

HOUSE BILL NO. 361

INTRODUCED BY P. WEBB

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO TELEPHONE  
5 ACCOUNT REQUIREMENTS FOR STATE PRISONS AND COUNTY DETENTION CENTERS THAT HOLD  
6 STATE INMATES; PROHIBITING CONTRACTS THAT CONTAIN CERTAIN TYPES OF FEES OR  
7 SURCHARGES; REVISING WHEN ROLLOVER MINUTES MUST BE ALLOWED; REVISING WHAT TYPES OF  
8 CALLS ARE SUBJECT TO THE LIMIT ON FEES; LOWERING THE ALLOWABLE COST FOR CALLS;  
9 REQUIRING ANY COMMISSION OR BONUS IN A CONTRACT TO BE PLACED IN THE PRISON INMATE  
10 WELFARE ACCOUNT; REQUIRING AN AUDIT; REQUIRING A PRISON ADMINISTRATOR TO CONSULT  
11 MONTHLY WITH INMATES ABOUT RECEIPTS AND USE OF INMATE WELFARE FUND; REQUIRING THAT  
12 AN INMATE IS ALLOWED FREE CALLS TO THE INMATE'S ATTORNEY; PROHIBITING A CALL TO AN  
13 INMATE'S ATTORNEY FROM BEING RECORDED OR MONITORED; REDUCING THE PER DIEM RATE FOR  
14 CERTAIN FACILITIES THAT ARE OUT OF COMPLIANCE WITH TELEPHONE CONTRACT REQUIREMENTS;  
15 REVISING THE DEFINITION OF "STATE PRISON" TO INCLUDE A COUNTY DETENTION CENTER THAT  
16 HOLDS STATE INMATES; SUPERSEDING THE UNFUNDED MANDATE LAWS; AMENDING SECTIONS  
17 53-30-102 AND 53-30-153, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."  
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19 WHEREAS, studies show that when prisoners keep in touch with their families during incarceration, the  
20 prisoners are less likely to wind up back behind bars; and

21 WHEREAS, keeping family ties strong not only prevents recidivism, it also strengthens the mental health  
22 and well-being of the children at home; and

23 WHEREAS, many children in Montana are impacted by having a parent incarcerated; and

24 WHEREAS, by ensuring family contact, state officials can secure taxpayer savings, public safety gains,  
25 and better outcomes for the families.

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27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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29 **Section 1.** Section 53-1-109, MCA, is amended to read:

30 **"53-1-109. Prison inmate welfare account.** (1) There is ~~an~~ a prison inmate welfare account in the state



1 special revenue fund. The net proceeds from state prison inmate canteen purchases, and all proceeds from  
 2 inmate telephone use, including any commissions or bonus payments received by the department of corrections  
 3 for contracting with a telephone service provider to provide telephone services to inmates, cash proceeds from  
 4 the disposition of confiscated contraband, and any public money held for the needs of inmates and their families  
 5 and not otherwise allocated must be deposited in the account. Money in an account established under 53-1-107  
 6 may not be deposited in the account established in this subsection.

7 (2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of  
 8 corrections, which may allocate the money referred to in subsection (1) to the state prisons in proportion to the  
 9 amount that each state prison contributed to the fund. The administrator of each state prison shall consult monthly  
 10 with the inmates inmates' representatives about the use of the money allocated to the state prison and with  
 11 receipts and may use the money for the needs of the inmates and their families.

12 (3) (a) The legislative auditor shall audit the prison inmate welfare account each fiscal year.

13 (b) A state prison that cannot provide receipts for each expenditure of money from the account shall  
 14 reimburse the account for that expenditure.

15 ~~(3)(4)~~ For purposes of this section, "state prison" has the meaning provided in ~~53-30-101(3)(c)(i) through~~  
 16 ~~(3)(c)(iii) and (3)(c)(v)~~ 53-30-153(6)."

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18 **Section 2.** Section 53-30-153, MCA, is amended to read:

19 **"53-30-153. Telephone account requirements for state prisons -- protected accounts -- disclosure**  
 20 **required -- calls to attorney -- rulemaking -- definitions.** (1) A state prison that contracts with a  
 21 telecommunications service provider to provide telecommunications services for inmates shall, ~~to the extent~~  
 22 ~~feasible,~~ contract with a telecommunications service provider to provide communications services for inmates  
 23 that:

24 (a) provides public safety precautions required by the department of corrections;

25 (b) prohibits expiration of prepaid minutes or charges;

26 (c) does not charge additional usage, account setup, bill statement, refund, or dormancy fees, per call  
 27 surcharges, or service charges or bill to the individual paying the cost of the call any tax, service charge, or  
 28 additional fee that exceeds the per-minute rate;

29 (d) does not charge ~~excessive~~ intrastate, interstate, local, or collect, debit, or prepaid call fees that are  
 30 greater than ~~40~~ 6 cents a minute; and

1 ~~(e)~~ does not require monthly usage fees; and

2 ~~(f)(e)~~ allows rollover of unused, prepaid minutes into the next month unless the inmate for whom the  
3 account was set up is no longer able to use the telephone account, whether for disciplinary reasons or other  
4 reasons specified by department rule. No refund is required for unexpired minutes subject to this subsection ~~(4)~~(f).

5 (2) Every contract entered into by a state prison for communications services under subsection (1) must:

6 (a) require the telecommunications service provider to notify the purchaser of a prepaid telephone  
7 account of any fees or refunds that are available for unused minutes on a prepaid telephone card and mail the  
8 refund to the purchaser's address of record;

9 (b) allow an inmate to speak on the telephone with the inmate's attorney without charge; and

10 (c) prohibit the recording or monitoring by prison staff or law enforcement of an inmate's call with the  
11 inmate's attorney.

12 (3) A state prison may not accept or receive revenue in excess of the operating costs for establishing and  
13 administering telephone services in the prison unless the revenue is placed into the prison inmate welfare account  
14 established in 53-1-109. Revenue in excess of the operating costs include commissions or bonus payments for  
15 contracting with a telecommunications provider.

16 ~~(3)~~(4) The department of corrections has rulemaking authority to implement this section and shall notify  
17 the public service commission of the allowable rate that a telecommunications service provider may charge for  
18 intrastate, interstate, local, and collect, debit, or prepaid calls under contract with the department of corrections.

19 (5) For each day that a facility is out of compliance with the provisions of this section, the department of  
20 corrections shall reduce by one-half the per diem rate it pays to a private prison, regional prison, or county  
21 detention center that houses state prisoners.

22 ~~(4)~~(6) For purposes of this section, the following definitions apply:

23 (a) "Prepaid telephone account" means a system, whether purchased as a calling card or set up as an  
24 account with a telecommunications service provider, to provide telephonic connections in which the purchaser  
25 pays for minutes prior to use. The term does not include a lifeline account, defined under 47 CFR 54.401, for  
26 which a telecommunications carrier receives universal service support.

27 (b) "State prison" ~~has the meaning provided in 53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v) means:~~

28 (i) the Montana state prison as defined in 53-30-101(3)(a);

29 (ii) the Montana women's prison, as defined in 53-30-101(3)(b);

30 (iii) a state correctional facility portion of a Montana regional correctional facility;

