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HOUSE BILL 470

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO TELECOMMUNICATIONS; ENACTING THE TELECOMMUNICATIONS INVESTMENT AND ECONOMIC DEVELOPMENT ACT; PROVIDING FOR DEREGULATION OF TELECOMMUNICATIONS CARRIERS AND OTHER CHANGES IN TELECOMMUNICATIONS SERVICES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 12 of this act may be cited as the "Telecommunications Investment and Economic Development Act".

Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the Telecommunications Investment and Economic Development Act is to:

- A. provide equal treatment for all telecommunications carriers;

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- 1 B. eliminate costly and burdensome regulation;
- 2 C. provide incentives for investment in advanced
- 3 telecommunications infrastructure throughout the state of New
- 4 Mexico;
- 5 D. provide price stability for residence and
- 6 business telecommunications customers during the transition to
- 7 a deregulated market; and
- 8 E. enhance economic development.

9 Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the

10 Telecommunications Investment and Economic Development Act:

- 11 A. "commission" means the public regulation
- 12 commission;
- 13 B. "cost of a retail public telecommunications
- 14 service" means total service long-run incremental cost,
- 15 including an appropriate allocation of shared and common
- 16 costs, but does not include the imputation of the price of any
- 17 component unless:
  - 18 (1) the component to be imputed is essential
  - 19 to the provision of the retail service;
  - 20 (2) the telecommunications carrier offering
  - 21 the retail service is the sole provider of the essential
  - 22 component;
  - 23 (3) a competitor cannot practically or
  - 24 economically duplicate the essential component, or obtain an
  - 25 alternative or substitute to the essential component from

1 another source;

2 (4) the amount imputed is the direct cost of  
3 the essential component; and

4 (5) the failure to impute will result in a  
5 price squeeze;

6 C. "data services" means a telecommunications or  
7 information service that:

8 (1) provides transmission functionality  
9 between customers using point-to-point facilities, point-to-  
10 multi-point facilities or digital subscriber loop facilities;

11 (2) uses asynchronous transfer mode, packet,  
12 frame, cell or equivalent technology-based transmission;

13 (3) permits routing of a packet, frame or  
14 cell using addressing information contained within the packet,  
15 frame or cell; and

16 (4) uses data conversion protocol;

17 D. "local exchange area" means a geographic area  
18 encompassing one or more local communities where local  
19 exchange prices apply as described in maps or price lists  
20 filed with the commission;

21 E. "long distance service" means public  
22 telecommunications service between local exchange areas that  
23 both originates and terminates in the state of New Mexico;

24 F. "public telecommunications service" means  
25 offering or providing telecommunications for a fee directly to

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1 the public or to such classes of users as to be effectively  
2 available directly to the public, regardless of the facilities  
3 used, but "public telecommunications service" does not  
4 include:

5 (1) the provision of terminal equipment used  
6 to originate or terminate the service;

7 (2) private telecommunications networks;

8 (3) broadcast transmissions by radio,  
9 television and satellite broadcast stations regulated by the  
10 federal communications commission;

11 (4) radio common carrier services, as defined  
12 by federal law, including commercial mobile radio service,  
13 wireless services and paging services;

14 (5) internet services; or

15 (6) one-way cable television service as  
16 defined by federal law;

17 G. "residence or business dial tone access line  
18 service" means a public telecommunications service that  
19 provides a residence or business customer with a basic  
20 connection to the public switched network for transmission of  
21 two-way interactive circuit switched voice communications  
22 within a local exchange area;

23 H. "switched access charges" mean the charges paid  
24 by telecommunications carriers that provide long distance  
25 services to other telecommunications carriers to originate or

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1 terminate long distance calls using local telecommunications  
2 facilities; and

3 I. "telecommunications" means the transmission,  
4 between points specified by the user, of information of the  
5 user's choosing, without change in the form or the content of  
6 the information as sent and received.

7 Section 4. [NEW MATERIAL] AUTHORITY OF COMMISSION. --

8 A. The commission has exclusive jurisdiction to  
9 regulate telecommunications carriers consistent with the  
10 provisions of the Telecommunications Investment and Economic  
11 Development Act. The commission shall regulate  
12 telecommunications carriers, and the prices, terms, conditions  
13 and provision of public telecommunications services offered by  
14 telecommunications carriers, only in the manner expressly  
15 prescribed and to the extent expressly authorized by that act.

16 B. The commission has authority to:

17 (1) promulgate rules as necessary to carry  
18 out its duties and responsibilities pursuant to the  
19 Telecommunications Investment and Economic Development Act;

20 (2) consider petitions for two-way extended  
21 area service between two or more local exchange areas,  
22 including the establishment of extended area service  
23 surcharges;

24 (3) enforce its rules through administrative  
25 sanctions and in the courts;

1 (4) hear complaints alleging violations of  
2 the Telecommunications Investment and Economic Development Act  
3 or of any rule promulgated or order issued by the commission  
4 pursuant to that act; and

5 (5) carry out the duties and responsibilities  
6 it is authorized to perform pursuant to federal law.

7 C. The commission may subpoena witnesses and  
8 documents and enforce its subpoenas through the district  
9 court.

10 D. The commission has the power, after notice and  
11 hearing, to decide questions and issue orders relating to its  
12 powers and duties.

13 Section 5. [NEW MATERIAL] PRICES FOR SERVICES OFFERED BY  
14 TELECOMMUNICATIONS CARRIERS. --

15 A. Except as provided in Paragraph (2) of  
16 Subsection D of this section, no telecommunications carrier is  
17 subject to rate of return regulation or to any investigations  
18 of its earnings by the commission. In exercising any  
19 authority granted to it by the Telecommunications Investment  
20 and Economic Development Act, the commission shall not  
21 consider the earnings of a telecommunications carrier with  
22 respect to the prices for telecommunications services provided  
23 by it. The commission has authority over the prices, terms or  
24 conditions of public telecommunications services only to the  
25 extent expressly provided in this section or in Sections 6 and

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1 7 of that act.

2 B. Except as provided in this subsection and in  
3 Subsections C and D of this section, a telecommunications  
4 carrier may establish or change the prices, terms or  
5 conditions for its public telecommunications services, or  
6 withdraw or terminate the offering of a public  
7 telecommunications service, by filing a price list with the  
8 commission. Price list filings become effective ten days  
9 after filing with the commission. The price list filing  
10 requirements of this subsection shall not apply to services  
11 that have been deregulated by the commission pursuant to  
12 Section 8 of the Telecommunications Investment and Economic  
13 Development Act.

14 C. The prices for residence and business dial tone  
15 access line services shall be capped for five years from July  
16 1, 1999 at the approved prices for those services that were in  
17 effect on January 1, 1998. A telecommunications carrier may  
18 increase or decrease the price of residence or business dial  
19 tone access line service during this five-year period by  
20 filing a price list pursuant to Subsection B of this section,  
21 but the proposed price shall not exceed the approved price  
22 that was in effect for residence or business dial tone access  
23 line service on January 1, 1998.

24 D. After July 1, 2004, price increases for  
25 residence dial tone access line service of:

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1 (1) less than three percent in any calendar  
2 year become effective after sixty days notice to all affected  
3 customers; and

4 (2) more than three percent in any calendar  
5 year become effective upon approval by the commission after  
6 notice and a hearing.

7 E. The notice of hearing required pursuant to  
8 Subsection D of this section shall include the reasons for the  
9 proposed price increase. After the hearing, the commission  
10 may deny the price increase only if the price increase, when  
11 considered with other price changes the telecommunications  
12 carrier proposes to make simultaneously with the increase in  
13 the price of residence dial tone access line service, will  
14 increase the telecommunications carrier's intrastate revenues  
15 from non-deregulated public telecommunications services  
16 resulting from the proposed price changes by more than one  
17 percent. The commission shall issue its findings of fact and  
18 conclusions of law within one hundred twenty days after filing  
19 with the commission and notice to affected customers.

20 F. The following are not price increases for the  
21 purposes of this section:

22 (1) a surcharge pursuant to the  
23 implementation of the fund;

24 (2) a charge for mandatory extended-area  
25 service ordered by the commission;

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(3) a charge imposed or allowed by the federal communications commission or by federal law; and

(4) a charge necessitated by a state or local tax, assessment or fee or by any action taken by the state, a state agency or by any county or municipal governmental body.

G. A telecommunications carrier that serves less than five percent of the state's aggregate, statewide subscriber lines may file an application with the commission requesting the commission to prescribe fair, just and reasonable prices for the telecommunications carrier based on the telecommunications carrier's revenue, expenses and investment in accordance with traditional rate-making principles.

H. A telecommunications carrier may decrease the price of a retail public telecommunications service to a level equal to, but not below, the cost of the retail public telecommunications service.

I. A telecommunications carrier may offer or discontinue offering packages of services five days after filing notice with the commission. A packaged offering may combine a retail public telecommunications service with another telecommunications service or a non-telecommunications service or offering. Packaged offerings shall be temporary or permanent at the discretion of the telecommunications carrier

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1 filing the packaged offering. A telecommunications carrier  
2 shall make any retail public telecommunications services  
3 included in a packaged offering individually available to  
4 customers in its price list.

5 J. A telecommunications carrier may offer or  
6 discontinue offering special incentives, discounts, temporary  
7 price waivers or other promotions one day after filing notice  
8 with the commission. A telecommunications carrier may combine  
9 a retail public telecommunications service with another  
10 telecommunications service or a non-telecommunications service  
11 or offering in order to create a special incentive, discount,  
12 temporary price waiver or other promotion. A  
13 telecommunications carrier shall make any retail public  
14 telecommunications services included in a special incentive,  
15 discount, temporary price waiver or other promotion  
16 individually available to customers in its price list.

17 K. A telecommunications carrier may offer a public  
18 telecommunications service on an individual contract basis to  
19 a specific customer upon the filing of a notice with the  
20 commission. The notice shall describe the public  
21 telecommunications services to be offered, the customer to be  
22 served, the price of the services to be offered and an  
23 affidavit from a representative of the telecommunications  
24 carrier attesting that the prices of the public  
25 telecommunications services included in the contract cover

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1 their costs. The customer name and location shall, upon  
2 request of the applicant, be maintained as confidential  
3 information for review only by the commission. The commission  
4 shall maintain a public file containing the non-confidential  
5 information included in the notice.

6 Section 6. [NEW MATERIAL] COMPLAINTS. --

7 A. The commission has full and express authority  
8 to hear and decide complaints filed by any interested person,  
9 between end-user customers and their telecommunications  
10 carrier, or between two or more telecommunications carriers,  
11 alleging:

12 (1) that the price of a public  
13 telecommunications service is below cost;

14 (2) a violation of an interconnection  
15 agreement approved by the commission;

16 (3) the failure to properly flow through  
17 access charge reductions; or

18 (4) a violation of the Telecommunications  
19 Investment and Economic Development Act or of a rule  
20 promulgated or an order issued pursuant to that act.

21 B. Upon adjudication of a complaint filed pursuant  
22 to the Telecommunications Investment and Economic Development  
23 Act, the commission may:

24 (1) order a telecommunications carrier to  
25 modify the price of a public telecommunications service if the

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1 commission determines that the public telecommunications  
2 service is priced below the cost of providing that service;

3 (2) subject to the terms of an  
4 interconnection agreement, enforce the provisions of  
5 interconnection agreements between telecommunications carriers  
6 consistent with the requirements of federal law; or

7 (3) review the switched access charges of a  
8 telecommunications carrier.

9 C. An action taken by the commission pursuant to  
10 this section shall be consistent with federal law, and  
11 decisions made by the federal communications commission  
12 pursuant to federal law.

13 D. Except with respect to issues relating to the  
14 cost of providing a public telecommunications service, the  
15 burden shall be on the party complaining to prove the  
16 allegations in its complaint. The burden of demonstrating the  
17 costs of providing a public telecommunications service shall  
18 be upon the telecommunications carrier offering that service.

19 E. A complaint shall be resolved by the commission  
20 within ninety days of the date the complaint is filed.

21 Section 7. [NEW MATERIAL] FLOW THROUGH OF REDUCTIONS IN  
22 SWITCHED ACCESS CHARGES.--Upon the reduction of switched  
23 access charges by a telecommunications carrier, a  
24 telecommunications carrier providing long distance service  
25 shall reduce the prices of its intrastate long distance

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1 services in order to ensure that the long distance prices paid  
2 by all classes of New Mexico intrastate long distance  
3 customers reflect the total benefit from any access charge  
4 reductions. A telecommunications carrier providing long  
5 distance services shall apply at least fifty percent of any  
6 reductions in switched access charges to lower the prices of  
7 its intrastate residence long distance services. The  
8 commission shall retain authority over the prices of long  
9 distance services to the extent necessary to ensure that  
10 telecommunications carriers providing long distance services  
11 flow through the total amount of any switched access charge  
12 reductions.

13 Section 8. [NEW MATERIAL] DEREGULATION OF DATA SERVICES,  
14 LONG DISTANCE SERVICES AND NEW PUBLIC TELECOMMUNICATIONS  
15 SERVICES. --

16 A. Data services offered by a telecommunications  
17 carrier shall be deregulated and shall not be subject to any  
18 regulation by the commission.

19 B. Except as provided in Section 7 of the  
20 Telecommunications Investment and Economic Development Act,  
21 long distance services offered by a telecommunications carrier  
22 shall be deregulated and shall not be subject to any  
23 regulation by the commission.

24 C. Any public telecommunications services first  
25 offered by a telecommunications carrier after the effective

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1 date of the Telecommunications Investment and Economic  
2 Development Act, including any new data or long distance  
3 services, shall be deregulated and shall not be subject to any  
4 regulation by the commission.

5 Section 9. [NEW MATERIAL] INVESTMENT PLAN. -- Within sixty  
6 days after July 1, 1999, a telecommunications carrier that  
7 serves more than two hundred fifty thousand access lines in  
8 the state shall enter into an agreement with the secretary of  
9 economic development detailing a specific plan of investments  
10 that the telecommunications carrier will make in  
11 telecommunications infrastructure in the state over a  
12 specified period of time. A telecommunications carrier that  
13 serves less than two hundred fifty thousand access lines in  
14 the state may enter into such an agreement with the secretary  
15 at the telecommunications carrier's discretion. The secretary  
16 of economic development shall make an annual report to the  
17 legislature detailing the investment commitments made by  
18 telecommunications carriers and their impact on economic  
19 development within New Mexico.

20 Section 10. [NEW MATERIAL] CERTIFICATION OF  
21 TELECOMMUNICATIONS CARRIERS. --

22 A. No public telecommunications service shall be  
23 offered within this state except in accordance with the  
24 provisions of the Telecommunications Investment and Economic  
25 Development Act.

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1           B. No public telecommunications service shall be  
2 offered in this state without the telecommunications carrier  
3 first having obtained certification from the commission.

4           C. The commission shall determine all issues of  
5 fact and law relating to the issuance of a certificate of  
6 authority. In determining whether to issue a certificate  
7 pursuant to this section, the commission shall consider  
8 whether the applicant:

9                   (1) has sufficient financial resources to  
10 provide the proposed public telecommunications service  
11 properly and continuously;

12                   (2) has competent and experienced management  
13 and personnel to provide the proposed public  
14 telecommunications service; and

15                   (3) is willing and able to conform to the  
16 rules applicable generally to providers of public  
17 telecommunications services.

18           D. All certificates of public convenience and  
19 necessity or certificates of authority or registrations in  
20 force on July 1, 1999 shall continue in force and effect  
21 subject to the provisions of the Telecommunications Investment  
22 and Economic Development Act.

23           E. A certificate of authority issued by the  
24 commission pursuant to Subsection C of this section or in  
25 force pursuant to Subsection D of this section shall require a

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1 telecommunications carrier to provide only residence and  
2 business dial tone access line service in any local exchange  
3 areas where it is authorized to provide public  
4 telecommunications service.

5 Section 11. [NEW MATERIAL] CONSUMER PROTECTIONS. --

6 A. Within nine months from July 1, 1999, the  
7 commission shall adopt rules that establish minimum consumer  
8 protections applicable to all telecommunications carriers  
9 certified to provide public telecommunications services in  
10 this state. These rules shall provide for at least:

11 (1) minimum billing disclosures designed to  
12 promote customers' comprehension;

13 (2) disclosures and customer notices upon  
14 initiation of or change in service or change in price or other  
15 service conditions, as appropriate;

16 (3) fair and reasonable credit and collection  
17 procedures and practices, including procedures and practices  
18 relating to disconnection of service;

19 (4) marketing practices consistent with  
20 applicable state and federal law, including prohibition of  
21 slamming and cramming;

22 (5) protection of customer proprietary  
23 network information consistent with applicable federal and  
24 state law; and

25 (6) minimum retail service quality standards

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1 for residence and business dial tone access line services  
2 applicable to all telecommunications carriers.

3 B. No provider of retail public telecommunications  
4 service may use current revenues earned or expenses incurred  
5 in conjunction with the provision of its non-deregulated  
6 public telecommunications services to subsidize the provision  
7 of its deregulated public telecommunications services.

8 Section 12. [NEW MATERIAL] APPEALS. --A person may appeal  
9 from an action of the commission in accordance with the  
10 provisions of Subsections E, F, G and H of Section 63-7-1.1  
11 NMSA 1978.

12 Section 13. Section 63-7-1.1 NMSA 1978 (being Laws 1998,  
13 Chapter 108, Section 52) is amended to read:

14 "63-7-1.1 COMMISSION POWERS AND DUTIES--TRANSPORTATION  
15 AND TRANSMISSION COMPANIES AND COMMON CARRIERS--TELEPHONE AND  
16 TELEGRAPH COMPANIES. --

17 A. With respect to transportation and transmission  
18 companies and common carriers, other than telecommunications  
19 carriers, the commission shall:

20 (1) fix, determine, supervise, regulate and  
21 control all charges and rates of railway, express, telegraph,  
22 [~~telephone~~] sleeping car and other transportation and  
23 transmission companies and common carriers within the state;

24 (2) determine any matters of public  
25 convenience and necessity with respect to matters subject to

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1 its regulatory authority as provided by law;

2 (3) require railway companies and other  
3 common carriers to provide and maintain adequate equipment,  
4 depots, stockpens, station buildings, agents and facilities  
5 for the accommodation of shippers and passengers and for  
6 receiving and delivering freight and express and to provide  
7 and maintain necessary crossings, culverts, sidings and other  
8 facilities for convenience and safety whenever in the  
9 commission's judgment the public interest demands;

10 (4) require railway companies, transportation  
11 companies and common carriers to provide [~~such reasonable~~  
12 ~~safety appliances~~] and use [~~such~~] reasonable safety practices  
13 [~~as may be~~] necessary and proper for the safety of employees  
14 and the public as required by federal or state laws and rules;

15 (5) change, amend and rescind rates;

16 (6) enforce its rules through administrative  
17 sanctions and in the courts; and

18 (7) carry out all other duties and have all  
19 other powers provided by law.

20 [~~B. In fixing rates of telephone and telegraph~~  
21 ~~companies, due consideration shall be given to the earnings,~~  
22 ~~investments and expenditures as a whole within the state. The~~  
23 ~~commission shall include in that consideration the earnings,~~  
24 ~~investments and expenditures derived from or related to the~~  
25 ~~sale of directory advertising and other directory listing~~

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1 ~~services.]~~

2 B. The commission has exclusive jurisdiction to  
3 regulate telecommunications carriers only in the manner and to  
4 the extent authorized by the Telecommunications Investment and  
5 Economic Development Act.

6 C. The commission may subpoena witnesses and  
7 documents, enforce its subpoenas through any court and,  
8 through the court, punish for contempt.

9 D. The commission has the power, after notice and  
10 hearing of record, to determine and decide any question and to  
11 issue orders relating to its powers and duties.

12 E. An interested party may appeal from a final  
13 order of the commission by filing a notice of appeal with the  
14 supreme court asking for review of the order within thirty  
15 days of the final order. The appellant shall pay to the  
16 commission any costs of preparing and transmitting the record  
17 to the court.

18 F. The pendency of an appeal shall not  
19 automatically stay the order appealed from. The appellant may  
20 seek to obtain a stay from the commission or the supreme  
21 court.

22 G. The appeal shall be on the record of the  
23 hearing before the commission and shall be governed by the  
24 appellate rules applicable to administrative appeals. The  
25 supreme court shall affirm the commission's order unless it

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is:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record; or
- (3) otherwise not in accordance with law.

H. In the case of a failure or refusal of any person to comply with an order of the commission within the time prescribed in the order or within thirty days after the order is entered, whichever is later, unless a stay has been granted, the commission shall seek enforcement of the order in the district court. The enforcement hearing shall be held on an expedited basis. At the hearing, the sole question shall be whether the person has failed to comply with or violated the order. "

Section 14. REPEAL. -- Sections 63-9A-1 through 63-9A-6, 63-9A-6.2 through 63-9A-12, 63-9A-14, 63-9A-16 and 63-9A-20 NMSA 1978 (being Laws 1985, Chapter 242, Sections 1 through 6, Laws 1987, Chapter 21, Section 5, Laws 1985, Chapter 242, Sections 7 and 8, Laws 1998, Chapter 108, Section 61 and Laws 1985, Chapter 242, Sections 9 through 12, 14, 16 and 20, as amended) are repealed.

Section 15. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 February 23, 1999

7  
8 Mr. Speaker:

9  
10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
11 been referred

12  
13 HOUSE BILL 470

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

17 1. On page 5, line 24, strike "its rules" and insert  
18 in lieu thereof "applicable laws, rules and orders".

19  
20 2. On page 5, line 25, after "sanctions", insert "  
21 including those pursuant to Section 63-7-23 NMSA 1978,".

22  
23 3. On page 6, between lines 12 and 13, insert the  
24 following new subsection:

25 "E. Nothing in the Telecommunications Investment

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4 and Economic Development Act impairs authority granted to  
5 the commission by federal law with respect to wholesale  
6 services.".

7  
8 4. On page 6, strike line 15 after "A.", strike line  
9 16 through "no" and insert in lieu thereof "No".

10  
11 5. On page 7, line 1, after the period, insert "After  
12 July 1, 1999, there is no obligation by a telecommunications  
13 carrier to make or satisfy a commission or court ordered  
14 price reduction.".

15 6. On page 7, line 3, strike "C and D" and insert in  
16 lieu thereof "C, D and E".

17  
18 7. On page 7, line 13, after the period, insert  
19 "Prices for 911 service shall be established pursuant to  
20 applicable provisions of New Mexico law and shall not be  
21 subject to change by a telecommunications carrier pursuant  
22 to this subsection.".

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4 8. On page 7, line 14, strike "The" and insert in lieu  
5 thereof "Except as provided in Subsection G of this section,  
6 the".

7  
8 9. On page 7, line 17, after "1998" insert ", except  
9 that the business dial tone access line service prices for a  
10 telecommunications carrier that serves more than two hundred  
11 fifty thousand access lines in New Mexico shall be capped at  
12 thirty-four dollars(\$34.00) during the five-year period".

13 10. On page 7, line 22, strike "or business".

14  
15 11. On page 7, line 23, after "1998" insert ", or the  
16 thirty-four dollar (\$34.00) cap for the business dial tone  
17 access line service".

18 12. On page 8, between lines 6 and 7, insert the  
19 following new subsection:

20  
21 "E. Switched access charges of a  
22 telecommunications carrier that serves more than two hundred  
23 fifty thousand access lines in the state shall be capped at  
24 the approved prices for those services in effect on January  
25 1, 1998. If switched access charges are reduced, either  
pursuant to the Telecommunications Investment and Economic

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4 Development Act or as an offset for a distribution from the  
5 New Mexico universal service fund, those services shall be  
6 capped at the reduced prices. The commission may increase  
7 the price cap for switched access charges upon a showing of  
8 good cause after notice and an opportunity for a hearing."

9  
10 13. Reletter the subsequent subsections accordingly.

11  
12 14. On page 8, strike line 9 after the period, strike  
13 lines 10 through 16 and on line 17, strike "percent."

14  
15 15. On page 8, line 23, before "fund" insert "New  
16 Mexico universal service".

17  
18 16. On page 9, line 7, after "G.", strike the  
19 remainder of the line, strike line 8, strike line 9 through  
20 "lines" and insert in lieu thereof "Notwithstanding the  
21 provisions of

22  
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25 Subsection C of this section, a telecommunications carrier  
that serves less than two hundred fifty thousand access

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lines in the state".

17. On page 12, line 2, after the semicolon, insert  
"or".

18. On page 12, line 6, strike "; or" and insert in  
lieu thereof a period.

19. On page 12, strike lines 7 and 8.,

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

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Debbie A. Rodella, Chairwoman

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4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
5 (Chief Clerk) (Chief Clerk)

7 Date \_\_\_\_\_

9 The roll call vote was 10 For 2 Against

10 Yes: 10

11 No: Lutz, Taylor, T.

12 Excused: None

13 Absent: None

15 128131.1

16 J:\99BillsWP\H0470

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1 **FORTY- FOURTH LEGISLATURE**  
2 **FIRST SESSION, 1999**

3  
4 **March 3, 1999**

5  
6  
7 **Mr. Speaker:**

8  
9 **Your JUDICIARY COMMITTEE, to whom has been referred**

10 **HOUSE BILL 470, as amended**

11  
12 **has had it under consideration and reports same with**  
13 **recommendation that it DO PASS, amended as follows:**

14  
15  
16 1. On page 8, line 1, strike "three" and insert in  
17 lieu  
18 thereof "two".

19 2. On page 8, line 4, strike "three" and insert in  
20 lieu  
21 thereof "two".

22  
23 3. On page 9, lines 23 and 24, strike "or a non-  
24 telecommunications service".

25 4. On page 10, line 10, strike "or a non-

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telecommunications  
service”.

5. On page 11, between lines 5 and 6, insert the following subsection:

“M. No telecommunications carrier shall require an end-user residence or business customer that uses a residence or business dial tone access line to gain access to the internet to pay local measured usage charges or any other per minute of use charges to gain that access. This provision does not preclude the application of long distance charges by a telecommunications carrier if the end-user residence or business customer must use long distance service to gain access to the internet.”

6. On page 14, line 5, strike “Within sixty”, strike lines 6 through 19 and insert in lieu thereof:

“On July 1, 1999, a telecommunications carrier that serves more than two hundred fifty thousand access lines in the state shall sign an agreement with the state, to be executed on behalf of the state by the governor, identifying and guaranteeing specific investments in the amount of forty million dollars (\$40,000,000) in

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4 telecommunications infrastructure and other equipment that  
5 the telecommunications carrier will make, in addition to  
6 deploying fiber to Farmington, New Mexico, all to be  
7 completed by December 31, 2001. To monitor and review the  
8 progress of the deployment of the telecommunications  
9 infrastructure and equipment, the telecommunications  
10 carrier shall report quarterly to the legislative  
11 "telecommunications investment and economic development  
12 committee", hereby created. The committee shall have six  
13 members from which the members shall elect a chair. The  
14 committee is composed of three members of the senate  
15 appointed by the president pr tempore of the senate and  
16 three members of the house of representatives appointed by  
17 the speaker of the house of representatives. No more than  
18 two members from either chamber shall be from the same  
19 political party. Disputes arising pursuant to the  
20 agreement described in this section shall be resolved  
21 through binding arbitration before a single arbitrator  
22 selected by the presiding judge of the first judicial  
23 district. Arbitration may be demanded by either party and,  
24 once invoked, shall commence within ten days.",

25 and thence referred to the APPROPRIATIONS AND FINANCE  
COMMI TTEE.

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Respectfully submitted,

\_\_\_\_\_  
R. David Pederson, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 1 Against

Yes: 8

No: Stewart

Excused: Godbey, Luna, T. Taylor

Absent: None

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