

Legislative Analysis



INTRASTATE ACCESS RATES

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House Bill 4257 (Substitute H-3)

Sponsor: Rep. Tim Melton

Committee: Energy & Technology

Complete to 8-31-09

A REVISED SUMMARY OF HOUSE BILL 4257 (SUBSTITUTE H-3):

Federal and state law both contain highly complex systems of payments between telecommunications companies designed, among other things, to compensate telecommunication companies when other companies use their networks. After the breakup of AT&T, federal access charges were established to compensate local exchange carriers (LECs) for the use of what has been described as the "vital, expensive and relatively unprofitable local access network." The Federal Communications Commission (FCC) governs *interstate* access charges and Michigan law governs *intrastate* access charges. Generally speaking, intrastate access charges are paid by long distance providers to local exchange providers for calls carried by the long distance providers that begin and end in different local calling areas within Michigan.

Currently, Michigan law allows local exchange providers to set their own intrastate access charges. Companies with more than 250,000 customers generally adopt intrastate access rates no higher than federal interstate levels because such rates are presumed just and reasonable. Local exchange providers with 250,000 or fewer customers are currently allowed to charge intrastate access rates that exceed federal interstate levels. Among other things, some larger companies would like to see the intrastate access charges they pay eliminated, reduced to federal levels, or spread to other providers who currently do not pay them. Long distance calls made using wireless or voice over Internet protocol (VoIP) providers are generally not subject to intrastate access charges although wireless providers may be subject to reciprocal compensation agreements. Although wireless (commercial mobile telephone providers) and interconnected VoIP providers do not currently pay access charges, they would be subject to restructuring assessments under the bill.

House Bill 4257 would amend Section 310 of the Michigan Telecommunications Act to prohibit any provider, including small providers, from charging intrastate access rates higher than federal interstate access rates. Small incumbent local exchange carriers (ILECs) required to lower their intrastate access rates would receive partial compensation under a so-called "restructuring mechanism" created by the bill. [Note: Somewhat confusingly, the bill refers to both the fund into which the new provider assessments would be made and the compensatory payments received by individual small providers as the "restructuring mechanism."] For qualifying small ILECs, the access rate reductions and compensatory payments would begin no later than 270 days after the bill's effective date. Competitive local exchange carriers (CLECs) would be required to reduce their intrastate

access rates in no more than five steps, with the first reduction required within 30 days of the bill's effective date. CLECs would receive no compensatory payments.

Other features of the bill include:

- In general, small ILECs required to reduce their current intrastate access rates would be partially compensated for lost revenue by payments paid for by assessments on all providers of retail intrastate telecommunications services (including the small ILECs themselves), commercial mobile providers, and interconnected VoIP service providers. (Requiring the recipients to pay into the fund will result in their receiving a net amount from the fund that is less than what would initially appear.)
- An existing provision that requires that any access rate reductions be passed along to customers (and for the PSC to investigate and ensure that this is done) would be repealed.
- The restructuring mechanism fund would be run by a third-party administrator selected by the Public Service Commission (PSC) based on a competitive bidding process recommended by an oversight committee composed of five telecommunication company representatives.
- The third-party administrator's financial records could be audited by an auditor agreed to by the PSC but company-specific information submitted to the PSC or the third-party administrator would be deemed confidential information exempt from public disclosure.
- An ILEC with a weighted average rate for residential basic local exchange service with unlimited local calling of less than \$19.25 on January 1, 2009 would receive lower restructuring payments.
- Every three years, the payments due to small ILECs would be reviewed and adjusted for the percentage change in the number of that provider's access lines.
- Section 316a of the act, which authorizes a state fund to support universal, affordable basic telephone service, would be repealed. The state fund created under that section does not go into effect if a federal universal service fund continues to exist (unless the PSC authorizes it). At present, a federal universal access program exists and this state fund is not operational.

MCL 484.2310 & 484.2316a

FISCAL IMPACT:

The bill would essentially create a new revenue stream – the "restructuring mechanism" – to provide financial assistance to certain incumbent local exchange carriers (ILECs) as a trade-off for reducing their intrastate access charges to the same level as applicable interstate access charges. The initial amount in the fund would be first determined based on the amount of revenue lost by reducing intrastate access charges. The Telecommunications

Association of Michigan (TAM)¹ estimates this amount to be, on an aggregate basis, between \$15.0 million and \$20.0 million. That amount is then adjusted downward, based on the annual revenue that eligible providers charging local rates of less than a benchmark rate of \$19.25/month could have received had it been charging its customers at least \$19.25 per month as of July 1, 2009, rather than a lower amount. The amount of this adjustment is not immediately available. These two calculations, taken together, would approximately equate to the total amount of payments from the restructuring mechanism to eligible providers. The restructuring mechanism would also consist of projected working capital requirements, administrative expenses, projected uncollectible contribution assessments, and projected audit expenses. The amount of the restructuring mechanism would be assessed against all providers of retail intrastate telecommunications services, commercial mobile service (cellular telephone), and voice over Internet protocol (VoIP) service, based initially on CY 2008 billed retail intrastate telecommunications services revenue in the state (or similar calculation for VoIP providers), less projected uncollectible revenue. The administrative expenses (incurred by a third party administrator) would vary depending on the complexity of administering the restructuring mechanism, with initial costs potentially higher than ongoing administrative costs, to get the process up and running. The costs for ongoing administration would likely be around \$130,000 per year, with separate audit costs totaling less than \$25,000.² Again, these costs would be paid from the restructuring mechanism itself, supported by assessments against contributing providers.

By tasking a third-party administrator to administer and have oversight over the restructuring mechanism, as many other states have done in creating Universal Service

¹ See testimony of Scott Stevenson, President, Telecommunications Association of Michigan (TAM) before the House of Representatives, Committee on Energy and Technology, July 14, 2009, available at [<http://www.house.mi.gov/SessionDocs/2009-2010/Testimony/Committee6-7-14-2009-20.pdf>].

² Many states have contracted with third-party administrators in administering state-level Universal Service Funds. Presumably, the basic processes employed in administering the restructure mechanism established under the bill would be very similar to those used in administering a state Universal Service Fund. See, for example, the Pennsylvania Public Utilities Commission (PUC) Universal Service Fund website, [http://www.puc.state.pa.us/telecom/telecom_univservfund.aspx]. The PUC contracted with Solix, Inc, a national "administrative process outsourcing firm" to administer the state's USF. According to an independent audit of the USF, administrative expenses paid to Solix in 2008 totaled \$124,476, with allowable expenses (provided under the contract) rising to \$127,588 in 2009 and \$130,778 in 2010. Separate independent audit expenses totaled \$23,380 in 2008 and \$23,400 in 2007. The audit is available on the PUC website at, [http://www.puc.state.pa.us/telecom/pdf/PaUSF_External_Audit_Rpt_07-08.pdf]. A November 2001 audit of the state USF by PUC, Bureau of Audits reported that start-up costs totaled \$31,300. See also, Solix's proposal to serve as the fiscal agent of the Vermont Universal Service Fund submitted on April 13, 2009 to the Vermont Public Service Board. Under the proposal, Solix's fixed costs would be \$78,000 in state FY 2010, \$80,000 in FY 2011, and \$82,000 in FY 2012. Additional costs would be incurred, on a per-diem basis, for conducting reviews of telephone service providers, (up to \$100/hour) necessary legal expenses (up to \$235/hour), and other consulting services (up to \$150/hour). Solix also estimates that the estimated cost of an independent audit would be between \$20,000 and \$25,000. [[http://www.state.vt.us/psb/RFP/VUSF_Fiscal_Agent_2009/Solix%20Proposal%20\(Redacted%20Version\)%20-%20VT%20USF%20Fiscal%20Agent.pdf](http://www.state.vt.us/psb/RFP/VUSF_Fiscal_Agent_2009/Solix%20Proposal%20(Redacted%20Version)%20-%20VT%20USF%20Fiscal%20Agent.pdf)]. See, also, Solix's proposal submitted on October 7, 2007, to the Indiana Utility Regulatory Commission to administer the state Universal Service Fund, which provided a two-year cost estimate of \$252,700, [http://www.in.gov/iurc/files/solixproposal_100807.pdf]. See, also, the proposal submitted to the IURC on October 4, 2007 by Rolka Loube Saltzer Associates, [http://www.in.gov/iurc/files/rolkaproposal_100407.pdf].

Funds, it appears that the revenue generated to support the restructure mechanism would not actually be considered "state revenue" or subject to annual appropriation by the Legislature.³

The Public Service Commission (MPSC) would incur some additional administrative expenses relative to determining the amount of selection of oversight committee members, reviewing the RFP to select an administrator (in conjunction with the oversight committee), determining the amount of the initial restructuring mechanism payment to eligible providers, approving the contribution assessment, resolving disputes through the contested case process, enforcing payment of required contribution assessments, assessing penalties for non-compliance, and other oversight of the restructuring mechanism. At present, the MPSC has not provided an estimate of costs. The activities of the MPSC are supported by an assessment against regulated public utilities under the authority of Section 211 of the Michigan Telecommunications Act (MCL 484.2211) and Public Act 299 of 1972 (MCL 460.111 et seq.), subject to appropriation by the Legislature. The bill provides that contributing providers that fail to make the required payments or otherwise fail to comply with requirements of the bill would be subject to the penalties imposed under Section 601 of the Michigan Telecommunications Act (MCL 484.2601). Any additional fine revenue would be credited to the General Fund.

The bill would also have an impact on local units of government to the extent restructuring intrastate access charges affects local telephone rates. In general, it seems that reducing intrastate access charges might exert an upward pressure on local telephone rates in areas where ILECs will be required to reduce intrastate access rates. That upward force, however, is mitigated, to a large extent, by the restructuring mechanism established in the bill.

DETAILED SUMMARY:

Limit intrastate switched toll access service charges to federal levels for interstate services for all providers, including small ones; repeal the requirement that access rate reductions be passed along to customers. Currently, except as provided by law, telecommunications providers (not the PSC) set the rates they charge other companies for intrastate toll access services. For companies with more than 250,000 customers, rates and charges that are no higher than the rates allowed by the federal government for the same interstate services are presumed "just and reasonable." Companies with 250,000 or fewer customers are exempt from Section 310. The bill would:

- Prohibit providers, no matter how few customers they have, from charging more for *intrastate switched* toll access services than the federal government allows for the same interstate services. Providers with 250,000 or fewer

³ A similar example could be the Michigan Catastrophic Claims Association (MCCA) assessments imposed under Section 3104 of the Insurance Code, MCL 500.3104, against the association's members (insurers). Moreover, the bill does not explicitly establish a "fund" that would be established within the state treasury.

customers could continue to adopt joint toll access service rates and to pool intrastate toll access service revenues.

- Require a provider to use the "access rate elements" for intrastate switched toll access services that are in effect for that provider and allowed by the federal government for the same interstate services.
- Continue to authorize providers to adopt lower rates than the maximum allowed by the federal government.
- Retain and expand to small providers the requirement that all providers of toll access service must make available for intrastate access services any technical interconnection arrangements, including colocation required by the federal government for the identical interstate access services.
- Retain and expand to small providers the requirement that they offer services under the same rates, terms, and conditions, without unreasonable discrimination, to all providers. All pricing of special toll access services and switched access services, including volume discounts, must be offered to all providers under the same rates, terms, and conditions.

Access rate reductions not required to be passed along to customers. The bill would eliminate a provision currently found in Section 310 [§310(6)] that requires that if a toll access service rate is reduced, the provider receiving the reduced rate must pass along the reduction to its customers, and the PSC must investigate and ensure that providers do so.

Effective date of intrastate access charge reductions. The deadline for the required intrastate access charge reductions would depend on whether or not a provider qualified as an "eligible provider" under the bill:

- An "eligible provider" would have to comply with the new limit on intrastate access charge rates **as of the date set for the restructuring mechanism created by the bill to begin.** [The bill does not set a date certain for the mechanism to begin; rather, it allows a third-party administrator to start the mechanism on any date within 270 days after the bill's effective date.]
- An "**eligible provider**" would mean (1) an incumbent local exchange carrier (ILEC), as defined in the federal Telecommunications Act of 1996 (Section 251, 47 USC 251⁴) (2) that charged higher rates for intrastate switched toll access services than for the same interstate switched toll access services on January 1, 2009; and (3) that provides "services and functionalities identified by rules of the Federal Communications Commission described at 47 CFR 54.101(a)."⁵

⁴ Under Section 251 of that act, an incumbent local exchange carrier (ILEC) means, for a given area, the local exchange carrier that provided telephone exchange service in the area and was a member of the exchange carrier association under a specified FCC regulation (or is a successor to such a member) on February 8, 1996. In addition, FCC rules may treat other carriers as ILECs.

⁵ The services or functionalities described by 47 CFR 54.101(a)(1)-(9) are those supported by the federal universal service support programs: (1) voice grade access to the public switched network; (2) local usage (a certain number of local minutes provided free of charge to the customer); (3) dual tone multi-frequency (DTMF) signaling or its functional equivalent; (4) single-party service or its functional equivalent; (5) access to emergency services, such as

- A provider that must reduce its access charge levels but that is not eligible for compensatory payments (presumably a small CLEC) could phase in its access charge reductions in no more than five steps. The first reduction would be due 30 days after the bill's effective date, followed by additional reductions on July 1 in years 2010 to 2013. Each step would have to reduce the differential between the provider's intrastate and interstate switched toll access rates as of July 1, 2009 by at least 20 percent.

Restructuring mechanism; purposes. The bill would establish an "intrastate switched toll access rate restructuring mechanism" for restructuring intrastate switched toll access rates. An eligible provider (a qualifying ILEC) would be entitled to receive monthly distributions as provided in the restructuring mechanism to replace lost revenues resulting from the required access rate reductions.

Third-party administrator; mechanism starting date. The restructuring mechanism would be administered by a neutral third-party administrator selected by the Public Service Commission (PSC) using a competitive request-for-proposal process developed by an oversight committee. The restructuring mechanism would have to be established and begin operation within 270 days after the bill's effective date. The third-party administrator would set the date on which the mechanism would begin operating, within the 270-day deadline, and give participants 30 days' advance notice of the starting date. The administrator would be compensated on a periodic basis from assessments collected for the operation of the restructuring mechanism in an amount approved by the PSC.

Administrator's duties. [§310(9)] The administrator would have to do the following things:

- Establish the procedures and timelines for organizing, funding, and administering the restructuring mechanism.
- Report to the oversight committee and PSC at least annually on (1) the total amount of money collected from each contributing provider; (2) the total amount of money disbursed to each eligible provider; (3) administrative expenses; and (4) any other information considered relevant by the administrator, the oversight committee, or the PSC.

Audits, confidentiality. [§310(9)] The administrator's financial records with regard to the operation of the restructuring mechanism would be made available to the PSC, and, at the PSC's request, could be audited by an independent auditor acceptable to the PSC, with the audit costs paid out of the restructuring mechanism. Any company-specific information about access lines, switched toll access services minutes of use, switched toll access demand quantities, contributions, and intrastate telecommunications services revenues submitted to the administrator, oversight committee, or commission under this

911 or enhanced 911; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers. These are the minimum characteristics of any retail local service offering which must be met before the Lifeline discount for eligible low-income persons may be applied to the service.

subsection would be deemed confidential commercial or financial information exempt from public disclosure under Section 210. [Under Section 210, MCL 484.2210, trade secrets and commercial or financial information submitted under the Telecommunications Act are generally exempt from the Freedom of Information Act, except under the terms of a mandatory protective order.]

Oversight committee. The PSC would select and approve a five-member oversight committee, composed of persons with expertise in the telecommunications industry from candidates proposed by industry representatives. The oversight committee would advise the PSC as to the ongoing operation of the restructuring mechanism and supervise the administrator's activities. The oversight committee would have one representative from each of following classes:

- The two largest incumbent basic local exchange providers (currently, AT&T and Verizon).
- Eligible providers (small ILECs)
- Other basic local exchange providers (CLECs)
- Interexchange carriers (long-distance providers)
- Commercial mobile service providers (wireless/cell phone companies).

There would be no representative of consumers or interconnected VoIP providers on this committee.

Within 14 days after the bill's effective date, a provider could nominate a candidate for the oversight committee by providing the PSC with the name, qualifications, and experience of the candidate. Within 21 days after receiving the nominations, the PSC would appoint the initial members of the oversight committee from the proposed candidates for three-year terms. The PSC would fill any vacancies in the same manner. Members of the oversight committee would not receive any compensation from the restructuring mechanism.

RFP to select administrator. Once appointed, the oversight committee would have 30 days to issue a request for proposal (RFP) for selection of the administrator. Interested parties would have 45 days to respond to the RFP to the oversight committee and the PSC. Within 21 days after receiving the responses, the oversight committee would submit its recommendations for the position of administrator to the PSC, and the PSC would be required to issue an order naming the administrator within 30 days after receiving those recommendations.

Oversight committee's duties. The oversight committee would have to monitor and review the operations of the restructuring mechanism on an ongoing basis and review issues it considered advisable and necessary to further the purposes and objectives of the restructuring mechanism and to make recommendations to the PSC. If the committee did not agree on a recommendation to the PSC, the committee could provide a majority recommendation as well as one or more minority recommendations.

Calculation of initial payments. The initial size of the restructuring mechanism would be calculated as follows:

- Within 60 days after the bill's effective date, each eligible provider would have to submit to the PSC information and supporting documentation to establish the amount of its reduction in annual intrastate switched toll access revenues resulting from the required reduction in rates.
- The formula for calculating the reduction would be "the difference between intrastate and interstate switched toll access service rates in effect as of July 1, 2009, multiplied by the intrastate switched access minutes of use and other switched access demand quantities for the calendar year 2008."
- The PSC would compute the size of the initial restructuring mechanism for each eligible provider within 60 days after the date established for receiving information and supporting documentation from the eligible providers.

Reduced payments to providers with basic plans costing less than \$19.25 per month. If an eligible provider's weighted average monthly recurring rate on July 1, 2009 for single-party residential basic local exchange service with unlimited local calling was less than \$19.25 per month, it would receive reduced "restructuring mechanism" payments. Its mechanism would be reduced by the annual revenue that it could have received had it been charging its customers at least \$19.25 per month as of July 1, 2009, rather than a lower amount. However, this reduction would not apply to eligible providers charging less than \$19.25 per month whose only exchanges did not have extended area service and land-based contiguous exchanges. (Reportedly, the providers to whom this reduction would not apply are certain providers operating on islands.)

Providers subject to the assessments; PSC authority over commercial mobile and VoIP providers. The restructuring mechanism would be created and supported by the following:

- All providers of retail intrastate telecommunications services.
- All providers of commercial mobile service.
- All providers of interconnected voice over internet protocol (VoIP) services.

Nothing in the act, however, would grant the PSC authority over commercial mobile service providers or VoIP providers except as strictly necessary for administration of the restructuring mechanism.

Contributing provider reports. Within 60 days of the bill's effective date, each contributing provider would have to report its 2008 intrastate retail telecommunications services revenues to the PSC and to the administrator.

Calculation of intrastate revenue by VoIP providers. A VoIP provider could use any of the following three methods for calculating its intrastate retail revenue subject to the assessment: (1) direct assignment; (2) a company-specific traffic study, or (3) the inverse of the interstate jurisdictional allocation established by the Federal Communications

Commission. Revenue calculations using the direct assignment or a traffic study methods would use primary physical service addresses identified by customers.

Initial contribution assessment percentage. The formula for determining the initial contribution assessment percentage would be:

Projected funds needed for disbursements for 12 months

(including working capital requirements, actual and projected administrative costs, projected uncollectible assessments, and projected audit expenses)

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2008 total billed retail intrastate telecommunications revenues (less projected uncollectible revenues) reported to the PSC and administrator

Monthly contribution. Each contributing provider would have to remit to the administrator on a monthly basis an amount equal to its billed intrastate retail telecommunications services revenues, less uncollectible revenues, multiplied by the contribution assessment percentage described above.

Recalculation of size of restructuring mechanism payments. The administrator would be required to recalculate the size of the restructuring mechanism payment for each eligible provider three years after the mechanism first became operational, and every three years thereafter, according to the following process:

- Step 1. The restructuring mechanism payment would be recalculated as the difference between the intrastate switched toll access rates in effect on July 1, 2009 and the federal interstate switched toll access rates *in effect at the time of the recalculation*, multiplied by the intrastate switched toll access minutes of use and other switched access demand quantities for calendar year 2008, reduced as to eligible providers that did not charge its retail residential customers at least \$19.25 per month for basic local exchange service on January 1, 2009.
- Step 2. The recalculated restructuring mechanism would be further adjusted by the percentage change, if any, in the number of access lines in service for each eligible provider from December 31, 2008 to December 31 of the year immediately preceding the year in which the adjustment is made.
- Step 3. The administrator would recalculate the size of the restructuring mechanism and submit its results to the oversight committee within 30 days after the end of the three-year period. The oversight committee would review the administrator's calculations and would be required to make recommendations to the PSC for approval or modification within 21 days of receipt of the calculations. The administrator and the oversight committee would forward to the PSC all information used to recalculate the restructuring mechanism under Steps 1 and 2. The PSC would inform the administrator of the size of the recalculated restructuring mechanism within 30 days after the oversight committee made its recommendations.

Replacement of administrator. After notice and opportunity to comment by interested persons, the PSC could terminate its designation and authorization of the current administrator. The PSC would select a successor administrator through the competitive RFP process developed by the oversight committee. Upon the selection of a successor administrator, the terminated administrator would have to transfer all money in the intrastate access rate restructuring mechanism to the successor administrator. The successor administrator would be accountable only for the money transferred to it.

Effect of changes in federal interstate access rates. If the federal government adopted intercarrier compensation reforms or took any action resulting in a significant change in interstate switched toll access service rates, the PSC could initiate, or any interested party could file an application for, a proceeding under Section 203 within 60 days of the federal action to determine whether any modifications to the size, operation, or composition of the restructuring mechanism were warranted. While such a proceeding was pending, the requirement that eligible providers set intrastate switched toll access service rates equal to federal interstate access rates would be temporarily suspended and their intrastate access rates would be frozen at the levels in place at the time of the suspension. Following notice and hearing, upon a showing of good cause, the PSC could stop or place conditions on the temporary suspension.

Effect of changes in federal universal service contribution methodology. If the federal universal service contribution methodology is modified so that it is no longer based on a percentage of total interstate telecommunications services revenues, the PSC would modify the contribution methodology for the restructuring mechanism to be consistent with the federal methodology. It would initiate a proceeding to modify the restructuring methodology and set a reasonable time period for the transition to the new methodology.

Dispute resolution. Disputes arising under Section 340 could be submitted to the PSC for resolution under Sections 203 and 204 of the Michigan Telecommunications Act, 484.2203 and 2204. [Section 203 allows the PSC to conduct investigations, hold hearings, and issue findings and orders under the contested hearings provisions of the Administrative Procedures Act, upon receipt of a complaint or on its own motion. It also provides for emergency relief in appropriate cases and prescribes procedures and appeal rights. Section 203 provides that in cases involving interconnection disputes, the alternative dispute resolution process found in Section 203a must be followed. Section 204 states that "[i]f 2 or more telecommunication providers are unable to agree on a matter relating to a regulated telecommunication service or a matter prohibited by Section 305, then either telecommunication provider may file with the commission an application for resolution of the matter."]

If any contributing provider failed to make required contributions or failed to provide required information to the PSC, administrator, or oversight committee, the administrator would file an application or complaint for an enforcement proceeding under Section 203.

Remedies and penalties. If the PSC found that a contributing provider failed to make a contribution or to perform any action required under Section 310, it would be subject to

the remedies and penalties under Section 601 of the Telecommunications Act, MCL 484.2601. In general, Section 601 provides that if the PSC finds that a person has violated the act, after notice and a hearing, the PSC must order remedies and penalties to protect and make whole ratepayers and other persons who have suffered an economic loss as a result of the violation. Remedies and penalties may include fines, refunds to ratepayers of any excessive rates collected, license revocations, cease-and-desist orders, and attorney fees and actual costs to persons and providers with fewer than 250,000 end users, except in certain arbitration cases. The following fines may be assessed:

Providers with at least 250,000 access lines:

- First offense: \$1,000 to \$20,000 per day of violation.
- Subsequent offense: \$2,000 to \$40,000 per day of violation.

Providers with fewer than 250,000 access lines:

- First offense: \$200 to \$500 per day of violation.
- Subsequent offense: 500 to \$1,000 per day of violation.

Confidentiality of information. Eligible providers and contributing providers would have to provide information to the administrator, the oversight committee, and the PSC required for the administration of the restructuring mechanism. Company-specific information as to the following items submitted to the administrator, oversight committee, or PSC would be deemed confidential commercial or financial information exempt from public disclosure under Section 210 of the Telecommunications Act (which provides a Freedom of Information Act exemption for certain commercial or financial information):

- Access lines.
- Switched toll access minutes of use.
- Switched toll access demand quantities.
- Contributions.
- Intrastate telecommunications services revenues.

Definitions.

"Commercial mobile service" would mean "that term as defined in Section 332(d)(1) of the [federal] Telecommunications Act of 1996, 47 USC 332." [Under that Section, "commercial mobile service" means any mobile service (as defined in 47 USC 153) that is provided for profit and makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by FCC regulation.]

"Contributing provider" would mean "an entity required to pay into the restructuring mechanism." [Under the bill, the following entities are required to pay into the restructuring mechanism: (1) all providers of retail intrastate telecommunications

services; (2) all providers of commercial mobile services; and (3) all providers of interconnected voice over Internet protocol (VoIP) services.]

"Eligible provider" would mean "an incumbent local exchange carrier as defined in Section 251 of the Telecommunications Act of 1996, 47 USC 251, that as of January 1, 2009 had rates for intrastate switched toll access services higher than its rates for the same interstate switched toll access services, and that provides the services and functionalities identified by rules of the Federal Communications Commission described at 47 CFR 54.101(a)" [as described above, these services and functionalities are the minimum that must be offered to Lifeline customers].

"Interconnected voice over internet protocol service" would mean "that term as defined in 47 CFR 9.3." [Under that federal regulation, an interconnected Voice over Internet protocol (VoIP) service is one that (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment (CPE); and (4) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.]

"Restructuring mechanism" would mean the "intrastate switched toll access restructuring mechanism established in this section" [As mentioned previously, this term appears to be used in various places in the bill to describe either the fund into which assessments paid by contributing providers would be deposited or the compensatory payments made to eligible providers.]

Repealer. The bill would repeal Section 316a of the Michigan Telecommunications Act, MCL 484.2136a. That section authorizes a state "Intrastate Universal Service Fund" to support universal basic service at affordable rates in Michigan. Under current law, unless approved by the PSC, this state fund does not come into existence if a federal universal fund service fund remains in effect. A federal universal service fund is currently in effect and so this state fund has never become operational. By repealing this section, the bill would keep this fund from ever becoming operational due to an elimination of the federal program or a PSC determination that it was needed.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.