proxy vote with:
V. C. Klock

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT AYE NO

BILL/AMENDMENT AYE NO

448	AMEND SB044802	1	
448	" SB 044803	1	
448	MOTION TO TABLE	1	

Rep. *Steve Jay*
(Signature)

Date _____

**Montana House of Representatives
Visitors' Register**

**FEDERAL RELATIONS, ENERGY,
AND TELECOMMUNICATIONS COMMITTEE**

Date 3/26/07

Bill Nos. HB 49, ^{SB} 828 Sponsor(s) Olson, Thomas

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Name	Representing	Bill No.	Support	Oppose	Info.
Fred E. Davison	Self & NEAC	HB #828	Yes		Yes
ELLEN SUGSTEDT	Midwood KOA	HB 828	✓		
Bob Abramson	MT Petroleum Assn	HB 828	✓		
SRON & ANDERSON	ENCORE ACQUISITION Co.	HB 828	✓		
Mark Labrecq +	PDC MT	HB 828	✓		
JON BENNION	MT Chamber	HB 828	✓		
John Fitzpatrick	Manufacturers	HB 828	✓		
Leo BERRY	ANB	HB 828	✓		
Patrick Tuder	MEIC	HJ 49		✓	
STEVE PITCHER	MT Stockgrowers	HB 828	✓		
DAV FLYNN	IBEL	HJ 49	✓		
BUD CLINCH	MCC	HB 828	✓		
John O'Hair	RTEA	HB 828	✓		
Jon Allen	WETA	HB 828	✓		
Steve Wade	GNP	HB 828	✓		
Tom Richardson	MBOC	.			✓
Haley Beaudry	CFAC	HB 828	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.