

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S4/6/05

A Bill

SENATE BILL 1085

5 By: Senator Horn
6
7

For An Act To Be Entitled

9 AN ACT CONCERNING PAYMENTS FROM THE ARKANSAS
10 UNIVERSAL SERVICE FUND; CONCERNING ELIGIBLE
11 TELECOMMUNICATIONS CARRIERS; AND FOR OTHER
12 PURPOSES.
13

Subtitle

15 AN ACT CONCERNING PAYMENTS FROM THE
16 ARKANSAS UNIVERSAL SERVICE FUND AND
17 CONCERNING ELIGIBLE TELECOMMUNICATIONS
18 CARRIERS.
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 23-17-404 is amended to read as follows:
24 23-17-404. Preservation and promotion of universal service.

25 (a)(1) The Arkansas Universal Service Fund (AUSF) is established by
26 this section in order to promote and assure the availability of universal
27 service at rates that are reasonable and affordable and to provide for
28 reasonably comparable services and rates between rural and urban areas.

29 (2) The AUSF will provide funding to eligible telecommunications
30 carriers that provide basic local exchange services over ~~facilities owned~~
31 their own facilities or a combination of their own facilities and resale of
32 another carrier's services by the eligible telecommunications carrier.

33 (3) The AUSF shall be designed to provide predictable,
34 sufficient, and sustainable funding to eligible telecommunications carriers
35 serving rural or high-cost areas of the state.

36 (b)(1) The AUSF is to provide a mechanism to restructure the present



1 system of telecommunication service rates in the state as provided herein,
2 and all telecommunications providers, except as prohibited by federal law,
3 shall be charged for the direct and indirect value inherent in the obtaining
4 and preserving of reasonable and comparable access to telecommunications
5 services in the rural or high-cost areas. The value and utility of access to
6 and interconnection with the public switched network will be lessened if the
7 rural or high-cost areas do not have comparable access and subscribership.

8 (2)(A) This AUSF charge for all telecommunications providers
9 shall be proportionate to each provider's Arkansas intrastate retail
10 telecommunications service revenues.

11 (B) Because customers of the telecommunications providers
12 that would pay the AUSF charge receive the benefits of a universal network,
13 the telecommunications providers may surcharge their customers to recover the
14 AUSF charges paid by the telecommunications provider. Therefore, the AUSF
15 charge is not a tax and is not affected by state laws governing taxation.

16 (C) For the purpose of assessing mobile telecommunications
17 services, the administrator shall continue to assess only Arkansas intrastate
18 retail telecommunications service revenues and only to the extent such
19 revenues may be considered located in the State of Arkansas in accordance
20 with the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252.

21 (c)(1)(A) The Arkansas Public Service Commission shall delegate to a
22 trustee, the "administrator", the administration, collection, and
23 distribution of the AUSF in accordance with the rules and procedures
24 established by the commission and consistent with this subchapter.

25 (B) The Arkansas Public Service Commission shall take
26 reasonable action to ensure that the administrator has the capability and
27 capacity to perform its function in a timely and effective manner. The
28 commission shall seek proposals from appropriate entities.

29 (2)(A) The administrator shall enforce and implement all rules
30 and directives governing the funding, collection, and eligibility for the
31 AUSF.

32 (B) Within sixty (60) days after receipt of a request for
33 AUSF funds, the administrator shall review and determine the accuracy and
34 appropriateness of the request and advise the entity requesting the funds of
35 his or her determination.

36 (C) The affected parties shall have thirty (30) days to

1 request reconsideration by the commission of the administrator's
2 determination, and the commission after notice and hearing, if requested,
3 shall issue its opinion on the reconsideration within thirty (30) days after
4 the request of reconsideration.

5 (D) Persons aggrieved by the commission's opinion shall
6 have the right to appeal the opinion in accordance with law.

7 (d)(1) The AUSF administrator periodically shall establish and notify
8 each telecommunications provider of the AUSF charge levels required to be
9 paid by the telecommunications provider.

10 (2) Any telecommunications provider that without just cause
11 fails to pay the AUSF charge that is due and payable pursuant to this section
12 after notice and opportunity for hearing shall have its authority to do
13 business as a telecommunications provider in the State of Arkansas revoked by
14 the commission.

15 (3) The AUSF charge shall not be subject to any state or local
16 tax or franchise fees.

17 (4) The commission is authorized to increase the AUSF charge by
18 those amounts necessary to recover the cost of administration of the AUSF.

19 (e) After reasonable notice and hearing, the commission shall
20 establish rules and procedures necessary to implement the AUSF. The
21 commission shall implement the AUSF and make AUSF funds available to eligible
22 telecommunications carriers no later than ninety (90) days following the
23 later of February 4, 1997, or the effective date of a Federal Communications
24 Commission order pursuant to 47 U.S.C. § 254 that approves, establishes, or
25 modifies interstate universal service funding. Prior to the implementation
26 and availability of funds from the AUSF, the commission shall not require any
27 local exchange carrier to reduce rates for intrastate switched-access
28 services or require any local exchange carrier to reduce its net revenue
29 received from the Arkansas IntraLATA Toll Pool (AITP). In establishing and
30 implementing the AUSF, the commission shall adhere to the following
31 instructions and guidelines:

32 (1)(A) AUSF funding shall be provided directly to eligible
33 telecommunications carriers.

34 (B) In order for an eligible telecommunications carrier to
35 receive funds from the AUSF, the eligible telecommunications carrier must
36 agree to be subject to the telecommunications provider rules promulgated by

1 the commission;

2 (2)(A) After reasonable notice and hearing, the commission may
3 revise the list of universal services identified in § 23-17-403 that may be
4 supported by the AUSF to establish and maintain end-user rates for universal
5 services that are reasonably comparable between urban and rural areas or to
6 reflect changes in the type and quality of telecommunications services
7 considered essential by the public, as evidenced, for example, by those
8 telecommunication services that are purchased and used by a majority of
9 single-line urban customers. At the hearing, the commission shall consider
10 the cost to customers in mandating changes to the list and balance the
11 justification for including the service on the list versus its impact on AUSF
12 assessments.

13 (B) The commission shall determine and approve AUSF
14 funding to eligible telecommunications carriers to recover the cost of
15 additions or revisions to the universal service list concurrent with any such
16 revisions to the list of universal services identified in § 23-17-403;

17 (3) If the commission establishes or utilizes a minimum or
18 threshold universal service rate, threshold rate, for the purpose of
19 determining the amount of AUSF that an eligible telecommunications carrier
20 may receive, the commission shall adhere to the following requirements:

21 (A) A rate case proceeding or earnings investigation or
22 analysis shall not be required or conducted in connection with the
23 determination or implementation of increases in universal service rates
24 associated with commission use of a threshold rate, and the increases shall
25 not be included in the calculation of the basic local exchange service rate
26 increase limits specified in §§ 23-17-407 and 23-17-412; and

27 (B) The commission may not require a reduction in
28 universal service rates to a threshold rate unless any associated decrease in
29 revenues is allowed to be concurrently recovered from the AUSF;

30 (4)(A)(i) In the event of a Federal Communications Commission
31 order, rule, or policy pursuant to 47 U.S.C. § 254(a)(2), the effect of which
32 is to change the federal Universal Service Fund revenues of an incumbent
33 local exchange carrier, the commission shall either increase the rates for
34 basic local exchange service or increase the incumbent local exchange
35 carrier's recovery from the AUSF or a combination thereof to replace the
36 reasonably projected change in revenues.

1 (ii) In determining whether to increase basic local
2 exchange service rates or increase the AUSF for a tier one company pursuant
3 to this section, the commission shall take into account that company's rates
4 and consider whether the rates are below the statewide average.

5 (B)(i)(a) Through December 31, 2003, any rural telephone
6 company, excluding tier one companies, that, as a result of changes caused by
7 new or existing federal or state regulatory or statutory directives,
8 experiences a change in intrastate or interstate switched-access services
9 revenues or in net revenue received from the intrastate Carrier Common Line
10 Pool, interstate access charge pools, or the Arkansas IntraLATA Toll Pool
11 shall be allowed to recover the reductions from the AUSF or through
12 modifications in rates applicable to basic local exchange service. The
13 recovered amounts shall be limited to the net reduction in revenues from all
14 sources of support listed in subdivision (e)(4)(A) of this section and this
15 subdivision (e)(4)(B).

16 (b) Beginning January 1, 2004, any rural
17 telephone company, excluding tier one companies, that, as a result of changes
18 caused by new or existing federal or state regulatory or statutory
19 directives, experiences a change in intrastate or interstate switched-access
20 services revenues or in net revenue received from the intrastate Carrier
21 Common Line Pool prior to January 1, 2004, interstate access charge pools, or
22 the Arkansas IntraLATA Toll Pool shall be allowed to recover the reductions
23 from the AUSF or through modifications in rates applicable to basic local
24 exchange service. The recovered amounts shall be limited to the net reduction
25 in revenues from all sources of support listed in subdivision (e)(4)(A) of
26 this section and this subdivision (e)(4)(B).

27 (ii)(a) This subdivision (e)(4)(B)(ii) shall become
28 effective on January 1, 2004.

29 (b) No ILEC shall receive reimbursement from
30 the AUSF for losses resulting from exiting the AICCLP or for a reduction of
31 its carrier common line net revenue requirement unless:

32 (1) The ILEC is eligible to be in the AICCLP on January 1, 2004;
33 and

34 (2)(A) The AICCLP no longer provides a mechanism by which ILECs
35 may recover their carrier common line net revenue requirements.

36 (B)(i) If any provision of the AICCLP is declared invalid

1 for any reason or preempted by any court or any administrative agency and the
2 Arkansas Public Service Commission determines that the provision is material,
3 then each AICCLP member shall individually compute and charge a per-access
4 minute carrier common line rate to fund its carrier common line net revenue
5 requirement.

6 (ii) The AICCLP members shall charge the rate
7 under subdivision (e)(4)(B)(ii)(b)(2)(B)(i) of this section to underlying
8 carriers.

9
10 (iii) The ILECs shall charge a reciprocal rate
11 to other ILECs.

12
13 (iv) The commission may review the accuracy of
14 the reciprocal rates and the per-access minute carrier common line rate
15 charged under subdivision (e)(4)(B)(ii)(b)(2)(B) of this section.

16 (c) If the AICCLP fails to provide an ILEC's
17 carrier common line net revenue requirement, the commission shall provide for
18 concurrent recovery of the revenue loss from the AUSF, basic local exchange
19 rates, or a combination thereof.

20 (C) In connection with the receipt of AUSF funds for these
21 changes referred to in subdivisions (e)(4)(A) or (B) of this section, it
22 shall not be conditioned upon any rate case or earnings investigation by the
23 commission. The AUSF administrator shall verify the calculations and accuracy
24 of the net revenue reductions, based on a comparison between:

25 (i) The total annual revenues received from these
26 sources by the eligible telecommunications carrier during the most recent
27 twelve (12) months preceding the required regulatory or statutory changes;
28 and

29 (ii) The reasonable projection of total test-year
30 annual revenue after the changes are implemented.

31 (D)(i)(a) Through December 31, 2003, except as provided in
32 this subdivision (e)(4)(D), the intrastate Carrier Common Line Pool charges
33 billed to carriers by the Arkansas Intrastate Carrier Common Line Pool
34 (AICCLP) shall be determined as provided in the AICCLP tariff effective on
35 December 31, 2000. Following April 20, 2001, carriers must continue to report
36 RBMOUs associated with the traffic that they reported as of December 2000

1 except that incumbent local exchange carriers may discontinue reporting
2 RBMOUs associated with their intracompany flat-rated optional plans that
3 exist as of June 1, 2001. The AICCLP charges shall be adjusted to eliminate
4 any credits to the AICCLP or to interexchange carriers that have been
5 previously required.

6 (b) Beginning January 1, 2004, except as
7 provided in this subdivision (e)(4)(D), the intrastate Carrier Common Line
8 charges billed to ILECs and underlying carriers shall be determined at the
9 rate of one and sixty-five hundredths cents (1.65¢) per intrastate access
10 minute, exclusive of the amounts specified in subdivisions (e)(4)(D)(ii),
11 (iii), and (iv) of this section. However, ILECs that are not AICCLP members
12 may charge at a rate that is less than one and sixty-five hundredths cents
13 (1.65¢) and may recover the difference between the actual rate charged and
14 one and sixty-five hundredths cents (1.65¢) as allowed under § 23-17-
15 416(b)(3). Following April 20, 2001, carriers must continue to report RBMOUs
16 associated with the traffic that they reported as of December 2000 and shall
17 continue to report through December 31, 2003, except that incumbent local
18 exchange carriers may discontinue reporting RBMOUs associated with their
19 intracompany flat-rated optional plans that exist as of June 1, 2001. The
20 AICCLP charges shall be adjusted to eliminate any credits to the AICCLP or to
21 interexchange carriers that have been previously required.

22 (ii)(a) There is created an allocation of AICCLP
23 funds to be known as the "Extension of Telecommunications Facilities Fund".

24 (b) A maximum of five hundred thousand dollars
25 (\$500,000) per year of AICCLP funds shall be allocated to fund the Extension
26 of Telecommunications Facilities Fund to assist in the extension of
27 telecommunications facilities to citizens not served by the wire line
28 facilities of an eligible telecommunications carrier.

29 There is also created an AICCLP allocation to be known as the "Arkansas
30 Calling Plan Fund".

31 (2) Through December 31, 2003, the Extension of
32 Telecommunications Facilities Fund and the Arkansas Calling Plan Fund will be
33 funded by the AICCLP by assessing one-half (1/2) of the fund to be paid by
34 ILECs and one-half (1/2) of the fund to be paid by all other
35 telecommunications providers reporting intrastate retail billed minutes of
36 use to the AICCLP.

1 *Universal Service Fund (AUSF).*

2 *The assessments shall commence upon the first day of the month*
3 *following April 20, 2001.*

4 *(2) The first four million dollars (\$4,000,000) shall be*
5 *allocated monthly as collected to assure that the AUSF has adequate funds to*
6 *compensate any retroactive claims that may be made against the AUSF due to*
7 *the change in the test period resulting from the decision in AT&T*
8 *Communications of the S.W., Inc. v. Arkansas Pub. Serv. Comm'n, 344 Ark. 188,*
9 *40 S.W.3d 273 (2001).*

10 *(3) Following the allocation to the AUSF, assessments shall be*
11 *made with respect to the Extension of Telecommunications Facilities Fund and*
12 *the Arkansas Calling Plan Fund only to the extent necessary, but not more*
13 *than the maximum specified in this section, to fund any extensions of*
14 *facilities or calling plans approved by the Arkansas Public Service*
15 *Commission in accordance with applicable law and this section.*

16 *(v)(a) AICCLP charges determined and billed through*
17 *December 2000 shall be considered final and not subject to further true up or*
18 *adjustment.*

19 *(b) In addition, if an eligible*
20 *telecommunications carrier was financially harmed by a court-ordered change*
21 *in the test period applicable for the AUSF funding and an alternate test*
22 *period was used by the eligible telecommunications carrier for more than one*
23 *(1) year, then the test period for the harmed eligible telecommunications*
24 *carrier shall remain the test period originally set by the commission.*

25 *Unless an audit is requested prior to February 28, 2004, by a two-*
26 *thirds (2/3) vote of the participating carriers of the AICCLP as it is*
27 *constituted prior to January 1, 2004, charges determined and billed through*
28 *December 2003 shall be considered final and not subject to audit.*

29 *(2) The administrator of the AICCLP as it existed prior to*
30 *January 1, 2004, may supervise any audit that is requested and may further*
31 *take any action deemed reasonable or necessary to finalize the winding-up*
32 *process of the AICCLP as it existed prior to January 1, 2004;*

33 *(5) All eligible telecommunications carriers may request high-*
34 *cost funding from the AUSF as necessary in the future to maintain rates for*
35 *universal services that are reasonable, affordable, and comparable between*
36 *urban and rural areas. Except as otherwise provided in this subchapter, the*

1 funding shall be based on all net investment, including embedded investment,
2 and expenses incurred by the eligible telecommunications carriers in the
3 provision of universal service. High-cost funding shall be provided to
4 eligible telecommunications carriers as needed for the following:

5 (A) Investments and expenses required to provide,
6 maintain, and support universal services;

7 (B) Infrastructure expenditures in response to facility or
8 service requirements established by any legislative, regulatory, judicial
9 authority, or governmental entity; and

10 (C) For other purposes deemed necessary by the commission
11 to preserve and advance the public education and welfare;

12 (6) In identifying and measuring the costs of providing
13 universal services, exclusively for the purpose of determining high-cost
14 funding levels under this subdivision (e)(6), eligible telecommunications
15 carriers shall have the following options:

16 (A) The eligible telecommunications carrier may utilize
17 traditional rate case methods and procedures to identify universal service
18 revenue requirements and a residual AUSF funding requirement;

19 (B) The eligible telecommunications carrier may identify
20 high-cost areas within its local exchange area, the area being no smaller
21 than a single exchange or wire center, and perform a fully distributed
22 allocation of cost and identification of associated revenue in order to
23 quantify funding needs for the areas; or

24 (C) The commission shall adopt reasonable cost proxies
25 that may be used by an eligible telecommunications carrier for this purpose;

26 (7) In calculating revenue requirements only for the purpose of
27 establishing high-cost funding needs from the AUSF, the commission shall not
28 fix depreciation rates. However, the commission may make reasonable
29 adjustments to depreciation expense if an eligible telecommunications
30 carrier's composite depreciation annual accrual rate is greater than the
31 weighted average of composite rates for similar plant and equipment of all
32 other telecommunications providers providing comparable services in the
33 state. In that case, the commission may adjust depreciation expenses of the
34 eligible telecommunications carrier to levels that would not exceed fifteen
35 percent (15%) above a composite accrual rate comparable to the statewide
36 weighted average; ~~and~~

1 (8)(A)(i) The commission shall establish by regulation a grant
2 program to make grants available to eligible telecommunications carriers for
3 the extension of facilities to citizens who are not served by wire line
4 services of an eligible telecommunications carrier. Grants may be requested
5 by an eligible telecommunications carrier or citizens who are not served or
6 both.

7 (ii) The commission shall delegate to a trustee the
8 administration, collection, and distribution of the Extension of
9 Telecommunications Facilities Fund in accordance with the rules and
10 procedures established by the commission. The trustee shall enforce and
11 implement all rules and directives governing the funding, collection, and
12 eligibility for the Extension of Telecommunications Facilities Fund.

13 (B)(i) In establishing regulations for the grant program,
14 the commission shall consider demonstrated need, the length of time the
15 citizens have not been served, the households affected, the best use of the
16 funds, and the overall need for extensions throughout the state.

17 (ii) The commission may require each potential
18 customer to be served by the extension of facilities to pay up to two hundred
19 fifty dollars (\$250) of the cost of extending facilities.

20 (C) The plan shall be funded by customer contributions and
21 by the Extension of Telecommunications Facilities Fund established by
22 subdivision (e)(4)(D) of this section.

23 (D)(i) The commission shall provide quarterly reports to
24 the Legislative Council. The reports shall include, but shall not be limited
25 to, the number of requests for grants, the number of grants awarded, the
26 amount awarded, and the number of additional customers served.

27 (ii) The commission shall notify members of the
28 General Assembly of grants made in their districts.

29 (E) In order to allow time for potential applicants to
30 request grants, no grants shall be awarded for three (3) months after the
31 effective date of the rules establishing the program; and

32 (9)(A) Through a surcharge on its customer bills over its total
33 customer access base, an eligible ILEC may recover any reduction in its AUSF
34 payments up to the amount authorized by the AUSF administrator as of July 1,
35 2005.

36 (B) The surcharge is not a tax.

1 (C)(i) For an electing company under § 23-17-401, the
2 surcharge shall be in addition to any rate increase authorized under § 23-17-
3 401.

4 (ii) For a non-electing ILEC, no general rate
5 application or earnings review shall be required to implement the surcharge.

6 (f) On or within thirty (30) days following the fifth anniversary of
7 February 4, 1997, the commission and the AUSF administrator shall complete
8 and deliver a report on the status and performance of the AUSF to the
9 Legislative Council.

10 (g) The current Universal Telephone Service Fund established pursuant
11 to § 23-17-301 et seq. will continue to exist until the AUSF is funded and
12 operational. At that time any funds remaining in the current fund will be
13 transferred to the AUSF, and the current fund will no longer be operational.

14 (h) The commission shall adopt portability rules as necessary to allow
15 competitive eligible telecommunications carriers to have access to the AUSF
16 funds of eligible telecommunications carriers receiving funds from the AUSF.
17 The commission shall consider cost issues and quality of service issues in
18 the rule making process.

19
20 SECTION 2. Arkansas Code § 23-17-405 is amended to read as follows:

21 23-17-405. Eligible telecommunications carrier.

22 (a) The incumbent local exchange carrier, its successors and assigns,
23 which owns, maintains, and provides facilities for universal service within a
24 local exchange area on February 4, 1997, shall be the eligible
25 telecommunications carrier within the local exchange area.

26 (b) Where the incumbent local exchange carrier receives AUSF support,
27 ~~except in areas served by rural telephone companies,~~ the Arkansas Public
28 Service Commission, consistent with 47 U.S.C. § 214(e)(2), after reasonable
29 notice and hearing, may designate other telecommunications providers to be
30 eligible for high-cost support pursuant to § 23-17-404 under the following
31 conditions:

32 (1)(A) The other telecommunications provider accepts the
33 responsibility to provide service to all customers in an incumbent local
34 exchange carrier's local exchange area using its own facilities or a
35 combination of its own facilities and resale of another carrier's services.

36 (B) High-cost support under this section will not begin

1 until the telecommunications provider has facilities in place and offers to
2 serve all customers in its service area;

3 (2) The telecommunications provider may only receive funding for
4 the portion of its facilities that it owns and maintains;

5 (3) The telecommunications provider will not receive AUSF
6 funding at a level higher than the level of funding received by the incumbent
7 local exchange carrier in the same area;

8 (4) The telecommunications provider advertises the availability
9 and the charges for the services, using media of general distribution; ~~and~~

10 (5) The telecommunications provider shall:

11 (A) Provide a five-year plan demonstrating how high-cost
12 universal service support will be used to improve its coverage, service
13 quality, or capacity throughout the service area for which it seeks
14 designation;

15 (B) Demonstrate its ability to remain functional in
16 emergency situations;

17 (C) Demonstrate that it will satisfy consumer protection
18 and service quality standards;

19 (D) Offer local usage plans comparable to those offered by
20 the incumbent local exchange carrier in the area for which it seeks
21 designation; and

22 (E) Acknowledge that it may be required to provide equal
23 access if all other eligible telecommunications carriers in the designated
24 service area relinquish their designations; and

25 ~~It is determined by the~~ The commission determines that the
26 designation is in the public interest after:

27 (A) Reviewing the benefits of increased consumer choice
28 and the unique advantages and disadvantages of the competitor's service
29 offering;

30 (B) Examining the potential for cream-skimming effects in
31 instances where the application seeks designation below the study area level
32 of a rural incumbent local exchange carrier;

33 (C) Offering local usage plans comparable to those offered
34 by the incumbent local exchange carrier in the area for which it seeks
35 designation; and

36 (D) Acknowledging that it may be required to provide equal

1 access if all other eligible telecommunications carriers in the designated
 2 service area relinquish their designations.

3 (c) In exchanges or wire centers where the commission has designated
 4 more than one (1) eligible telecommunications carrier, the commission shall
 5 permit a local exchange carrier to relinquish its designation as an eligible
 6 telecommunications carrier, consistent with 47 U.S.C. § 214(e)(4), upon a
 7 finding that at least one (1) eligible telecommunications carrier will
 8 continue to serve the area.

9 ~~(d)(1) For the entire area served by a rural telephone company,~~
 10 ~~excluding tier one companies, for the purpose of the AUSF and the federal~~
 11 ~~Universal Service Fund, there shall be only one (1) eligible~~
 12 ~~telecommunications carrier which shall be the incumbent local exchange~~
 13 ~~carrier that is a rural telephone company.~~

14 ~~(2) The rural telephone company may elect to waive its right to~~
 15 ~~be the only eligible telecommunications carrier within the local exchange~~
 16 ~~area by filing notice with the commission.~~

17 ~~(3) If there is more than one eligible telecommunications~~
 18 ~~carrier, an eligible telecommunications carrier may petition the commission~~
 19 ~~and be granted relief from designation as an eligible telecommunications~~
 20 ~~carrier.~~

21 (e) An eligible telecommunications carrier may use commercial mobile
 22 services to provide universal services.

23
 24 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
 25 General Assembly of the State of Arkansas that there is an immediate need for
 26 the amendment of the Telecommunications Regulatory Reform Act of 1997 to
 27 ensure compliance with federal law and regulations and to continue to
 28 encourage investment in rural telecommunications; that any delay in the
 29 effective date of this act could create an undue burden upon Arkansas
 30 citizens and could work irreparable harm upon the efficient provision of
 31 telecommunications services in the State of Arkansas. Therefore, an
 32 emergency is declared to exist and this act being immediately necessary for
 33 the preservation of the public peace, health, and safety shall become
 34 effective on:

35 (1) The date of its approval by the Governor;

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

3 (3) If the bill is vetoed by the Governor and the veto is
4 overridden, the date the last house overrides the veto.

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/s/ Horn