

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

16 **Section 1.** Section 15-53-129, MCA, is amended to read:

17       **"15-53-129. (Temporary) Definitions.** As used in this part, unless the context requires otherwise, the  
18       following definitions apply:

19 (1) "Call-by-call basis" means any method of charging for telecommunications services that  
20 measures the price by individual calls.

21 (2) (a) "Charges for mobile telecommunications services" means any charge for, or associated  
22 with, the provision of commercial mobile radio service, as defined in 47 CFR 20.3, as in effect on June 1, 1999,  
23 or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service  
24 that is billed to the customer by or for the customer's home service provider regardless of whether individual  
25 transmissions originate or terminate within the licensed service area of the home service provider.

26 (b) The term does not include one-way radio communications as included in 47 CFR 20.3, as in  
27 effect on June 1, 1999.

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Drafter: Jason Mohr,

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1 description of the regulated telecommunications to be offered and the geographic area and markets to be  
2 served;

3 (f) a general description of the facilities and equipment that will be used to provide services,  
4 including whether the service will be offered on a facilities basis, a resale basis, or a combination of both of  
5 them;

6 (g) a statement of whether the provider intends to draw from the federal or state universal service  
7 fund or other explicit support funds, including a statement of whether the provider intends to seek the  
8 commission's designation as an eligible telecommunications carrier;

9 (h) disclosure of any formal actions against it by any court or state or federal regulatory agency  
10 that resulted in any type of penalty or sanction within the 5 years prior to the date of filing the notice;

11 (i) if the provider is other than a corporation, a description of the form of ownership, the names  
12 and addresses of all principal owners and managers, the provider's agent for service of process in Montana,  
13 and the date of creation of the business entity; and

14 (j) other information from regulated telecommunications carriers as the commission may require to  
15 accomplish the purposes of this chapter.

16 (2) The commission may waive any of the requirements set forth in subsection (1).

17 (3) The provider shall file with the commission a report of any judgment, penalty, or sanction  
18 entered in any other jurisdiction that could adversely affect the provider's ability to provide communications  
19 services in Montana."

20  
21 **NEW SECTION. Section 8. Internet protocol-enabled service not regulated.** (1) An internet  
22 protocol-enabled service is not subject to regulation under this title.

23 (2) Except as provided in subsections (3) and (4), an agency, commission, or political subdivision  
24 may not enact, adopt, or enforce a law, rule, regulation, ordinance, standard, order, or other provision that  
25 regulates the entry, rates, terms, or conditions of any internet protocol-enabled service or otherwise treats  
26 providers of internet protocol-enabled service as carriers.

27 (3) This section does not:

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- 1        (a)    restrict authority delegated to the commission or to a state agency under federal statute, rule,  
2 or order;
  - 3        (b)    restrict the application of a law related to consumer protection and fair competition of general  
4 applicability to an internet protocol-enabled service or provider;
  - 5        (c)    modify or affect the rights or obligations of a carrier under 47 U.S.C. 251 or 47 U.S.C. 252;
  - 6        (d)    modify or affect commission authority over wholesale telecommunications services, rates,  
7 agreements, interconnection, or tariffs;
  - 8        (e)    modify or affect the rights or obligations of any entity for the use of public streets, roads,  
9 highways, and rights-of-way, including under an ordinance or agreement managing or providing access to the  
10 public right-of-way;
  - 11       (f)    modify or affect the assessment of nondiscriminatory fees associated with enhanced 911  
12 service, universal service, or telecommunications relay service with respect to services described in  
13 subsections (4)(b) and (4)(c);
  - 14       (g)    restrict the authority of a state agency to specify requirements for the purchase of an internet  
15 protocol-enabled service; or
  - 16       (h)    restrict a commission requirement that a company provider of telecommunications services  
17 register as a service provider.
- 18       (4)    For the purposes of this section, "internet protocol-enabled service" means:
- 19       (a)    broadband internet service as defined in 90-1-602(1)(a);
  - 20       (b)    interconnected voice-over internet protocol service that enables real-time, two-way voice  
21 communications originating or terminating from a user's location using internet protocol or a successor protocol,  
22 that allows users to receive calls originating on the public switched telephone network and to terminate calls to  
23 the public switched telephone network, and that requires internet protocol-compatible customer premises  
24 equipment;
  - 25       (c)    non-interconnected voice-over internet protocol service that enables real-time voice  
26 communications over internet protocol or any successor protocol and that requires internet protocol-compatible  
27 customer premises equipment but does not otherwise fit the description of interconnected voice-over internet

1 protocol service; or

2 (d) any other service, capability, function, or application that uses existing internet protocol or any  
3 successor internet protocol and enables an end user to send or receive a communication in existing internet  
4 protocol format or any successor internet protocol format, regardless of whether the communication is voice,  
5 data, or video.

6

7 **NEW SECTION. Section 9. Repealer.** The following sections of the Montana Code Annotated are  
8 repealed:

- 9 69-3-806. Prohibition against cross-subsidization.
- 10 69-3-807. Regulation of rates and charges.
- 11 69-3-808. Forbearance of rate regulation to facilitate competition.
- 12 69-3-809. Alternative forms of regulation.
- 13 69-3-810. New service -- withdrawal of services.
- 14 69-3-821. Examination of books and records.
- 15 69-3-841. Universal service policies.
- 16 69-3-842. Universal service fund established -- purpose.
- 17 69-3-843. Fund administrator -- commission rulemaking authority.
- 18 69-3-844. Contributions to fund.
- 19 69-3-845. Payments from fund -- costs.
- 20 69-3-846. Discounts for schools, libraries, and health care providers.
- 21 69-3-870. Performance assurance state special revenue account -- statutory appropriation.
- 22 69-3-901. Definitions.
- 23 69-3-902. Rate regulation of small telecommunications provider.
- 24 69-3-903. Notice of rate increase or decrease.
- 25 69-3-904. Commission review and determination of rate increases or decreases.
- 26 69-3-906. Petition for review of proposed rate increase or decrease.
- 27 69-3-907. Proposed increase or decrease effective unless requisite petitions received by commission.

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1 69-3-910. Regulatory flexibility upon petition by small telecommunications provider.

2

3 **NEW SECTION. Section 10. Codification instruction.** [Section 8] is intended to be codified as an  
4 integral part of Title 69, chapter 3, part 8, and the provisions of Title 69, chapter 3, part 8, apply to [section 8].

5

6 **COORDINATION SECTION. Section 11. Coordination instruction.** If both Senate Bill No. 51 and  
7 [this act] are passed and approved and if both contain a section that amends 69-3-805, then [section 7 of this  
8 act], amending 69-3-805, is void.

9

10 **NEW SECTION. Section 12. Effective date.** [This act] is effective on passage and approval.

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