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SENATE BILL NO. 531

INTRODUCED BY D. SALOMON, E. BUTTREY, M. HOPKINS, S. FITZPATRICK, J. ELLSWORTH, K. BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE COMMUNICATIONS ADVISORY COMMISSION; REVISING THE CHALLENGE PROCESS; PROVIDING RULEMAKING AUTHORITY; ~~PROVIDING FOR AN APPLICATION FEE;~~ PROVIDING FOR AN APPLICATION FEE; PROVIDING DEFINITIONS; AMENDING SECTIONS 90-1-602, 90-1-603, 90-1-604, 90-1-605, 90-1-606, 90-1-607, 90-1-608, AND 90-1-609, MCA; AMENDING SECTION 13, CHAPTER 449, LAWS OF 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 90-1-602, MCA, is amended to read:

"90-1-602. (Temporary) Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) (a) "Broadband" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints. The term includes capabilities that are incidental to and enable the operation of the communications service.

(b) The term does not include dial-up internet access service.

~~(1)(2) "Broadband service" means any commercially mature, universally available, terrestrially deployed technology having the capacity to transmit data from or to the internet at minimum speeds downstream and upstream at low latency to accommodate adequate and commonly used internet-based applications for residential, commercial, or government use. "Broadband equity, access, and deployment program" means the program established by the Infrastructure Investment and Jobs Act, Public Law 117-58, and implemented by the national telecommunications and information administration.~~

~~(2)(3) "Broadband service infrastructure" means the signal transmission facilities and associated~~

Amendment - 2nd Reading/2nd House-tan - Requested by: Katie Sullivan - (H) Committee of the Whole

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1 serviceable locations served by the project are unserved locations. An unserved service project may be as
2 small as a single unserved location. (Terminates on occurrence of contingency--sec. 13, Ch. 449, L. 2021.)"

3

4 **Section 2.** Section 90-1-603, MCA, is amended to read:

5 **"90-1-603. (Temporary) Establishment of program -- administration and funding.** (1) There is a
6 communications advisory commission that consists of nine members who must be appointed as follows:

7 (a) ~~six~~three legislators appointed by the president of the senate to include two members of the
8 majority party and one member of the minority party;

9 (b) three legislators appointed by the speaker of the house to include two members of the majority
10 party and one member of the minority party;

11 ~~(b)~~(c) the governor's director of the office of budget and program planning;

12 ~~(e)~~(d) the governor's chief economic development officer; and

13 ~~(d)~~(e) the governor's director of administration.

14 (2) The commission may provide parameters governing the submission and funding of broadband
15 deployment grants as allowed by state and federal law or regulation.

16 ~~(1)~~(3) The department shall establish the broadband infrastructure deployment program and shall
17 administer and act as the fiscal agent for the program and is responsible for receiving and reviewing responsive
18 proposals and awarding contracts after review by the communications advisory commission provided for in
19 Chapter 401, Laws of 2021, and the governor's approval. A request for proposal may be cancelled or any
20 proposal may be rejected in whole or in part when it is in the best interests of the state under the direction of the
21 governor's chief economic development officer and with advice from the commission.

22 (4) The department shall develop parameters in accordance with state and federal law and federal
23 guidance for the deployment of broadband funds with advice from the governor's chief economic development
24 officer and the commission. The department shall make all materials available for public comment at least 14
25 days in advance of consideration by the commission.

26 (5) The governor's chief economic development officer, with advice from the commission, shall
27 review materials as required by the national telecommunications and information administration prior to

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1 submission for approval, deployment plans, and grant award recommendations made by the department.

2 (6) The commission may cancel or reject an eligible proposal in whole or in part when it is in the
3 best interests of the state.

4 (7) The commission shall submit to the governor grant award recommendations for final approval.

5 (8) Appointed members of the commission must be compensated and receive travel expenses as
6 provided in 2-15-124 for each day in attendance at commission meetings or in the performance of any duty or
7 service as a commission member.

8 (9) The department of administration shall staff the commission.

9 (10) Funding for the commission is allocated from the administrative costs allowed in subsection
10 (11).

11 ~~(2)(11)~~ Funding for the program established under this section is subject to appropriations from
12 general fund revenue, from bonds issued by the department, or federal broadband stimulus funds or other
13 federal funds appropriated by congress and allocated to the department for funding of broadband
14 communications projects. The department may retain up to 2% of federal funding to support program
15 administration as provided for by the national telecommunications and information administration. The
16 department shall report administrative expenditures to the commission on a quarterly basis. (Terminates on
17 occurrence of contingency--sec. 13, Ch. 449, L. 2021.)"

18

19 **Section 3.** Section 90-1-604, MCA, is amended to read:

20 **"90-1-604. (Temporary) Eligible projects.** (1) An eligible provider proposal may be awarded funding
21 under this section, consistent with the national telecommunications and information administration, for a project
22 in a project area that, as of the date the proposal is filed, constitutes an unserved or underserved area. Funds
23 ~~may not be used to support noncapital expenses, including general operations of an eligible provider,~~
24 ~~nonbroadband services, marketing, or advertising.~~ must be used in accordance with the requirements set forth
25 in the Infrastructure Investment and Jobs Act, Public Law 117-58, and as established by the national
26 telecommunications and information administration.

27 (2) The project area, including middle-mile or last-mile proposals, to be served by a project funded

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1 solely for the purposes of this part. Interest earned on funds in the account must be deposited in the account.

2 (c) The governor may accept and shall deposit to the account any penalties allocated to the
3 department of ~~commerce~~ administration for funding of broadband communications projects.

4 (d) Notwithstanding any other provision of law, funds allocated under this section may not be
5 transferred or expended for any purpose other than to provide funding for projects authorized pursuant to this
6 part. (Terminates on occurrence of contingency--sec. 13, Ch. 449, L. 2021.)"

7
8 ~~NEW SECTION. Section 9. — Application fees.~~ An eligible provider submitting an application shall
9 include a completed form that must be accompanied by a nonrefundable \$100 application fee and all other
10 required documents and information. The form must be approved by the governor's chief economic
11 development and by the commission.

12
13 NEW SECTION. Section 9. Application fees. An eligible provider submitting an application shall
14 include a completed form that must be accompanied by a nonrefundable \$100 application fee and all other
15 required documents and information. The form must be approved by the governor's chief economic
16 development and by the commission.

17
18 **Section 10.** Section 13, Chapter 449, Laws of 2021, is amended to read:

19 **"Section 13. Contingent termination.** [Sections 1 through 9] terminate when the budget director
20 certifies to the code commissioner that all funds received from the American Rescue Plan Act of 2021, Public
21 Law 117-2, the Infrastructure Investment and Jobs Act of 2021, Public Law 117-58, or subsequent funding
22 pursuant to [section 3(2)] allocated to the department of ~~commerce~~ administration for communications until
23 funds have been expended."

24
25 NEW SECTION. Section 11. Saving clause. [This act] does not affect rights and duties that
26 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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