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INTRODUCED BY Senate BILL NO. 312
Mr. Hanson Senators Carlson Beaudry DeWitt PAUSE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A UNIVERSAL SERVICE FUND FOR TELECOMMUNICATIONS SERVICES; AUTHORIZING THE PUBLIC SERVICE COMMISSION TO DEVELOP AND IMPLEMENT THE FUND; PROVIDING FOR THE TELECOMMUNICATIONS SERVICES SUPPORTED BY THE FUND AND OPERATION OF THE FUND THROUGH A CONTRIBUTION FROM TELECOMMUNICATIONS CARRIERS; PROVIDING THAT THE FUND MAY BE ADMINISTERED BY A PRIVATE CONTRACTED ENTITY UNDER THE DIRECTION OF THE PUBLIC SERVICE COMMISSION; PROVIDING FOR DISTRIBUTIONS FROM THE FUND TO ELIGIBLE TELECOMMUNICATIONS CARRIERS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for [this act] because it delegates rulemaking authority to the public service commission. The legislature finds that universally available telecommunications services are essential to the health, welfare, and economic well-being of the citizens of Montana. In order to preserve and advance the goal of universal service during the transition to a fully competitive telecommunications market, the legislature finds that a Montana universal service fund should be created. The fund must be consistent with federal laws and regulations. The Montana universal service fund may not be duplicative of the federal fund but must provide the additional funding necessary to provide universal service in Montana. The Montana universal service fund must be competitively and technologically neutral in both funding and distribution. The Montana universal service fund must provide a predictable and sufficient mechanism of support and must provide for the portability of funds to all eligible telecommunications carriers.

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

NEW SECTION. **Section 1. Definitions.** (1) As used in [sections 1 through 4], the following definitions apply:

- (a) "Commission" means the public service commission provided for in 2-15-2602.



1 (b) "Fund" means the universal service fund provided for in [section 3].

2 (c) "Incumbent telecommunications carrier" means a telecommunications carrier that on February
3 8, 1996, provided telephone exchange service in Montana and was considered to be a member of the
4 exchange carrier association pursuant to 47 CFR 69.601(b) or is a person or entity that on or after February
5 8, 1996, became a successor or assignee of the member.

6 (d) "Telecommunications" means the transmission, between or among points specified by the user,
7 of information of the user's choosing without change in the content of the information sent and received.

8 (e) (i) "Telecommunications carrier" means any provider of telecommunications services operating
9 in Montana.

10 (ii) The term does not mean aggregators of telecommunications services as defined in 47 U.S.C.
11 226.

12 (f) "Telecommunications services" means the offering of telecommunications for a fee directly to
13 the public or to classes of users as to be effectively available directly to the public, regardless of the
14 facilities used.

15 (2) Interpretation of the terms "telecommunications" and "telecommunications services" must be
16 applied consistently with the interpretation of those terms by the federal communications commission.

17

18 **NEW SECTION. Section 2. Implementation.** By June 1, 1997, the commission shall initiate
19 rulemaking proceedings for the establishment of a Montana universal service fund. The fund must be
20 consistent with the federal universal service policies of the federal Telecommunications Act of 1996, 47
21 U.S.C. 151, et seq., and with regulations adopted by the federal communications commission concerning
22 universal service funding. The implementation of the universal service fund must commence by January
23 1, 1998.

24

25 **NEW SECTION. Section 3. Universal service fund -- requirements.** The commission shall establish
26 the fund as follows:

27 (1) The fund must be competitively and technologically neutral in all respects. The fund may not
28 provide a competitive advantage to or impose a competitive disadvantage on any telecommunications
29 carrier operating in the state.

30 (2) The fund must preserve and advance universal service in the state by ensuring that residential

1 customers have access to single line basic local exchange service that is capable of providing the function
2 of universal service established by the federal communications commission to implement 47 U.S.C. 254(b)
3 and (c). The commission may consider expansion of the fund to include additional customer classes and
4 services if the same classes and services are included in the federal universal service fund.

5 (3) The Montana universal service fund may not duplicate the functions or targeted cost recovery
6 of the federal universal service fund. The Montana fund must provide a mechanism for specific,
7 predictable, and sufficient revenue to complement the revenue provided under the federal universal service
8 fund as needed to maintain the universal availability of local exchange service as provided in this section.

9 (4) The fund must provide revenue to support just, reasonable, and affordable local exchange
10 service as provided in this section. The amount of support must be the difference between the incumbent
11 telecommunications carrier's highest local exchange service rate available in a particular zone for the
12 customer classes determined pursuant to subsection (2) and the cost of local exchange service as defined
13 by the federal communications commission in establishing the federal fund.

14 (5) The fund must provide for the portability of money between and among the eligible
15 telecommunications carriers. The eligibility requirements for a telecommunications carrier to receive money
16 must be consistent with 47 U.S.C. 214(e) and 254(e) and applicable federal communications commission
17 regulations.

18 (6) Every telecommunications carrier that offers intrastate telecommunications services shall
19 contribute to the fund on an equitable and nondiscriminatory basis. The commission may require all
20 intrastate telecommunications carriers, regardless of regulatory status for other purposes, to contribute to
21 the fund. The commission may determine the method of contribution, which must include a surcharge on
22 all end user retail bills for intrastate telecommunications services.

23 (7) The commission shall designate an administrator to collect and distribute money and to operate
24 the universal service fund. The collections and distributions must be consistent with commission rules and
25 federal law.

26
27 **NEW SECTION. Section 4. Elimination of cross subsidies.** The commission shall, upon
28 implementation of the fund, eliminate all implicit subsidies for local exchange access service, including the
29 carrier common line charge on exchange access services. The commission shall establish cost-based
30 exchange access service rates. The commission may not require or allow subsidization from any source

1 other than the fund for the purpose of reducing the rate for any local exchange service, including residential
2 service.

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4 **NEW SECTION.** **Section 5. Low income assistance program.** [Sections 1 through 5] may not be
5 implemented in a manner that interferes with or alters the telephone low income assistance program
6 provided for in chapter 3, part 10.

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8 **NEW SECTION.** **Section 6. Codification instruction.** [Sections 1 through 5] are intended to be
9 codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to
10 [sections 1 through 5].

11

12 **NEW SECTION.** **Section 7. Effective date.** [This act] is effective on passage and approval.

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