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HOUSE BILL 588

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

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO TELECOMMUNICATIONS; ENACTING THE STATE UNIVERSAL SERVICE FUND ACT; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. A new section of Chapter 63, Article 9A NMSA 1978 is enacted to read:

"NEW MATERIAL SHORT TITLE. -- Sections 1 through 3 of this act may be cited as the "State Universal Service Fund Act". "

Section 2. A new section of Chapter 63, Article 9A NMSA 1978 is enacted to read:

"NEW MATERIAL PURPOSE. -- The purpose of the State Universal Service Fund Act is to:

- A. provide equal treatment for all

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1 telecommunications carriers;

2 B. provide price stability for residence and
3 business telecommunications customers during the transition to
4 a deregulated market;

5 C. eliminate subsidies in the current prices of
6 telecommunications services in order to further competition in
7 the telecommunications market in New Mexico; and

8 D. create a statewide universal service fund to
9 ensure affordable local telecommunications service in all
10 communities. "

11 Section 3. A new section of Chapter 63, Article 9A NMSA
12 1978 is enacted to read:

13 "[NEW MATERIAL] UNIVERSAL SERVICE FUND. --

14 A. The "universal service fund" is created in the
15 state treasury. The balance of the New Mexico universal
16 service fund is transferred to the universal service fund on
17 July 1, 1999. No later than January 1, 2000, the commission
18 shall implement the provisions of this section. The universal
19 service fund shall be used to maintain and support at
20 affordable prices those retail public telecommunications
21 services identified by the commission and offered in those
22 areas of the state found to be of low density and high cost.

23 B. Collection for and distribution of money from
24 the universal service fund shall be competitively neutral,
25 equitable and nondiscriminatory and targeted to low density

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1 and high cost areas, and shall provide a specific, predictable
2 and sufficient support mechanism that reduces implicit
3 subsidies and assures universal service in the state.

4 C. Money for the universal service fund shall be
5 produced by the imposition of competitively neutral and
6 uniform surcharge rates on all retail public
7 telecommunications services revenue, excluding revenue from
8 services provided pursuant to a low-income telephone
9 assistance plan billed to end-user customers by a
10 telecommunications carrier and excluding revenue from
11 surcharges, gross receipts taxes, excise taxes, franchise fees
12 and similar charges. The commission shall apply the surcharge
13 to all end-user retail public telecommunications services
14 provided in the state by telecommunications carriers and to
15 comparable retail alternative services provided by
16 telecommunications carriers and non-telecommunications
17 carriers. When the federal communications commission
18 determines that commercial mobile radio services providers
19 qualify as eligible telecommunications carriers pursuant to
20 federal law, the commission shall apply the surcharge to all
21 end-user retail public telecommunications services provided in
22 the state by commercial mobile radio services providers. In
23 prescribing a competitively neutral surcharge rate, the
24 commission shall require telecommunications carriers and non-
25 telecommunications carriers to apply uniform surcharge rates

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1 for the same or comparable services. Money deposited in the
2 universal service fund is not public money, and the
3 administration of the universal service fund is not subject to
4 the provisions of law regulating public funds.

5 D. The commission shall:

6 (1) consistent with federal law, establish
7 eligibility criteria for participation in the universal
8 service fund that:

9 (a) ensure the availability of service
10 at affordable prices without unreasonably increasing prices to
11 local exchange service and long distance service customers;

12 (b) ensure eligible telecommunications
13 carriers, as defined in the federal Telecommunications Act of
14 1996, a reasonable profit on supported services in geographic
15 areas requiring support from the universal service fund;

16 (c) do not require any investigations
17 of the costs or prices of a telecommunications carrier
18 receiving support from the universal service fund, other than
19 that provided for in Subsection F of this section; and

20 (d) do not restrict or limit an
21 eligible telecommunications carrier from receiving federal
22 universal service support;

23 (2) provide for collection of the surcharge
24 on a competitively neutral basis and administration and
25 disbursement of money from the universal service fund;

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1 (3) determine those geographic areas of
2 existing wire centers that are low density in nature;

3 (4) determine those retail public
4 telecommunications services requiring support from the
5 universal service fund; and

6 (5) provide for the separate administration
7 and disbursement of federal universal service funds consistent
8 with federal law.

9 E. The commission shall promulgate rules for the
10 implementation and administration of the universal service
11 fund in accordance with the provisions of this section. The
12 cost basis for establishing the universal service fund and
13 determining the rate of distribution of the universal service
14 fund for areas served by a telecommunications carrier with
15 less than fifty thousand access lines shall be the same cost
16 of providing the supported service by geographic area
17 determined by the federal communications commission. The cost
18 basis for establishing the universal service fund and
19 determining the rate of distribution of the new fund for areas
20 served by telecommunications carriers with over fifty thousand
21 access lines shall be the forward-looking economic cost of
22 providing the supported service in the geographic area as
23 determined by the commission.

24 F. The commission shall select a neutral third
25 party administrator to collect, administer and disburse money

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1 from the universal service fund under the supervision and
2 control of the commission pursuant to the established criteria
3 and the rules promulgated by the commission. The
4 administrator may be reasonably compensated for the services
5 from the surcharge proceeds to be received by the universal
6 service fund pursuant to Subsection C of this section. The
7 neutral third party administrator shall consult with an
8 advisory board established by the commission composed of
9 representatives from all participating providers. The
10 commission shall not be a neutral third party administrator.

11 G. To ensure that telecommunications carriers
12 providing intrastate long distance service contribute to the
13 universal service fund, no later than December 31, 1999, the
14 commission shall promulgate rules and take other appropriate
15 action to require telecommunications carriers providing
16 intrastate long distance service to participate in any plan to
17 ensure accurate reporting of intrastate retail long distance
18 revenues.

19 H. Switched access charges and business dial tone
20 access line services may be considered for reductions as an
21 offset to payments received by a telecommunications carrier
22 from the universal service fund. "

23 Section 4. REPEAL. -- Section 63-9A-6.1 NMSA 1978 (being
24 Laws 1987, Chapter 21, Section 4, as amended) is repealed.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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4
5
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 588

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 JUDICIARY COMMITTEE.

18 Respectfully submitted,

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22 _____
23 Debbie A. Rodella, Chairman
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25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HBIC/HB 588

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4 Adopted _____ Not Adopted _____

6 (Chief Clerk)

(Chief Clerk)

8 Date _____

10 The roll call vote was 11 For 0 Against

11 Yes: 11

12 Excused: Sanchez

13 Absent: None

15 J: \99BillSWP\H0588

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3
4 March 5, 1999

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7 Mr. Speaker:

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9 Your JUDICIARY COMMITTEE, to whom has been referred

10 HOUSE BILL 588

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

14
15 1. On page 3, line 17, strike "federal
16 communications".

17
18 2. On page 3, line 18, after "that" strike the
19 remainder of the line and all of lines 19 through 21 and
20 strike line 22 through the period and insert in lieu thereof
21 "a commercial mobile radio services provider qualifies as an
22 eligible telecommunications carrier pursuant to federal law,
23 the commission shall apply the surcharge to all end-user
24 retail public telecommunications services provided in the
25 state by that commercial mobile radio services provider.".

3. On page 4, line 19, strike "F" and insert in lieu

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Page 10

thereof "E".

4. On page 5, line 2, after "density" insert "or high cost".

5. On page 6, lines 19 and 20, strike "and business dial tone access line services" and insert in lieu thereof a comma and "among other retail public telecommunications services except residence dial tone access line service,".

Respectfully submitted,

R. David Pederson, Chairman

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HB 588

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Luna, Sanchez

Absent: None

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FORTY- FOURTH LEGISLATURE
FIRST SESSION

March 9, 1999

HOUSE FLOOR AMENDMENT number _____ to HOUSE BILL 588, as amended

Amendment sponsored by Representative Ben Lujan

1. On page 5, line 5, strike "and", on line 8, strike the period and insert in lieu thereof "; and" and between lines 8 and 9, insert the following paragraph:

"(6) determine which telecommunications carriers meet the eligibility criteria for participation in the low-income telephone service assistance program in the Low Income Telephone Service Assistance Act and provide for payment to those telecommunications carriers for reduced-rate assistance that is provided pursuant to Section 63-9C-4 NMSA 1978 and that is not otherwise supported by federal or state funding."

2. On page 6, between lines 22 and 23, insert the following sections:

"Section 4. Section 63-9C-4 NMSA 1978 (being Laws 1987, Chapter

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HF1/ HB 588, aa

Page 13

197, Section 4) is amended to read:

"63- 9C- 4. LOW- INCOME ASSISTANCE RATES- - COMMISSION AUTHORITY. --

A. A local exchange company [~~may~~] shall provide assistance in the form of reduced rates to [~~those persons~~] residential customers who meet the eligibility criteria of one or more need-based assistance programs administered by the department or by the federal government.

B. The commission shall promulgate rules [~~and regulations~~] for the implementation of the Low Income Telephone Service Assistance Act for [~~those~~] local exchange companies who provide such assistance. The commission shall adopt a delivery structure for its program that is cost effective and coordinated with the department.

C. The commission shall structure the implementation of the Low Income Telephone Service Assistance Act in a manner that will result in funding of low-income programs in an amount at least equal to what is necessary to secure the maximum amount of federal matching funds for low-income telephone assistance programs. A local exchange company may obtain support from the state universal service fund pursuant to the State Universal Service Fund Act for reduced-rate assistance that is provided pursuant to this section and that is not otherwise supported by federal or state funding. "

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HF1/HB 588, aa

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Section 5. Section 63-9C-5 NMSA 1978 (being Laws 1987, Chapter 197, Section 5) is amended to read:

"63-9C-5. [~~FEDERAL WAIVER~~] WAIVERS. - -

A. In addition to any reduced rates provided by local exchange companies [on behalf of] that provide residential local exchange service to low-income New Mexicans, the commission shall apply to the [federal communications commission] appropriate governmental agency for a waiver of the federal end user common line charges and any other assessments or surcharges that, pursuant to federal or state law and rules, are at any time, subject to waiver with respect to recipients of low-income telephone service assistance. Upon receipt of [the] a waiver, the commission shall notify the local exchange companies providing low-income telephone service assistance and the monthly telephone bill shall reflect the waiver of the federal end user common line charges or other assessments or surcharges.

B. Recipients of low-income telephone service assistance shall not be surcharged or otherwise pay assessments that contribute to the state universal service fund pursuant to the State Universal Service Fund Act. "".

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HF1/HB 588, aa

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3. Renumber the succeeding section accordingly.

Ben Lujan

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

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