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FISCAL IMPACT REPORT

ORIGINAL DATE 2/5/21

SPONSOR Padilla LAST UPDATED _____ HB _____

SHORT TITLE Rural Telecommunications Act SB 204

ANALYST Hitzman

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications	See Fiscal Implications			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

Department of Information Technology (DoIT)

SUMMARY

Synopsis of Bill

Senate Bill 204 (SB204) amends the original Rural Telecommunications Act of New Mexico to define additional provisions under which carriers can apply and receive support from the state rural universal services fund (SRUSF). Specifically, the bill would address circumstances under which a carrier is comparable to other recipients of access reduction support (ARS) payments – the largest portion of payments from the SRUSF – but is not eligible for ARS payments because the carrier was not established prior to the enactment of the Rural Telecommunication Act in 1999.

SB204 also adds a definition of “comparable carrier,” which are those telecommunications carriers established prior to the act with similar numbers of access lines as those established after the act, allowing comparable access to use of the fund for those carriers so long as the carrier is also currently authorized to receive funding based on financial need. According to PRC, these two requirements would apply to only one carrier – Sacred Winds Communications, Inc. – and would allow the carrier to become eligible for ARS payments.

Additionally, the commission shall act on requests for ongoing fund support within one hundred twenty days of the request filing.

There is no effective date of this bill. It is assumed the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

There is no appropriation within in the act; however, changes to provisions designating eligible carrier status would likely increase demand on the SRUSF.

By establishing additional criteria under which other carriers can apply and receive eligible carrier status, there may be additional carriers that will apply to receive ongoing support from the fund. Additional carriers drawing from the fund may also affect award amounts per agency, given the cap on awards of \$30 million per year. However, PRC indicates only one carrier seems to qualify under the new provisions – Sacred Winds Communications, Inc. – which had not been established at the time of implementation of the rate-balancing and access rate reduction provisions.

PRC’s Telecommunication Bureau Staff provided a hypothetical estimate of the potential support to be provided to Sacred Winds Communications, Inc. under the provisions of this bill but indicates such estimates as not reflective of the positions of the full commission and provided only for purposes of the Legislature’s consideration of the bill:

According to PRC, Sacred Winds Communications, Inc., has reported a steady number of access lines over the last several years, ranging from 2,713 to 2,817. At an average ARS payment reimbursement of \$358.32 per access line to eligible carriers (according to GVNW, the administrator of the SRUSF), including Sacred Winds Communications Inc. as an eligible carrier under this bill could translate to additional ARS reimbursement costs of \$972,122.16 from the fund.

However, the commission’s estimate acknowledges challenges associated with defining a “comparable carrier” for Sacred Winds Communications, Inc. in attempting to set the amount of support per access line. If using a range of support costs – from \$142.94 per access line to \$959.78 per access line – support of Sacred Winds Communication, Inc. through the SRUSF could result in up to two and a half times the amount calculated above, depending on interpretations of what a “comparable carrier” would be in setting the reimbursement.

SIGNIFICANT ISSUES

Past statute required intrastate switched access charges be lowered to the level of interstate switched access charges, which often resulted in lost revenues for incumbent local exchange carriers. Generally, access reduction support (ARS) payments compensate those carriers for the lost revenue resulting from those changes. According to PRC, ARS payments make up the largest portion of SRUSF. In addition to ARS payments, however, carriers may apply for specific amounts of need-based funding, particular to the carrier, from the SRUSF. According to PRC, “the only carrier ever to have been awarded such support is Sacred Wind Communications, Inc. The five-year term of that support (at \$1.4 million annually) recently expired, so the carrier is no longer receiving any support from the SRUSF.”

ADMINISTRATIVE IMPLICATIONS

DoIT notes that, as more carriers become eligible for support from the SRUSF, administrative overhead and support from PRC may be needed. However, the PRC estimates no additional FTE or funding needs to support the provisions in SB204.

TECHNICAL ISSUES

PRC notes the commission should have ample latitude within the provisions of SB204 to define and fund eligible carriers based on definitions of “comparable carrier” within the bill.

ALTERNATIVES

PRC indicates that number of access lines may not be the most appropriate proxy for determining a “comparable carrier” and notes potential factors that may be better suited for this determination, such as customer demographics or similar infrastructure. However, such factors would need to be considered in determinations of awards, which may result in further complications in award determinations for the commission.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If not enacted, Sacred Winds Communications, Inc. may need to approach the commission to determine other means for qualifying for support based on need, simply because the carrier was not in existence prior to the passage of the Rural Telecommunications Act in 1999 and would therefore be ineligible for access reduction support payments from the SRUSF.

JH/rl