F I S C A L I M P A C T R E P O R T

SPONSOR Griego **DATE TYPED** 2/28/05 **HB**

SHORT TITLE State Rural Universal Service Fund **SB** 218

ANALYST Rosen

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	$0.0		(~3.5% increase on state agencies' intrastate telecommunications services)	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB776

SOURCES OF INFORMATION
LFC Files

Responses Received From
Attorney General's Office (AGO)
Public Regulation Commission (PRC)
AARP New Mexico (AARP)
Verizon Wireless

No Responses Received From
General Services Department (GSD)

SUMMARY

Synopsis of Bill

Senate Bill 218 creates a process for the PRC to reform intra-state switched access rates, the monies telecommunications carriers pay to each other to originate and terminate calls on their respective networks, and to provide revenue for the rural universal service fund that supports telecommunications carriers operating in rural, high-cost areas.

The bill amends the current State Universal Service Fund statute (63-9H-6) for the purpose of reducing "intrastate switched access charges to interstate switched access charge levels in a revenue-neutral manner." PRC, through rulemaking, is to: (1) establish eligibility criteria for

participation in the fund, (2) establish an affordability benchmark rate for basic services that will be used to determine the level of support for each eligible carrier, (3) provide for the collection of the surcharge on a competitively neutral basis and the administration and disbursement of money from the fund, and (4) determine those services requiring support from the fund.
The bill mandates completion of a PRC rulemaking to determine a "revenue neutral" surcharge for the New Mexico universal service fund by November 1, 2005. The surcharge will be applied directly to consumers, and will replace the intrastate switched access charges companies currently pay to each other. The fund is designed to ensure availability of local telecommunications services at affordable rates in rural high cost areas. PRC must commence the three-year phase-in of reductions of intrastate switched access charges by April 1, 2006. The fund administrator must make a joint report to the legislature by December 1, 2008 regarding the effects of access reductions and recommendations for any changes to the structure, size or purposes of the fund. <u>The funds to be collected are specifically designated as not being "public funds."</u>

Incumbent rural telecommunications carriers that reduce their intrastate switched access charges will be eligible to receive fund monies upon a PRC finding that such payments are needed to ensure the availability of flat-rate local calling. PRC shall also establish eligibility criteria for competitive telecommunications companies to participate in the fund. Eligibility criteria include: whether eligible status would increase customer choice, the impact on the size of the fund, the competitor's service offering, quality of service and ability to offer service within a reasonable time frame.

Phase-in of reductions for switched intrastate access shall commence April 1st, 2006. By May 1st, 2008 intrastate rates shall be equal to the federally determined interstate access rates as of January 1st, 2006. PRC retains on-going authority to adjust intrastate rates.

In the rulemaking PRC is directed to establish an "affordability benchmark" rate for local residential and business services, instead of geographic areas, as was the case previously. Initially <u>the benchmark rate shall be the weighted statewide average basic exchange rate after Qwest adjusts its rates to offset intrastate switched access charge reductions</u>. All incumbent and competitive carriers are eligible for participation in the fund. Carriers that have reduced their access charges may increase rates for basic, flat-rate residential service up to the benchmark rate ("revenue-neutral rate rebalancing"); and authorize payments from the fund to eligible carriers, in an amount equal to the reduction in revenue resulting from reduced intrastate switched access charges.

<u>Significant Issues</u>

Switched access charges are the rates charged by local telephone companies to long distance companies to originate and terminate calls on the local network. According to PRC, the problem addressed by this bill is one that is based upon historic patterns of ratemaking under rate of return methodology. Traditionally, local rates were kept low and some costs of the local loop were shifted to access charges. The effect of high access rates is to make rates for in-state long distance calls high as well. The Federal Communications Commission (FCC) addressed this problem at the interstate level by lowering the allowable access rates for interstate calls and recovering the revenue lost through a federal access charge of $6.50 on each customer. The result has been a lowering of the rates for interstate long distance calling.

PRC indicates this bill makes a similar adjustment in New Mexico to the one made by the FCC: it reduces the access rates allowable for in-state calls to the same level as that charged at the interstate level, shifts the revenue lost to a surcharge on the bills of all intrastate telecommunications customers, and allows companies to raise local rates to a benchmark set by the PRC. The range of access charges in the state now is from 3.4 cents to 38 cents and the range of access charges allowed at the federal level is from 1 cent to 3 cents. The lowest rate for local service in the state is $8.50 per month and the highest rate is $26.00 per month. The size of the fund and the surcharge are not known at this time. However, PRC assumes the fund size will be approximately $22.5 million, the size of fund required based upon all companies charging an affordable benchmark rate of $15.29 per month for local service, resulting in a surcharge on all intrastate retail telecommunications services of 3.5%.

PRC indicates this bill also addresses a disparity in the access rates paid by competing carriers in the state. The FCC allows only cost-based access charges to be charged to wireless companies originating and terminating calls on the local network, typically about 1 cent or less, whereas long distance carriers in the state pay non-cost based access rates that are much higher. This results in a competitive advantage for wireless carriers in the state.

AARP indicates less than 10% of residential market is served by competitive local companies and this reform of switched access charges will not create or enhance a competitive marketplace.

AARP believes "revenue neutral" access reform should be made relative to ratepayers and not to rural telecommunications service providers. According to AARP, those who make numerous long-distance calls may benefit from this bill and those on fixed incomes, who make few long-distance calls, will see a significant increase in their flat local service rates.

FISCAL IMPLICATIONS

All customers, including state agencies, will likely see increases in their phone bills due to the surcharge to finance the fund and increases in rates for basic services. As noted above, PRC estimates this increase could be as much as 3.5%. However, it is impossible at this time to estimate the actual fiscal impact of this bill on state agencies due to a lack of response from GSD.

AGO indicates revenue neutrality for carriers will not result in "bill" neutrality for individual consumers. AGO believes the access charge reform rulemaking will probably increase local, residential flat-rate service. Consumers, both business and residential, who make many intrastate long distance calls may see decreases in the toll rates for such calls and consumers who do not make many intrastate long distance calls may not see such benefits.

Over time, increases in basic services rates may result as customers who are able to do so choose other means of making intrastate long distance calls, such as internet telephone services like Voice over IP (VoIP) or wireless telephone services. Less revenue from access charges will then be available to subsidize rates for basic services, forcing those basic service rates upwards.

ADMINISTRATIVE IMPLICATIONS

Indeterminate

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates HB776

TECHNICAL ISSUES

AGO notes the bill makes conforming amendments to Section 63-9A-6.

PRC notes Section 63-9H-7 is amended to remove a cross reference to a portion of 63-9H-6E that is being deleted in this bill and to replace the cross reference with language similar to that deleted in the previous section.

OTHER SUBSTANTIVE ISSUES

Although the bill does not require a carrier to raise its rates for basic services, no carrier can receive payment from the fund until its revenue loss from access charge reduction exceeds the difference between its current rates for basic services and the benchmark rate. Thus, the fund should not be used to subsidize noncompetitive rates. Also, the bill mandates that reductions in charges for access services be passed through for the benefit of consumers in New Mexico and mandates PRC to require providers of intrastate retail telecommunications service to participate in a plan to ensure accurate reporting of intrastate retail telecommunications revenues.

According to AGO, a number of other states have instituted or completed some type of proceeding on “access reform” through a variety of differing approaches with a variety of results. Thus, data from other states regarding impact of switched access reform on industry or consumers may be of limited value in assessing potential impacts of this bill.

This bill eliminates a fund advisory board comprised of industry participants and AGO. Eliminating the rural universal service fund advisory board removes the oversight function provided by AGO and the telecommunications industry on how the fund monies are disbursed.

Verizon Wireless indicates specific concern regarding the abdication of legislative authority to establish standards or parameters for a state access fund subsidy by instead delegating broad powers to PRC. Verizon Wireless notes the bill does not mandate that funding levels and surcharge levels be tied to actual assessment of need for a carrier subsidy based on empirical data, the bill does not establish a process or mechanism for making such assessments and the bill does not set limits on taxation or subsidy amounts.

According to Verizon Wireless, PRC should not assume the need for a carrier subsidy until each carrier establishes specific grounds and justification for that subsidy in an administrative proceeding. PRC should also not assume carriers are operating efficiently and, as a result, provide subsidies to maintain poorly managed rural telecommunications service provide companies.

POSSIBLE QUESTIONS

Why are the funds to be collected specifically designated as not being “public funds”?

Why is the weighted statewide average basic exchange rate to be calculated *after* Qwest adjusts its rates to offset intrastate switched access charge reductions?

Can most New Mexico ratepayers obtain flat-rate local calling by means other than those offered by traditional wireline telecommunication services?

JR/lg