

2 INTRODUCED BY _____
(Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING POLE ATTACHMENT RULES AND
5 ENFORCEMENT; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Competitive access to poles -- enforcement -- definitions. (1) A pole

10 owner shall allow attachers to access all its poles in accordance with the rules, regulations, and orders of the
11 federal communications commission promulgated under 47 U.S.C. 224 or any successor regulation if:

12 (a) a pole owner or its affiliate receives or has received broadband grant funding; and

13 (b) a pole owner or its affiliate offers broadband service to its subscribers or has committed to offer
14 broadband service with its receipt of broadband grant funding.

15 (2) Any grant agreement entered into by the department for the provision of broadband grant

16 funding must require an applicant to comply with, and must commit any affiliate of the applicant that is a pole

17 owner to comply with subsection (1) throughout its in-state service territory. An agreement entered into prior to

18 [the effective date of this chapter] must be amended to ensure compliance with this chapter.

(3) An attacher aggrieved by a pole owner's failure to comply with subsection (1) may bring civil

20 action in the district court of the first judicial district, Lewis and Clark County, and the court must have
21 jurisdiction over the action. If an attacher prevails in the action, the court shall award actual damages, equitable
22 relief, and reasonable attorney fees and costs, as appropriate.

23 (4) As used in this section, the following definitions apply:

24 (a) "Affiliate" means a person:

25 (i) that is under common ownership or control; or

26 (ii) that is engaged in a partnership, joint venture, or similar business arrangement related to the
27 provision of broadband service or the deployment of broadband facilities.

28 (b) "Attacher" means a person or entity entitled to make or request a pole attachment pursuant to

1 47 U.S.C. 224 or any successor regulation.

2 (c) "Broadband grant funding" means any funding provided by the department of administration or
3 any federal agency or commission to support the deployment of broadband facilities or the provision of
4 broadband service over the facilities in which the funding is derived from state or federal funds.

5 (d) "Department" means the department of administration provided for in 2-15-1001.

6 (e) "Pole owner" means a person, entity, or rural electric cooperative pursuant to Title 35, chapter
7 18, or their successors or assignees that own or operate poles used for electric distribution, excluding a utility
8 as defined in 47 U.S.C. 224(a)(1).

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10 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as a new
11 chapter in Title 90, and the provisions of Title 90 apply to [section 1].

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13 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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