Prepared by the North Dakota Legislative Council staff for the Regulatory Reform Review Commission
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# STATE UNIVERSAL SERVICE FUND LEGISLATION CREATED AFTER THE FEDERAL TELECOMMUNICATIONS ACT OF 1996

This memorandum describes high-cost universal service legislation in other states. The federal Telecommunications Act of 1996 provides for state universal service funds. Section 254(f) of the Act provides:

> A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.

The goal of a high-cost fund is to provide an explicit subsidy to telephone companies. The funds are used to subsidize certain important services for customers living in areas in which the cost of these services would be prohibited if not for the subsidy. In short, the goal of a high-cost universal service fund is to provide customers necessary services at an affordable price.

Although many questions arise concerning the creation of a high-cost fund, there are four basic questions:

1. Are prices for certain services unaffordable for the average customer?
2. Who should contribute to the universal service fund?
3. How will it be determined how much each eligible company will receive in universal service funds?
4. How will the fund be administered?

At least nine states have enacted legislation on universal service after the passage of the federal Telecommunications Act of 1996. These states include Connecticut, Florida, Idaho, Maine, Montana, Nebraska, Oklahoma, Utah, and Washington. As of March 1999, of the states listed, only Nebraska, Oklahoma, Utah, and Washington appear to have a working permanent fund. The focus of this memorandum is on high-cost funds and unless intertwined in the following bills with high-cost universal service programs, other programs will not be addressed. In addition, the term "commission" is used to describe any commission in any state that regulates telecommunications services even if the actual name of that body is something different.

## CONNECTICUT

In 1999 the General Assembly of Connecticut passed legislation to require the commission to study and report on recommended legislation.

## FLORIDA

### The Basics

The combination of 1998 House Bill No. 4785 and a minor change in time limitations made in 1999 House Bill No. 2123 make present Florida law. Florida law defines universal service as an evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the commission determines should be provided to customers.

### Contributions, Distributions, and Administration

The law provides for an interim mechanism for providing universal service until January 1, 2001. The commission is to create the interim universal service fund. The law states that the legislature will establish a permanent universal service mechanism before January 1, 2001.

To aid the legislature in establishing a permanent mechanism, the commission is to report to the legislature on the cost of providing service. For the report, the commission must calculate a small local exchange telecommunications company's cost of providing basic local telecommunications services based on a proxy model that is not the forward-looking cost model used for large companies and based on a fully distributed allocation of embedded costs identifying high-cost areas within the local exchange area the company services including all embedded investments and expenses incurred by the company in providing universal service. The geographic basis for the calculation may be no smaller than a census block group.

## IDAHO

### The Basics

In 1998 Idaho enacted House Bill No. 516. This bill was amended by 1999 House Bill No. 181. However, House Bill No. 181 did not make any significant changes. House Bill No. 516 provides for the creation of a state universal service fund. Universal service is defined as an evolving level of telecommunications services to which consumers in all regions of the state should have access. The commission determines what services are universal services.

### Contributions

The commission is required to determine and adopt the appropriate methodology and mechanisms to collect and distribute financial assistance from the fund. Revenue is collected through a uniform universal service fund surcharge as calculated by the commission. The surcharge is imposed on all retail telecommunications services originated and terminating within the state and collected by the telecommunications carrier providing the service.

### Distributions

Only telecommunications carriers designated as eligible telecommunications carriers may receive universal service funds. To be an eligible telecommunications carrier, a telecommunications carrier must offer the services that are within the definition of universal service, advertise the availability of these services, and offer low-income telecommunications services. The commission is required to designate geographic service areas for the purpose of determining universal service obligation of eligible telecommunications carriers and to designate geographic support areas for the purpose of determining areas for which financial assistance is made available from the fund. The law defines a service area served by a rural telephone company as the study area as determined by the Federal Communications Commission and the state commission. The cost of providing service is determined by using a forward-looking cost methodology. The commission has the authority to take actions that may be necessary to prevent redundant cost recovery including that received from a reduction in access charges.

### Administration

The commission is required to contract with a neutral third party for the administration of the fund.

## MAINE

### The Basics

In 1998 Maine enacted House Bill No. 1661. The bill requires the commission to adopt rules that "seek to ensure that similar telecommunications services are available to consumers throughout all areas of the State at reasonable comparable rates." The law provides for six basic principles in creating a state universal service fund. Any state universal service fund requirements must:

1. Be reasonably designed to maximize federal assistance.
2. Meet the state's obligation under the federal Telecommunications Act of 1996.
3. Be consistent with the goals of the federal Telecommunications Act of 1996.
4. Ensure that any requirements regarding contributions be nondiscriminatory and competitively neutral.
5. Require explicit identification on customer bills of contributions.
6. Allow consideration of appropriate rate-making proceedings of contributions to any state universal fund established under this bill.

### Contributions and Distributions

The commission may require providers of intrastate services to contribute to a state universal service fund. Under the law, the commission is allowed to establish a universal service program funded in part by intrastate telecommunications providers. In 1999 under House Bill No. 399, House Bill No. 661 was amended so that the term "providers of intrastate telecommunication services" explicitly included providers of radio paging services and mobile telecommunications services.

### Administration

If the state creates a universal service fund, the commission must contract with an independent fiscal agent to be the administrator of the fund.

## MONTANA

### The Basics

In 1997 Montana enacted Senate Bill No. 89 and in 1999 enacted House Bill No. 306. Montana's law is temporary and expires on December 31, 2001. The legislation requires the commission to establish and administer a universal service fund that provides affordable services in high-cost areas. The fund must complement the federal fund; be competitively and technologically neutral in funding and distribution; provide specific, predictable, and sufficient mechanisms of support for high-cost areas; and allow for a federal support system for schools, libraries, and health care providers.

The universal service fund must support the following services:

1. Voice grade access to the public switched network.
2. Dual-tone multifrequency signaling or its equivalent.
3. Single-party service.
4. Access to emergency services.
5. Access to operator services.
6. Access to interexchange services.

7. Access to directory assistance.

## Contributions

Contributions to the universal service fund are collected by the daily administrator on a monthly basis. The contribution is calculated by determining the total revenue for all telecommunications carriers from the preceding year and determining the funds needed for distribution for universal service for the upcoming year and then computing the uniform percentage amount of revenue that will produce the desired distribution. The amount is adjusted for the previous year's shortfalls and excesses. The commission is required to make rules to govern the collection from telecommunications carriers of universal service contributions based on the uniform percentage rate. The rules must allow the daily administrator to assess late fees and interest on delinquent payments. To offset any increased expenditure in consumer prices, any reduction in access expenses for carriers because of the removal of implicit subsidies in access rates must be passed on to end-user customers through retail prices.

## Distributions

Distributions under the universal service fund are paid to eligible telecommunications carriers that offer the services supported by the fund. The commission is to calculate the distribution for designated support areas. A designated support area for a rural telephone company is its service areas unless the rural telephone company voluntarily adopts the proxy model adopted by the commission. A designated support area for all other telecommunications carriers means a geographic area determined by the commission which must be smaller than a wire center.

The amount of support an eligible telecommunications carrier receives is the amount of costs in its designated support area minus the benchmark amount. The commission determines the benchmark. The amount of costs in a designated service area is expressed in the average cost per line. The Montana law has different methods for determining the average cost of each line in an area served by a rural telephone company based on whether there is competition.

If there is only one eligible telecommunications carrier in the area served, the average line cost is the sum of a telephone company's total unsupported loop cost as determined by the federal separation methodology and the switching costs, local transport costs, and consumer operation costs for universal services as determined by the Federal Communications Commission jurisdictional separation rules. From this sum is subtracted any federal universal service support, interstate allocation of loop costs, and loop cost recovered through intrastate telecommunications carrier common line charges to long-distance companies.

If there is an additional eligible telecommunications carrier in a designated support area, the additional carrier has access to the universal service fund on the same basis as the rural telephone company. Both carriers must receive distribution based on the rural telephone company's average cost for each line disaggregated to geographic areas smaller than a wire center. Support for each line is based on the rural telephone company's cost as determined in the equation for the situation when there is only one eligible telecommunications company and distributed to each of the geographic areas on the basis of relative distribution factors established by a cost proxy model adopted by the commission.

Except when there is an additional carrier, the companies that are not rural companies and for rural companies that voluntarily choose, there is the option of having the average line cost for a designated service area determined by a commission proxy model. This total per line cost must be reduced by any federal universal service support, interstate allocation of loop costs, and loop costs recovered through intrastate telecommunications carrier common line charges to long-distance companies.

The commission cost proxy must target support to a geographic area smaller than a wire center. The cost proxy must use acceptable outside plant design and costing principles and use reasonable switch design in costing principles. In addition, the proxy model must include a reasonable share of the joint and common costs of the telecommunications carrier and meet the standards for documenting model logic and the source of cost data input. Also, the model must meet a reasonableness test to ensure outputs are representative of costs that can be reasonably expected in the construction of a network and that network is capable of providing telecommunications services that meet the quality standards of the state commission and the Federal Communications Commission.

If an eligible telecommunications carrier is providing service for resale, there is no universal service support for the carrier if the resold service has already been reduced by a contribution to the universal service fund.

## Administration

Based on a competitive bidding process, the commission is to choose a daily administrator for the universal service fund. The daily administrator may not be a telecommunications carrier. The daily administrator has the duties of providing monthly reports and annual audit reports to the commission. In addition, the daily administrator must make available financial accounts for viewing by telecommunications companies and the public. The commission may investigate and make orders concerning the accounts and practices of the daily administrator. The admin-istration costs must be paid from the fund.

Under a separate program called the interim universal access program, there is a fund for the purpose of providing the general public with access to advanced telecommunications services that are not subscription-based services. The program provides funding through discounts for advanced services for use by public access points, schools, tribal colleges, libraries, and health care providers. This program is funded by a surcharge on retail revenue for all intrastate telecommunications services in the state.

## NEBRASKA

### The Basics

In 1997 Nebraska enacted Legislative Bill No. 686 and in 1999 Legislative Bill No. 514, which both relate to a universal service fund. Legislative Bill No. 686 relates to a state universal service fund which is to supplement the federal universal service fund and to make telecommunications services accessible at an affordable price for all state residents without regard to their location. The bill states eight principles to preserve and advance universal service:

1. Quality service at a just, reasonable, and affordable rate.
2. Access to advance services available in all regions of the state.
3. Rates charged and services offered to consumers throughout the state should be comparable to those charged and offered in urban areas.
4. Equitable and nondiscriminatory contributions by all providers to preserve and advance universal service.
5. Specific, predictable, sufficient, and competitively neutral mechanisms in administration of the universal service fund.
6. Access to advanced telecommunications services by schools, libraries, and rural health care providers. Sharing of these services by these entities with local users is encouraged if the local user pays a retail rate.
7. Replacement of implicit support mechanisms in intrastate access rates while ensuring affordable local service rates.
8. Minimal cost of administration.

### Contributions and Distributions

The commission has the power to create the fund and the attendant rules and contracts. The commission is to set up a funding mechanism for the universal service fund that is consistent with the policies and principles of the federal universal service fund. The initial level of coverage for local telecommunications service is set at 96 percent. Every year thereafter the commission is to set the level of the fund. Any moneys in the fund may be invested by the state.

Legislative Bill No. 514 clarified the commission's ability to issue orders for the universal service fund and to withhold a portion of funds to be distributed for those companies not complying with its orders on universal service. In particular, the bill prohibits universal service support from being distributed until the commission adopts an order that ensures corresponding reductions in the price of services currently subsidizing services in high-cost areas. In addition, the same bill clarified the commission's authority to review access charges on its own motion and authorized the commission to oversee the passthrough of reductions in access charges that interexchange carriers must deliver to their customers.

### Administration

The commission may contract with a neutral third party to administer the fund. If the commission contracts with a third party, then the commission is to supervise that party, audit that party, and enforce collection of uncollected accounts. The third party has the duty to estimate the fund, bill the telephone companies, collect funds, and distribute the fund.

The bill creates an advisory board of seven to nine members as determined by the commission. One member on the board is from the commission, one member represents the schools, one member represents the libraries, one member represents rural health care providers, two or three members represent the telephone companies, and one or two members represent the public. The advisory board's role is to advise as to the overview and administration of the fund and to recommend services to include within universal service.

## OKLAHOMA

### The Basics

In 1997 Oklahoma enacted House Bill No. 1815. The legislation creates a state high-cost universal service program and fund within the commission. The purpose of the high-cost fund is to promote primary universal services at reasonable and affordable rates and reasonably comparable services at affordable rates in rural areas as in urban areas. Primary universal service includes an access line and dial tone that provides access to other lines for two-way switched or dedicated communication in the local calling area for a flat fee, a primary directory listing, dual-tone multifrequency signaling and access to operator services, directory assistance, relay service for the hearing-impaired, emergency services, and long distance. The commission is given the power to expand primary universal service after notice and a hearing.

Universal service funds may be used to reimburse local exchange telecommunications carriers for reasonable investments and expenses not covered by the federal universal service fund in providing universal service; for infrastructure expenditures

incurred in response to governmental mandates; for Lifeline service program credits; for schools, libraries, hospitals, and county seat special universal service reimbursement; to defray the cost of administering the universal service fund; and for other purposes as determined by the commission.

### Contributions

The universal service fund is funded by a charge paid by all telecommunications carriers at a level sufficient to maintain universal service. The fund must be funded in a competitively neutral manner by all telecommunications carriers. The funding must be based on total retail-billed intrastate telecommunications revenues of each carrier as a percentage of all carriers' total retail-billed intrastate revenues. The cost of administration is included in the fund.

### Distribution

For the purposes of determining funding levels, the legislation creates three separate methods for an eligible telecommunications carrier providing service to fewer than 75,000 access lines to identify and measure the cost of providing primary universal services. The first method of calculating primary universal service costs allows all embedded investment and expenses for providing primary universal service. The local exchange carrier may identify high-cost areas within the local exchange area it serves and perform a fully distributed allocation of embedded costs and an identification of associated primary universal service revenue. The high-cost area may not be smaller than a single exchange, wire center, or census block group, as chosen by the carrier. The second method for the carrier is to adopt the cost studies for a local exchange carrier that serves 75,000 or more access lines. The third method for the local exchange carrier is to adopt other costing or measurement methodology as established by the Federal Communications Commission for federal universal service.

The costing methodology for each incumbent local exchange carrier which services 75,000 or more access lines and each competitive local exchange carrier requires the identification of high-cost areas within the local exchange and the performance of a cost study using a commission-approved methodology from the options given to the carriers with less than 75,000 access lines. The high-cost area may not be smaller than a single exchange, wire center, or census block group.

Each request for funding from an incumbent local exchange carrier serving less than 75,000 access lines is to be premised on a decrease in the federal universal service fund revenues of the carrier, a change in federal or state law that produces a reduction in revenues, or an increase in cost. A decrease in funding must be premised on a change in state or federal law which causes a reduction in cost. In each case, universal service funding is to be adjusted to keep the carrier whole.

Upon request, the commission is required to make a determination of the level of funding, if any, an incumbent local exchange carrier serving 75,000 or more access lines or a competitive local exchange carrier may receive under the previous criteria.

The commission may designate an additional local exchange provider to be eligible for funding in an area where an incumbent local exchange carrier is eligible if the additional company offers primary universal service to all customers in the universal service area using a portion of its own facilities. The additional carrier may only receive funding for the portion of the facilities that it owns and uses for the regulated services. The additional carrier may not receive funding at a higher level than the incumbent carrier if the incumbent is providing service in the same area. The additional carrier must advertise its charges and the commission determines if the designation is in the public interest. Once there is more than one carrier eligible for funding in an area, the commission is required to permit all but one carrier to relinquish the designation.

However, in an area served by an incumbent carrier that serves fewer than 75,000 access lines, only the incumbent provider is eligible for primary universal service funding. The incumbent may waive this right and the commission may take away this right if it determines it is in the public interest to name another carrier of last resort.

### Administration

The commission must provide for the administration of the fund through its employees or by contracting for administrative services with a noninterested party. The commission cannot require local exchange telecommunications service providers to reduce rates for intrastate access services prior to universal fund distribution.

## UTAH

### The Basics

In 1997 Utah enacted House Bill No. 71, which provides for extreme changes to the universal service fund that Utah has had since 1989. The changes resulted from legislation requiring the removal of all implicit subsidies. The fund reimburses for basic telephone services. Basic telephone services include local exchange services and functions and elements as determined by the commission. Local exchange service provides telephone lines to customers with the associated transmission of two-way interactive, switched voice communications with the geographic area encompassing one or more local communities.

The commission is required to establish the universal service fund that is consistent with the federal Telecommunications Act of 1996. The funds

must preserve and promote universal service to ensure access to affordable basic telephone service. The state universal service fund is intended to supplement the federal universal service fund and provide services to Lifeline customers and high-cost customers.

### Contributions and Distributions

The fund is to be nondiscriminatory and competitively and technologically neutral in collection and distribution. The fund must promote equitable cost recovery of basic telephone services through the imposition of just and reasonable rates for access and usage. The fund must provide mechanisms for specific, predictable, and sufficient funds. Contributions must be equitable and nondiscriminatory. The commission may require contributions through explicit charges. These charges may not be applied to wholesale services. The charges must be in the form of an end-user surcharge applied to intrastate retail rates. The commission determines which telecommunications company is qualified for funds.

### Administration

The commission is required to establish rules for administration of the fund. The commission also is required to suggest legislation that includes the regulations it creates to implement this bill.

## WASHINGTON

### The Basics

In 1998 Washington enacted Senate Bill No. 6622. The bill required that the commission report to the legislature on the details and recommendations for creating a state universal service fund by January 1, 1999. Under the bill, the commission is directed to establish a program for the advancement of universal telecommunications services that does not take effect until there is legislative action.

The bill defines basic telecommunications services (services subsidized by the fund) as:

1. Single-party service.
2. Voice grade access to the public switched network.
3. Support for local usage.
4. Dual-tone multifrequency signaling.
5. Access to emergency services.
6. Access to operating services.
7. Access to interexchange services.
8. Access to directory assistance.
9. Toll limitation services.

### Contributions and Distributions

The legislation provides for three general principles in creating a state universal service fund:

1. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the preservation and advancement of universal service in the state.
2. The contributions shall be competitively and technologically neutral.
3. The universal service program may not be inconsistent with the federal Telecommunications Act of 1996.

The commission was required to determine the assessments to be paid by telecommunications carriers and the manner of collections of these assessments. The commission was required to estimate the cost of supporting all lines and high-cost locations and the cost of supporting only one primary line for each residential or business customer in each location. The legislation defines a “high-cost location” as a location where the cost of providing telecommunications services is greater than a benchmark established by the commission by rule. In addition, the commission was required to designate eligible telecommunications carriers and adopt or prepare to adopt all necessary rules for the administration of the program and provide for a schedule of all fees and payments.

### Administration

Once the program is approved by the legislature, the commission may contract with an independent program to administer the fund subject to the direction and control of the commission. Telecommunications carriers are required to pay the expenses of an independent program out of their contributions and may be required to pay for the commission’s supervision and administration of the program. The commission is required to set standards for reviewing or testing of all telecommunications carriers compliance with the program, and the commission may conduct the review or contract with another person to conduct the review.

## NORTH DAKOTA

In 1997 the Legislative Assembly considered, but did not pass, House Bill No. 1067. A portion of House Bill No. 1067 would have created a state universal service fund. The bill was amended in the House and in the Senate. The universal service provisions were not amended in the Senate. The bill failed in the Senate. Attached as an appendix are Sections 25 through 29 of Engrossed House Bill No. 1067 which relate to a state universal service fund.

ATTACH:1

1 services to the regulatory reform review commission. The legislative members of the regulatory
2 reform review commission are entitled to the same compensation as provided for members of
3 committees of the legislative council under section 54-35-10. The legislative council shall pay
4 the compensation for the legislative members of the regulatory reform review commission. The
5 public service commission shall pay the expenses of the member of the public service
6 commission serving on the regulatory reform review commission and of the public service
7 commission staff providing technical assistance while carrying out their duties.

8 **SECTION 25.** Section 49-21-23 of the North Dakota Century Code is created and
9 enacted as follows:

10 **49-21-23. Universal service requirements.** A common carrier designated as an
11 eligible telecommunications carrier under section 49-21-25, throughout the service area for
12 which the designation is received, shall:

13 1. Offer the services that are supported by federal universal service support
14 mechanisms under section 254(c), either using its own facilities or a combination
15 of its own facilities and resale of another carrier's services, including the services
16 offered by another eligible telecommunications carrier.

17 2. Offer the services that are supported by intrastate universal service support
18 mechanisms under section 49-21-26, either using its own facilities or a
19 combination of its own facilities and resale of another carrier's services, including
20 the services offered by another eligible telecommunications carrier.

21 3. Advertise the availability of these services and the charges for these services
22 using media of general distribution.

23 **SECTION 26.** Section 49-21-24 of the North Dakota Century Code is created and
24 enacted as follows:

25 **49-21-24. Universal service support.** A common carrier designated as an eligible
26 telecommunications carrier under section 49-21-25 and that meets the universal service
27 requirements of section 49-21-23 is eligible to receive universal service support in accordance
28 with section 254 of the Act and to receive universal service support in accordance with section
29 49-21-26. An eligible telecommunications carrier designated under section 49-21-25 is eligible
30 to receive universal service support to be used only for the provision, maintenance, and
31 upgrading of facilities and services for which the support is provided under this section.

1 **SECTION 27.** Section 49-21-25 of the North Dakota Century Code is created and
2 enacted as follows:
3 **49-21-25. Designation of eligible telecommunications carrier.**
4 1. Upon its own motion or upon request, the commission shall designate a common
5 carrier that meets the requirements of section 49-21-23 as an eligible
6 telecommunications carrier for a service area designated by the commission.
7 Upon request and consistent with the public interest, convenience, and necessity,
8 the commission may, in the case of an area served by a rural telephone company,
9 and shall, in the case of all other areas, designate more than one common carrier
10 as an eligible telecommunications carrier for a service area designated by the
11 commission, if each additional requesting carrier meets the requirements of
12 section 49-21-23. Before designating an additional eligible telecommunications
13 carrier for an area served by a rural telephone company, the commission shall find
14 that the designation is in the public interest.
15 2. If no common carrier will provide the services that are supported by federal
16 universal service support mechanisms under section 254 of the Act to an unserved
17 community or any portion of a community that requests a federal universal service,
18 the commission, with respect to intrastate services, shall determine which common
19 carrier or carriers are best able to provide the service to the requesting unserved
20 community or portion of the community and shall order the carrier or carriers to
21 provide the service for that unserved community or for that portion of the
22 community. Any carrier or carriers ordered to provide service under this
23 subsection must meet the requirements of section 49-21-23 and must be
24 designated as an eligible telecommunications carrier for that community or for that
25 portion of the community.
26 3. The commission shall permit an eligible telecommunications carrier to relinquish its
27 designation as an eligible telecommunications carrier in any area served by more
28 than one eligible telecommunications carrier. An eligible telecommunications
29 carrier that seeks to relinquish its eligible telecommunications carrier designation
30 for an area served by more than one eligible telecommunications carrier shall give
31 advance notice to the commission of the relinquishment. Before permitting a

telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The commission shall establish a time, not to exceed one year after the commission approves the relinquishment under this subsection, within which the purchase or construction must be completed.

**SECTION 28.** Section 49-21-26 of the North Dakota Century Code is created and enacted as follows:

**49-21-26. Universal support system - Universal service fund.**

1. Upon application of any eligible telecommunications carrier or on its own motion, the commission shall adopt rules for implementation and operation of a universal service fund, if after notice and hearing, the commission determines that the fund is necessary. The commission shall base its determination on the following principles:
   a. Consumers in all regions of the state, including those in rural and high cost areas, should have access to telecommunications services that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.
   b. All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the universal service fund, based on a uniform monthly amount assessed on all providers of telecommunications services.
   c. Universal service support mechanisms should be specific and predictable.
2. Upon the creation of a state universal service fund, all telecommunications carriers shall remit universal service assessments to the state treasurer for deposit in the universal service fund. State universal service funds must be disbursed pursuant to an appropriation made by the legislative assembly to the commission for

1 disbursement to eligible telecommunications carriers to reduce those carriers'
2 costs of essential residential service in high cost areas and for all eligible
3 telecommunications carriers' provision of telecommunications service to schools,
4 libraries, and health care facilities.
5 **SECTION 29.** Section 49-21-27 of the North Dakota Century Code is created and
6 enacted as follows:
7 **49-21-27. Telecommunications services for certain providers.**
8 1. Upon receiving a bona fide request, a telecommunications carrier shall provide
9 telecommunications services that are necessary for the provision of health care
10 services in this state, including instruction relating to health care services, to any
11 public or nonprofit health care provider that serves persons who reside in rural
12 areas in this state at rates that are reasonably comparable to rates charged for
13 similar services in urban areas in this state. A telecommunications carrier
14 providing service under this subsection is entitled to have an amount equal to any
15 difference between the rate for services provided to health care providers for rural
16 areas in this state and the rate for similar services provided to other customers in
17 comparable rural areas in this state treated as a service obligation as a part of its
18 obligation to participate in the mechanisms to preserve and advance universal
19 service.
20 2. All telecommunications carriers serving a service area shall provide universal
21 educational services to an elementary school, secondary school, and library for
22 education purposes upon a bona fide request for any of its services that are within
23 the definition of universal service, at rates less than the amounts charged for
24 similar services to other parties. The discount must be an amount that the
25 commission, with respect to intrastate services, determines is appropriate and
26 necessary to ensure affordable access to and use of universal educational
27 intrastate services. A telecommunications carrier providing service under this
28 subsection is entitled to:
29 a. Have an amount equal to the amount of the discount treated as an offset to its
30 obligation to contribute to the mechanisms to preserve and advance universal
31 service; or

b. Receive reimbursement utilizing the support mechanisms to preserve and advance universal service.

**SECTION 30. AMENDMENT.** Section 54-44.8-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-44.8-08. Telephone access line and radio communications access surcharge.**

1. Before May first of each year, the division shall report all cost data and other information to the commission. Each local exchange company and radio communications service provider shall report all information requested by the division in order to determine the number of telephone access lines and radio communications access service numbers. Before June first of each year, the commission shall determine the amount of a surcharge, not to exceed eleven cents per telephone access line per month, based upon available cost data and other information provided by the division, necessary to cover the costs of providing intrastate telecommunications relay service as provided in section 401 of the federal Americans with Disabilities Act of 1990 [47 U.S.C. 225], including the cost of implementing and administering this chapter which includes the provision of specialized equipment to eligible persons, and taking into consideration any surplus in the telecommunications services account. The surcharge is imposed effective on its determination by the commission and must be billed and collected as provided in this chapter. ~~The surcharge is subject to section 49-21-01.3.~~ Funding for the interstate portion of the state telecommunications relay service must be provided in a manner consistent with rules and orders adopted by the federal communications commission in implementing the federal Americans with Disabilities Act. The division shall notify each local exchange company and radio communications service provider, in writing, of the amount of the monthly surcharge determined by the commission.
2. Each local exchange company and radio communications service provider shall include and identify the surcharge determined under subsection 1 in its monthly billing for service to a customer of the company or provider.
3. Each customer of a local exchange company or radio communications service provider is liable for payment to the local exchange company or radio