

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

*As Engrossed: H2/24/11*

# A Bill

HOUSE BILL 1525

5 By: Representative Pierce  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE TELECOMMUNICATIONS REGULATORY  
9 REFORM ACT OF 1997; AND FOR OTHER PURPOSES.  
10

### Subtitle

11 TO PRESERVE THE ARKANSAS HIGH COST FUND  
12 AND PROMOTE THE EXPANSION OF BROADBAND  
13 SERVICES IN RURAL AND HIGH-COST AREAS OF  
14 ARKANSAS.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 23-17-402 is amended to read as follows:  
22 23-17-402. Legislative findings.

23 It is the intent of the General Assembly in enacting this subchapter  
24 to:

25 (1) Provide for a system of regulation of telecommunications  
26 services, consistent with the federal act, that assists in implementing the  
27 national policy of opening the telecommunications market to competition on  
28 fair and equal terms, modifies outdated regulation, eliminates unnecessary  
29 regulation, and preserves and advances universal service;

30 (2) Recognize that a telecommunications provider that serves  
31 high-cost rural areas or exchanges faces unique circumstances that require  
32 special consideration and funding to assist in preserving and promoting  
33 universal service; ~~and~~

34 (3) Recognize that the widespread and timely deployment of  
35 broadband infrastructure is vital to the economic, educational, health, and  
36 social interests of Arkansas and its citizens;



1           (4) Recognize that the Arkansas High Cost Fund has enabled  
2 eligible telecommunications carriers to accelerate and promote the  
3 incremental extension and expansion of broadband services and other advanced  
4 services in rural or high-cost areas of the state beyond what would normally  
5 occur, and broadband services are now available in dozens of new communities  
6 to thousands of Arkansans who otherwise would not have access to broadband  
7 services and its benefits; and

8           ~~(3)~~(5)(A) Recognize differences between the small and large  
9 incumbent local exchange carriers, that there are customer-owned telephone  
10 cooperatives and small locally owned investor companies, and that it is  
11 appropriate to provide incentives and regulatory flexibility to allow  
12 incumbent local exchange carriers that serve the rural areas to provide  
13 existing services and to introduce new technology and new services in a  
14 prompt, efficient, and economical manner.

15           (B) The General Assembly finds that the ~~commission~~  
16 Arkansas Public Service Commission, when promulgating rules and regulations,  
17 should take into consideration the differences in operating conditions in the  
18 large and small incumbent local exchange carriers and the burdens placed on  
19 small carriers because of regulation.

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21           SECTION 2. Arkansas Code § 23-17-404(e)(4)(C)(ii)(c), concerning the  
22 preservation and promotion of universal service, is amended to read as  
23 follows:

24                           (c)(1) For ETCs with AHCF support based on  
25 loops, the AHCF administrator shall determine each ETC's local loop support  
26 by multiplying the number of loops of the ETC as of December 31 of the  
27 preceding year that are eligible for federal universal service support by the  
28 ETC's loop support element, if applicable, and the AHCF administrator shall  
29 determine the ETC's local switching support by multiplying the number of  
30 loops of the ETC as of December 31 of the preceding year that are eligible  
31 for federal universal service support by the ETC's local switching support  
32 element. The AHCF administrator shall determine the uncapped AHCF support for  
33 each ETC by adding the sum of the ETC's total loop support, if any, and the  
34 ETC's total local switching support, if any.

35                           (2) For ETCs with AHCF  
36 support based on customers, the AHCF administrator shall determine the ETC's

1 customer support element by multiplying the number of customers of the ETC as  
2 of December 31 of the preceding year who are eligible for federal universal  
3 service support by the ETC's customer support element, if applicable, and the  
4 AHCF administrator shall determine the ETC's local switching support by  
5 multiplying the number of customers of the ETC as of December 31 of the  
6 preceding year who are eligible for federal universal service support by the  
7 ETC's local switching support element. The AHCF administrator shall determine  
8 the uncapped AHCF support for the ETC by adding the sum of the ETC's total  
9 loop support, if any, and the ETC's total local switching support, if any.

10 (3)(A) If state or federal  
11 regulatory or legislative actions eliminate the publicly available elements  
12 used to calculate loop support under subdivision (e)(4)(C)(ii)(a)(1) of this  
13 section or local switching support under subdivision (e)(4)(C)(ii)(b)(1) of  
14 this section for an ETC with a total customer access base or total customer  
15 base of fewer than fifteen thousand (15,000) lines or customers, the ACHF  
16 administrator shall promptly notify the commission.

17 (B) Once notified, the  
18 commission shall open a rule-making docket to replace the eliminated elements  
19 used to calculate loop support under subdivision (e)(4)(C)(ii)(a)(1) of this  
20 section or local switching support under subdivision (e)(4)(C)(ii)(b)(1) of  
21 this section.

22 (C) Until alternate  
23 elements are adopted by the commission, the AHCF administrator shall use the  
24 previous determinations as used during the year immediately preceding the  
25 year the elements were eliminated to calculate loop support under subdivision  
26 (e)(4)(C)(ii)(a)(1) of this section or local switching support under  
27 subdivision (e)(4)(C)(ii)(b)(1) of this section.

28 (D) Upon commission  
29 adoption of the replacement elements, the commission shall order the AHCF  
30 administrator to incorporate those replacement elements into the previously  
31 existing method used by the AHCF administrator to calculate loop support  
32 under subdivision (e)(4)(C)(ii)(a)(1) of this section or local switching  
33 support under subdivision (e)(4)(C)(ii)(b)(1) of this section. The  
34 calculations shall be:

35 (i) Based on the  
36 fully allocated cost of the affected ETCs; and

1 (ii) Effective  
2 as of the next annual determination process date, as established by the  
3 commission.  
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5 SECTION 3. The introductory language of Arkansas Code § 23-17-  
6 404(e)(4)(C)(iii)(a), concerning the preservation and promotion of universal  
7 service, is amended to read as follows:

8 (iii)(a) For ETCs with five hundred thousand  
9 (500,000) lines or more on or after December 31, 2010, support ~~will~~ shall be  
10 determined using the following procedure:  
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12 SECTION 4. Arkansas Code § 23-17-404(e)(4)(E)(ii), concerning the  
13 preservation and promotion of universal service, is amended to read as  
14 follows:

15 (ii)(a) The funds available for distribution to ETCs  
16 from the AHCF shall not exceed and are capped at twenty-two million dollars  
17 (\$22,000,000) per year, the total capped fund. Cost of administrating the  
18 AHCF shall first be deducted from the total capped fund prior to allocation  
19 of funding to the ETCs. Transition funds used from the surplus during the  
20 five-year transition period are supplemental and are not subject to any cap.  
21 The annual period to be used by the AHCF administrator to adjust support  
22 levels and upon which to apply any cap shall be on the calendar year. In  
23 addition to the total fund cap, the funds available from the AHCF shall also  
24 be capped based upon size groups using access lines for loop-based ETCs and  
25 customers for customer-based ETCs. Size grouping is used to ensure funds are  
26 targeted to areas most needing high-cost assistance. For the purpose of  
27 calculating the size grouping caps, total customer access base shall be used  
28 for loop-based ETCs and total customers for customer-based ETCs.

29 (b) For all ETCs with a total customer access  
30 base or total customer base of five hundred thousand (500,000) or more access  
31 lines or customers on or after December 31, 2010, the size group cap shall be  
32 thirteen and one-half percent (13.5%) of the total capped fund.

33 (c) For all ETCs with a total customer access  
34 base or total customer base of one hundred fifty thousand (150,000) or more  
35 access lines or customers and fewer than five hundred thousand (500,000)  
36 access lines or customers on December 31, 2010, the size group cap shall be

1 thirteen and one-half percent (13.5%) of the total capped fund.

2 (d) For all ETCs with a total customer access  
3 base or total customer base of fifteen thousand (15,000) or more access lines  
4 or customers and fewer than one hundred fifty thousand (150,000) access lines  
5 or customers on December 31, 2010, the size group cap shall be two percent  
6 (2%) of the total capped fund.

7 (e) For all ETCs with a total customer access  
8 base or total customer base of fewer than fifteen thousand (15,000) access  
9 lines or customers, the size group cap shall be seventy-one percent (71%) of  
10 the total capped fund.

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12 /s/Pierce  
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