

1 HOUSE BILL NO. 492  
2 INTRODUCED BY K. ZOLNIKOV, D. ZOLNIKOV  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TELECOMMUNICATIONS  
5 REGULATION; ELIMINATING PUBLIC SERVICE COMMISSION RATE REGULATION; ELIMINATING THE  
6 MONTANA STATE UNIVERSAL FUND; REPEALING THE PERFORMANCE ASSURANCE PLAN STATE  
7 ACCOUNT AND THE ASSOCIATED STATUTORY APPROPRIATION; AMENDING SECTIONS 15-53-129, 17-  
8 7-502, ~~45-8-213~~, 69-3-225, 69-3-302, 69-3-305, AND 69-3-803, MCA; REPEALING SECTIONS 69-3-806, 69-3-  
9 807, 69-3-808, 69-3-809, 69-3-810, 69-3-821, 69-3-841, 69-3-842, 69-3-843, 69-3-844, 69-3-845, 69-3-846, 69-  
10 3-870, 69-3-901, 69-3-902, 69-3-903, 69-3-904, 69-3-905, 69-3-906, 69-3-907, AND 69-3-910, ~~AND 69-6-104~~,  
11 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14  
15 **Section 1.** Section 15-53-129, MCA, is amended to read:  
16 **"15-53-129. (Temporary) Definitions.** As used in this part, unless the context requires otherwise, the  
17 following definitions apply:

- 18 (1) "Call-by-call basis" means any method of charging for telecommunications services that  
19 measures the price by individual calls.
- 20 (2) (a) "Charges for mobile telecommunications services" means any charge for, or associated  
21 with, the provision of commercial mobile radio service, as defined in 47 CFR 20.3, as in effect on June 1, 1999,  
22 or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service  
23 that is billed to the customer by or for the customer's home service provider regardless of whether individual  
24 transmissions originate or terminate within the licensed service area of the home service provider.
- 25 (b) The term does not include one-way radio communications as included in 47 CFR 20.3, as in  
26 effect on June 1, 1999.
- 27 (3) (a) "Customer" or "purchaser" means, except as provided in subsection (3)(b), a person who

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1 acquires for consideration retail telecommunications services for use or consumption and not for resale.

2 (b) For purposes of mobile telecommunications services, the term means:

3 (i) the person or entity that contracts with the home service provider for mobile

4 telecommunications services; or

5 (ii) if the end user of mobile telecommunications services is not the contracting party, the end user  
6 of the mobile telecommunications services, but only for the purpose of determining the place of primary use.

7 (c) The term does not include:

8 (i) a reseller of mobile telecommunications services; or

9 (ii) a serving carrier under an arrangement to serve the customer outside the home service  
10 provider's licensed service area.

11 (4) "Home service provider" means the facilities-based carrier or reseller that the customer  
12 contracts with for the provision of mobile telecommunications services.

13 (5) "Mobile telecommunications services" means commercial mobile radio service, as defined in 47  
14 CFR 20.3, as in effect on June 1, 1999.

15 (6) "Place of primary use" means the street address for the premises where the customer's use of  
16 telecommunications services primarily occurs, which must be the residential street address or the primary  
17 business street address of the customer. For mobile telecommunications services, the place of primary use  
18 must be within the licensed service area of the home service provider.

19 (7) "Postpaid calling basis" means that telecommunications services are obtained by making a  
20 payment on a call-by-call basis, either through the use of a card or payment mechanism, such as a bank card,  
21 travel card, credit card, or debit card, or by a charge made to a telephone number that is not associated with  
22 the origination or termination of the telecommunications service.

23 (8) "Private communications service" means a telecommunications service that entitles the  
24 customer to exclusive or priority use of a communications channel or group of channels between or among  
25 termination points, regardless of the manner in which the channel or channels are connected, and includes  
26 switching capacity, extension lines, stations, and other associated services that are provided in connection with  
27 the use of the channel or channels.

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

- 1           (9)     (a) "Reseller" means a provider who purchases mobile telecommunications services from  
2 another telecommunications services provider and then resells, uses as a component part of, or integrates the  
3 purchased services into a mobile telecommunications service.
- 4           (b)     The term does not include a serving carrier with which a home service provider arranges for the  
5 services to its customers outside the home service provider's licensed service area.
- 6           (10)    (a) "Retail telecommunications" means, except as provided in subsection (10)(b), the two-way  
7 transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite,  
8 or similar facilities that originates or terminates in this state and is charged to a customer with a Montana  
9 service address.
- 10          (b)     For mobile telecommunications services, the term means the two-way transmission of voice,  
11 image, data, or other information that originates or terminates in a single state that is charged to a Montana  
12 service address.
- 13          (c)     The term includes but is not limited to local exchange, long-distance, private communications,  
14 two-way paging, wireless telecommunications, and related services, regardless of whether the services are  
15 paid for on a call-by-call basis or postpaid calling basis.
- 16          (11)    (a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale,  
17 transmission, or delivery of retail telecommunications services to the end-user customer.
- 18          (b)     The term does not include:
- 19           (i)     an amount added to the customer's bill because of a charge made pursuant to the tax imposed  
20 by this part;
- 21           (ii)    charges added to a customer's bill under 10-4-201, and 53-19-311, and ~~69-3-844~~;
- 22           (iii)   federal excise taxes or other federally imposed charges or fees collected for and remitted to a  
23 federal government entity;
- 24           (iv)    a charge for a dishonored check;
- 25           (v)     a finance or credit charge, penalty or charge for delayed payment, or discount for prompt  
26 payment;
- 27           (vi)    a charge for construction or relocation of facilities;

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1 (vii) charges for the installation, repair, inspection, or servicing of equipment and wiring located on  
2 customer premises;

3 (viii) bad debt;

4 (ix) a charge added by a hotel, motel, or similar facility for telecommunications services used in  
5 placing calls for guests;

6 (x) charges paid by inserting coins in coin-operated telecommunications devices; and

7 (xi) charges for telecommunications services that have been prepaid by a prepaid calling card that  
8 enables the origination of calls by using an access number or authorization code.

9 (12) (a) "Service address" means, except as provided in subsection (12)(b):

10 (i) the location of the telecommunications equipment to which a customer's call is charged and  
11 from which the call originates or terminates, regardless of the location to which the bill for the call is sent or the  
12 location from which the payment of the bill is received;

13 (ii) if the location in subsection (12)(a)(i) is not known, the origination point of the signal of the  
14 telecommunications service first identified by either the seller's telecommunications system or, if the system  
15 used to transport the signal is not that of the seller, in information received by the seller from its service  
16 provider; or

17 (iii) if the location in subsection (12)(a)(i) or (12)(a)(ii) is not known, the location of the customer's  
18 place of primary use.

19 (b) For mobile telecommunications services, the term means the location in Montana of the  
20 customer's place of primary use.

21 (13) "Serving carrier" means a facilities-based carrier providing mobile telecommunications services  
22 to a customer outside a home service provider's or reseller's licensed service area.

23 (14) "Telecommunications services provider" means a person providing retail telecommunications  
24 services. (Terminates on occurrence of contingency--sec. 8, Ch. 515, L. 2003.)

25 **15-53-129. (Effective on occurrence of contingency) Definitions.** As used in this part, unless the  
26 context requires otherwise, the following definitions apply:

27 (1) "Customer" or "purchaser" means a person who acquires for consideration retail

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1 telecommunications services for use or consumption and not for resale.

2 (2) "Retail telecommunications" means the two-way transmission of voice, image, data, or other  
3 information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities that originates or  
4 terminates in this state and is billed to a customer with a Montana service address. The term includes but is not  
5 limited to local exchange, long-distance, two-way paging, wireless telephony, and related services.

6 (3) (a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale,  
7 transmission, or delivery of retail telecommunications services to the end-user customer.

8 (b) Sales price does not include:

9 (i) an amount added to the customer's bill because of a charge made pursuant to the tax imposed  
10 by this part;

11 (ii) charges added to a customer's bill under 10-4-201, and 53-19-311 and ~~69-3-844~~;

12 (iii) federal excise taxes or other federally imposed charges or fees collected for and remitted to a  
13 federal government entity;

14 (iv) a charge for a dishonored check;

15 (v) a finance or credit charge, penalty or charge for delayed payment, or discount for prompt  
16 payment;

17 (vi) a charge for construction or relocation of facilities;

18 (vii) the installation, repair, inspection, or servicing of equipment and wiring located on customer  
19 premises;

20 (viii) bad debt;

21 (ix) a charge added by a hotel, motel, or similar facility for telecommunications services used in  
22 placing calls for guests;

23 (x) charges paid by inserting coins in coin-operated telecommunications devices; and

24 (xi) charges for telecommunications services that have been prepaid by a prepaid calling card that  
25 enables the origination of calls by using an access number or authorization code.

26 (4) "Service address" means:

27 (a) the location from where the retail telecommunications services originated or where the retail

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1 telecommunications services are received; or

2 (b) where there is not a defined location, the location in Montana where the statement of charges  
3 for retail telecommunications services is mailed.

4 (5) "Telecommunications services provider" means a person providing retail telecommunications  
5 services."

6

7 **Section 2.** Section 17-7-502, MCA, is amended to read:

8 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
9 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without  
10 the need for a biennial legislative appropriation or budget amendment.

11 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with  
12 both of the following provisions:

13 (a) The law containing the statutory authority must be listed in subsection (3).

14 (b) The law or portion of the law making a statutory appropriation must specifically state that a  
15 statutory appropriation is made as provided in this section.

16 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-  
17 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-  
18 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218;  
19 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-  
20 70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-  
21 112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-  
22 506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-  
23 1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-  
24 1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102;  
25 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-  
26 3-415; 67-1-309; ~~69-3-870~~; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-  
27 13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1 1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603;  
2 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

3 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
4 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
5 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
6 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined  
7 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have  
8 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the  
9 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement  
10 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410  
11 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental  
12 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on  
13 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
14 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,  
15 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;  
16 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,  
17 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.  
18 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,  
19 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-  
20 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates  
21 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June  
22 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to  
23 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,  
24 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion  
25 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004  
26 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,  
27 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

2

3 **Section 3.** ~~Section 45-8-213, MCA, is amended to read:~~

4 **"45-8-213. Privacy in communications.** ~~(1) Except as provided in 69-6-104, a A person commits the~~  
5 ~~offense of violating privacy in communications if the person knowingly or purposely:~~

6 ~~(a) with the purpose to terrify, intimidate, threaten, harass, or injure, communicates with a person~~  
7 ~~by electronic communication and threatens to inflict injury or physical harm to the person or property of the~~  
8 ~~person or makes repeated use of obscene, lewd, or profane language or repeated lewd or lascivious~~  
9 ~~suggestions;~~

10 ~~(b) uses an electronic communication to attempt to extort money or any other thing of value from a~~  
11 ~~person or to disturb by repeated communications the peace, quiet, or right of privacy of a person at the place~~  
12 ~~where the communications are received;~~

13 ~~(c) records or causes to be recorded a conversation by use of a hidden electronic or mechanical~~  
14 ~~device that reproduces a human conversation without the knowledge of all parties to the conversation; or~~

15 ~~(d) with the purpose to terrify, intimidate, threaten, harass, or injure, publishes or distributes printed~~  
16 ~~or electronic photographs, pictures, images, or films of an identifiable person without the consent of the person~~  
17 ~~depicted that show:~~

18 ~~(i) the visible genitals, anus, buttocks, or female breast if the nipple is exposed; or~~

19 ~~(ii) the person depicted engaged in a real or simulated sexual act.~~

20 ~~(2) (a) Subsection (1)(c) does not apply to:~~

21 ~~(i) elected or appointed public officials or to public employees when the transcription or recording~~  
22 ~~is done in the performance of official duty;~~

23 ~~(ii) persons speaking at public meetings;~~

24 ~~(iii) persons given warning of the transcription or recording. If one person provides the warning,~~  
25 ~~either party may record.~~

26 ~~(iv) a health care facility, as defined in 50-5-101, or a government agency that deals with health~~  
27 ~~care if the recording is of a health care emergency telephone communication made to the facility or agency.~~



**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

- 1           ~~(b) — Subsection (1)(d) does not apply to:~~
- 2           ~~(i) — images involving the voluntary exposure of a person's genitals or intimate parts in public or~~
- 3 ~~commercial settings;~~
- 4           ~~(ii) — disclosures made in the public interest, including but not limited to the reporting of unlawful~~
- 5 ~~conduct;~~
- 6           ~~(iii) — disclosures made in the course of performing duties related to law enforcement, including~~
- 7 ~~reporting to authorities, criminal or news reporting, legal proceedings, or medical treatment; or~~
- 8           ~~(iv) — disclosures concerning historic, artistic, scientific, or educational materials.~~
- 9           ~~(3) — Except as provided in 69-6-104, a A person commits the offense of violating privacy in~~
- 10 ~~communications if the person purposely intercepts an electronic communication. This subsection does not~~
- 11 ~~apply to elected or appointed public officials or to public employees when the interception is done in the~~
- 12 ~~performance of official duty or to persons given warning of the interception.~~
- 13           ~~(4) — (a) A person convicted of the offense of violating privacy in communications shall be fined an~~
- 14 ~~amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.~~
- 15           ~~(b) — On a second conviction of subsection (1)(a), (1)(b), or (1)(d), a person shall be imprisoned in~~
- 16 ~~the county jail for a term not to exceed 1 year or be fined an amount not to exceed \$1,000, or both.~~
- 17           ~~(c) — On a third or subsequent conviction of subsection (1)(a), (1)(b), or (1)(d), a person shall be~~
- 18 ~~imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$10,000, or~~
- 19 ~~both.~~
- 20           ~~(5) — Nothing in this section may be construed to impose liability on an interactive computer service~~
- 21 ~~for content provided by another person.~~
- 22           ~~(6) — As used in this section, the following definitions apply:~~
- 23           ~~(a) — "Electronic communication" means any transfer between persons of signs, signals, writing,~~
- 24 ~~images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio,~~
- 25 ~~electromagnetic, photoelectronic, or photo-optical system.~~
- 26           ~~(b) — "Interactive computer service" means any information service, system, or access software~~
- 27 ~~provider that provides or enables computer access by multiple users to a computer server, including specifically~~

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1 ~~a service or system that provides access to the internet and this type of service or system as operated or~~  
2 ~~offered by a library or educational institution."~~

3

4 **Section 3.** Section 69-3-225, MCA, is amended to read:

5 **"69-3-225. Overbilling of regulated telecommunications tariff charges -- statute of limitations**

6 **for recovery.** (1) A person or entity alleging overbilling of tariffed telecommunications charges by a regulated  
7 telecommunications company shall file the action before the commission or a court of competent jurisdiction  
8 within 2 years of the date of overbilling.

9 (2) This section is intended to be consistent with limitations on actions as provided in 47 U.S.C. 415.

10 (3) For purposes of this section, the following definitions apply:

11 (a) "Overbilling" means presenting a bill to a customer of a regulated telecommunications company  
12 that includes charges that overstate the amount owed by the customer pursuant to the tariff for the service as  
13 approved by and on file with the commission.

14 (b) "Regulated telecommunications company" means all public utility companies that are regulated  
15 pursuant to 69-3-101(1)(f), Title 69, chapter 3, part 8, and ~~69-3-803(10)~~ 69-3-803(9).

16 (c) "Tariffed telecommunications charges" means all charges and fees for regulated services billed by  
17 a regulated telecommunications company as authorized by a tariff that has been approved by and filed with the  
18 commission."

19

20 **Section 4.** Section 69-3-302, MCA, is amended to read:

21 **"69-3-302. Changes in schedules.** (1) Except as provided in 69-3-308, a change may not be made  
22 in any schedule, including schedules of joint rates, except as approved by the commission, ~~upon~~ or on the  
23 passage of 9 months, ~~or by operation of 69-3-907(1)~~. If the 9-month time period expires prior to commission  
24 approval of a schedule, a utility may waive the time period.

25 (2) Notwithstanding any provision of this title to the contrary, other than rate adjustments made  
26 pursuant to 69-3-308, the rates, tolls, or charges set forth in any schedule filed with the commission pursuant to  
27 69-3-301 must become effective and be lawful rates, tolls, or charges for the utility service rendered 9 months

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1 after the date upon which the schedule was filed under the rules of practice and procedure for filing as adopted  
2 by the commission or upon commission approval, whichever occurs first, unless the utility waives the 9-month  
3 time period. However, if the rates, tolls, or charges become effective because of the passage of 9 months, the  
4 revenue collected is subject to rebate, plus interest at an annual rate determined by the commission, to the  
5 extent that the rates, tolls, or charges ultimately approved by the commission in its final decision produce  
6 revenue that is less than that collected under the filed schedules. In the case of an investor-owned utility, the  
7 interest rate set by the commission may not exceed the cost of equity capital as last determined by the  
8 commission.

9 (3) The commission may prescribe rules necessary to effectively administer this section."  
10

11 **Section 5.** Section 69-3-305, MCA, is amended to read:

12 **"69-3-305. Deviations from scheduled rates, tolls, and charges.** (1) Except as provided in  
13 subsection ~~(5)(a)~~ (4)(a), a public utility may not:

14 (a) charge, demand, collect, or receive a greater or less compensation for a utility service  
15 performed by it within the state or for any service in connection with a utility service than is specified in the  
16 printed schedules, including schedules of joint rates, that may at the time be in force;

17 (b) demand, collect, or receive a rate, toll, or charge not specified in the schedules; or

18 (c) grant a rebate, concession, or special privilege to a consumer or user that, directly or indirectly,  
19 has or may have the effect of changing the rates, tolls, charges, or payments.

20 (2) The rates, tolls, and charges named in the printed schedules are the lawful rates, tolls, and  
21 charges until the rates, tolls, and charges are changed, as provided in this chapter.

22 (3) The commission may order refunds or credits of rates, tolls, or charges collected in violation of  
23 this section and may order payment of interest at a reasonable rate on the refunded amount.

24 ~~(4) The provisions of this section do not prohibit the sharing of profits or revenues with customers in~~  
25 ~~conjunction with an alternative form of regulation approved under 69-3-809.~~

26 ~~(5)(4)~~ (a) A provider of regulated telecommunications service may offer, for a limited period of time,  
27 rebates, price reductions, or waivers of charges in conjunction with promotions, market trials, or other sales-

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1 related activities that are common business practices. Promotional pricing for services to end users does not  
2 require advance approval of the commission. Informational price lists must be filed with the commission on or  
3 before the date that the promotion begins.

4 (b) A public utility providing electricity or natural gas may offer grants and subsidized loans to  
5 install energy conservation and nonfossil forms of energy generation systems in dwellings.

6 (c) The commission may define the appropriate scope of promotions, rebates, market trials, and  
7 grants and subsidized loans, either by rule or in response to complaints. The commission may determine  
8 whether a particular sales activity or grant or subsidized loan program under this subsection (4) is unfairly  
9 discriminatory or is not cost-effective. Costs and expenses incurred or revenue foregone with respect to sales  
10 activities and grant and subsidized loan programs that the commission determines are unfairly discriminatory or  
11 not cost-effective are the responsibility of the provider's shareholders in rates set by the commission.

12 ~~(6)~~(5) A public utility violating the provisions of this section is subject to the penalty prescribed in 69-  
13 3-206. However, this does not have the effect of suspending, rescinding, invalidating, or in any way affecting  
14 existing contracts."  
15

16 **Section 6.** Section 69-3-803, MCA, is amended to read:

17 **"69-3-803. Definitions.** As used in this part, the following definitions apply:

18 (1) "Commercial mobile radio service" means commercial mobile radio service as defined in 47  
19 CFR 20.9.

20 (2) "Commission" means the public service commission.

21 (3) "Eligible telecommunications carrier" means a telecommunications provider designated by the  
22 commission under 69-3-840.

23 ~~(4) "Fund" means the universal service fund established in 69-3-842.~~

24 ~~(5)~~(4) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier  
25 that:

26 (a) on February 8, 1996, provided telephone exchange service in the area; and

27 (b) on February 8, 1996, was considered to be a member of the exchange carrier association

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1 pursuant to 47 CFR 69.601(b) or is a person or entity that, after that date, became a successor or assign of a  
2 member of the exchange carrier association.

3 ~~(6)~~(5) "Local telecommunications" means:

4 (a) telecommunications originating in a wireline local calling area, including extended area service  
5 areas, and terminating in the same wireline local calling area or extended area service area; or

6 (b) commercial mobile radio service that originates from or terminates to a commercial mobile  
7 radio service provider within the same major trading area as defined in 47 CFR 24.202(a).

8 ~~(7)~~(6) "Nonlocal telecommunications" means:

9 (a) wireline telecommunications traffic carried by either an interlocal access transport area carrier  
10 or an intralocal access transport area toll provider that originates in one wireline local calling area and  
11 terminates in another wireline local calling area; or

12 (b) commercial mobile radio service that originates in a major trading area and terminates in a  
13 different major trading area as defined in 47 CFR 24.202(a).

14 ~~(8)~~(7) "Originating carrier" means a telecommunications carrier from whose network a customer  
15 originates telecommunications traffic.

16 ~~(9)~~(8) "Private telecommunications service" means a system, including the construction,  
17 maintenance, or operation of the system, for the provision of telecommunications service or any portion of the  
18 service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly  
19 or indirectly. For purposes of this definition, the term "person or entity" includes a corporation and all of its  
20 affiliates and subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of  
21 80% of the outstanding voting shares.

22 ~~(10)~~(9) (a) "Regulated telecommunications service" means two-way switched, voice-grade access and  
23 transport of communications originating and terminating in this state and nonvoice-grade access and transport  
24 if intended to be converted to or from voice-grade access and transport.

25 (b) Except as provided in 69-3-815, the term does not include the provision of terminal equipment  
26 used to originate or terminate the regulated service, private telecommunications service, one-way transmission  
27 of television signals, cellular communication, or provision of radio paging or mobile radio services.

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1           ~~(11)~~(10) "Retail revenue" means the gross Montana revenue from telecommunications services that  
2 originate or terminate in Montana and are billed for a service address in Montana, excluding revenue from the  
3 resale of telecommunications services to another telecommunications services provider that uses the  
4 telecommunications services to provide telecommunications services to the ultimate retail consumer who  
5 originates or terminates the transmission.

6           ~~(12)~~(11) "Rural telephone company" means a local exchange carrier operating entity to the extent that  
7 the entity:

8           (a) provides common carrier service to any local exchange carrier study area that does not include  
9 either:

10           (i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most  
11 recently available population statistics of the United States bureau of the census; or

12           (ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the  
13 United States bureau of the census as of August 10, 1993;

14           (b) provides telephone exchange service, including exchange access, to fewer than 50,000 access  
15 lines;

16           (c) provides telephone exchange service to any local exchange carrier study area with fewer than  
17 100,000 access lines; or

18           (d) has less than 15% of its access lines in communities of more than 50,000 on February 8, 1996.

19           ~~(13)~~(12) "Telecommunications" means the transmission, between or among points specified by the  
20 user, of information of the user's choosing without a change in the form or content of the information upon  
21 receipt.

22           ~~(14)~~(13) (a) "Telecommunications carrier" or "carrier" means any provider of telecommunications  
23 services. A person providing other products and services in addition to telecommunications services is  
24 considered a telecommunications carrier only to the extent that it is engaged in providing telecommunications  
25 services.

26           (b) The term does not mean aggregators of telecommunications services as defined in 47 U.S.C.  
27 226.

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

1           ~~(15)~~(14) "Terminating carrier" means a telecommunications carrier upon whose network  
2 telecommunications traffic terminates.

3           ~~(16)~~(15) (a) "Transit traffic" means telecommunications traffic that an originating carrier delivers to a  
4 transiting carrier or carriers for delivery to a terminating carrier.

5           (b)     The term does not mean traffic carried by interlocal access transport area carriers or providers  
6 of intralocal access transport area toll services.

7           ~~(17)~~(16) "Transiting carrier" means a telecommunications carrier or carriers that transport transit traffic  
8 from an originating carrier to a terminating carrier and that do not originate or terminate telecommunications  
9 traffic."

10

11           NEW SECTION. Section 7. Repealer. The following sections of the Montana Code Annotated are  
12 repealed:

13 69-3-806.     Prohibition against cross-subsidization.

14 69-3-807.     Regulation of rates and charges.

15 69-3-808.     Forbearance of rate regulation to facilitate competition.

16 69-3-809.     Alternative forms of regulation.

17 69-3-810.     New service -- withdrawal of services.

18 69-3-821.     Examination of books and records.

19 69-3-841.     Universal service policies.

20 69-3-842.     Universal service fund established -- purpose.

21 69-3-843.     Fund administrator -- commission rulemaking authority.

22 69-3-844.     Contributions to fund.

23 69-3-845.     Payments from fund -- costs.

24 69-3-846.     Discounts for schools, libraries, and health care providers.

25 69-3-870.     Performance assurance state special revenue account -- statutory appropriation.

26 69-3-901.     Definitions.

27 69-3-902.     Rate regulation of small telecommunications provider.

**Amendment - 1st Reading-white - Requested by: Katie Zolnikov - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

HB0492.001.001

- 1 69-3-903. Notice of rate increase or decrease.
- 2 69-3-904. Commission review and determination of rate increases or decreases.
- 3 69-3-905. Investigations by commission.
- 4 69-3-906. Petition for review of proposed rate increase or decrease.
- 5 69-3-907. Proposed increase or decrease effective unless requisite petitions received by commission.
- 6 69-3-910. Regulatory flexibility upon petition by small telecommunications provider.

7 ~~69-6-104. Control of telephone communications to and from a person holding hostages — nonliability of~~  
8 ~~telephone company officials.~~

10 NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

11 - END -