

SENATE FILE 368  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1169)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to advanced telecommunications services,  
2 including modification of rate provisions, economic  
3 development promotional certification, and a study of  
4 competition and access charges by the utilities board.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 368

S-3087

- 1 Amend Senate File 368 as follows:
- 2 1. Page 4, lines 7 and 8, by striking the words
- 3 "a price regulation plan" and inserting the following:
- 4 "price regulation".
- 5 2. Page 5, line 7, by striking the word "service"
- 6 and inserting the following: "services".
- 7 3. Page 5, line 18, by striking the words
- 8 "broadband services" and inserting the following:
- 9 "advanced telecommunications services".
- 10 4. Page 5, lines 34 and 35, by striking the words
- 11 ", to a minimum of fifty-six kilobits per second,".
- 12 5. Page 7, line 20, by striking the word
- 13 "service" and inserting the following: "services".
- 14 6. By renumbering, redesignating, and correcting
- 15 internal references as necessary.

By JEFF ANGELO

S-3087 FILED MARCH 25, 2003

*Adopted 3/23/03*

SF 368

1 Section 1. NEW SECTION. 15.301 TECHNOLOGY-ENABLED  
2 COMMUNITIES.

3 The department is directed to work with communities in Iowa  
4 to develop a survey and scoring system to collect information  
5 from educational, health care, local government, and business  
6 entities. Survey results shall be used to certify appropriate  
7 communities as technology-enabled communities, or "TEC towns".  
8 The TEC town designation shall be used to recognize those  
9 communities that have achieved a high level of deployment of  
10 advanced telecommunications services and public access to and  
11 that have used advanced telecommunications services in  
12 delivering government services. The TEC town certification  
13 entitles the certified community to use any logo or other mark  
14 of the TEC town program in the community's own marketing and  
15 promotional efforts.

16 Sec. 2. Section 476.1D, subsection 1, Code 2003, is  
17 amended to read as follows:

18 1. Except as provided in this section, the jurisdiction of  
19 the board as to the regulation of communications services is  
20 not applicable to a service or facility that is provided or is  
21 proposed to be provided by a telephone utility that is or  
22 becomes subject to effective competition, as determined by the  
23 board. In determining whether a service or facility is or  
24 becomes subject to effective competition, the board shall  
25 consider, among other factors, whether a comparable service or  
26 facility is available from a supplier other than the telephone  
27 utility in the geographic market being considered by the board  
28 and whether market forces in that market are sufficient to  
29 assure just and reasonable rates without regulation.

30 Sec. 3. Section 476.6, subsection 1, Code 2003, is amended  
31 to read as follows:

32 1. FILING WITH BOARD. A public utility subject to rate  
33 regulation shall not make effective a new or changed rate,  
34 charge, schedule or regulation until the rate, charge,  
35 schedule, or regulation has been approved by the board, except

1 as provided in subsections 11 and 13.

2 ~~A-subscriber-of-a-telephone-exchange-or-service, who is~~  
3 ~~declared-to-be-legally-blind-under-section-422.127-subsection~~  
4 ~~17-paragraph-"e", is exempt from any charges for telephone~~  
5 ~~directory assistance that may be approved by the board.~~

6 Sec. 4. Section 476.6, subsections 2 through 4, Code 2003,  
7 are amended by striking the subsections.

8 Sec. 5. Section 476.51, Code 2003, is amended to read as  
9 follows:

10 476.51 CIVIL PENALTY.

11 1. A public utility which, after written notice by the  
12 board of a specific violation, violates the same provision of  
13 this chapter, the same rule adopted by the board, or the same  
14 provision of an order lawfully issued by the board, is subject  
15 to a civil penalty, which may be levied by the board, of not  
16 less than one hundred dollars nor more than two thousand five  
17 hundred dollars per violation.

18 2. A public utility which willfully, after written notice  
19 by the board of a specific violation, violates the same  
20 provision of this chapter, the same rule adopted by the board,  
21 or the same provision of an order lawfully issued by the  
22 board, is subject to a civil penalty, which may be levied by  
23 the board, of not less than one thousand dollars nor more than  
24 ten thousand dollars per violation. For the purposes of this  
25 section, "willful" means knowing and deliberate, with a  
26 specific intent to violate.

27 3. Each violation is a separate offense. In the case of a  
28 continuing violation, each day a violation continues, after  
29 the time specified for compliance in the written notice by the  
30 board, is a separate and distinct offense. Any civil penalty  
31 may be compromised by the board. In determining the amount of  
32 the penalty, or the amount agreed upon in a compromise, the  
33 board may consider the appropriateness of the penalty in  
34 relation to the size of the public utility, the gravity of the  
35 violation, and the good faith of the public utility in

1 attempting to achieve compliance following notification of a  
2 violation, and any other relevant factors.

3 4. The written notice given by the board to a public  
4 utility under this section shall specify an appropriate time  
5 for compliance.

6 5. Civil penalties collected pursuant to this section from  
7 utilities providing water, electric, or gas service shall be  
8 forwarded by the executive secretary of the board to the  
9 treasurer of state to be credited to the general fund of the  
10 state and to be used only for the low income home energy  
11 assistance program and the weatherization assistance program  
12 administered by the division of community action agencies of  
13 the department of human rights. Civil penalties collected  
14 pursuant to this section from utilities providing  
15 telecommunications service shall be forwarded to the treasurer  
16 of state to be credited to the general fund of the state to be  
17 used only by the department of economic development in  
18 furtherance of activities pursuant to section 15.301.

19 Penalties paid by a rate-regulated public utility pursuant to  
20 this section shall be excluded from the utility's costs when  
21 determining the utility's revenue requirement, and shall not  
22 be included either directly or indirectly in the utility's  
23 rates or charges to customers.

24 Sec. 6. Section 476.97, subsection 3, paragraph a,  
25 subparagraph (5), Code 2003, is amended to read as follows:

26 (5) The plan shall provide for both increases and  
27 decreases in the prices for basic communications services  
28 reflecting annual changes in inflation ~~and-productivity~~.  
29 ~~Prior-to-January-17-20007~~ Initially, the board shall use the  
30 gross domestic product price index, as published by the  
31 federal government, for an inflation measure ~~and-two-and-six-~~  
32 ~~tenths-percentage-points-for-a-productivity-measure~~. ~~On-or~~  
33 ~~after-January-17-20007~~ the The board by rule may adopt a more  
34 current measures measure of inflation ~~and-productivity~~. Any  
35 plan in effect as of July 1, 2003, that contains a

1 productivity factor shall strike the productivity factor on a  
2 prospective basis.

3 Sec. 7. Section 476.97, Code 2003, is amended by adding  
4 the following new subsections:

5 NEW SUBSECTION. 12. Notwithstanding any contrary  
6 provisions of this chapter relating to rate regulation, a  
7 rate-regulated local exchange carrier operating under a price  
8 regulation plan shall be allowed to rebalance basic  
9 communications rates by implementing a rate increase of not  
10 more than one dollar in the monthly rate for selected basic  
11 exchange access service lines each year for three years. The  
12 resulting increase in revenues shall be offset by an equal  
13 decrease in revenues by simultaneously decreasing other basic  
14 communications services rates. This rebalancing provision may  
15 be used to rebalance rates to reduce the rate differential  
16 between rates for comparable residential and business services  
17 or between rates for comparable services in different service  
18 zones as defined in the carrier's tariffs. After notice  
19 pursuant to section 476.6, subsection 5, a carrier proposing  
20 to rebalance rates shall file proposed tariffs with the board  
21 containing the revised rates, along with supporting  
22 calculations demonstrating that the proposed rebalancing is  
23 expected to be revenue neutral. Notwithstanding contrary  
24 provisions of this chapter, the board shall allow the tariff  
25 provisions to become effective upon a finding by the board  
26 that the carrier's overall revenues from basic communications  
27 services will not be increased as a result of the rebalancing  
28 and that the overall rebalancing is in the public interest.  
29 Cost of service information shall not be considered in making  
30 this determination.

31 NEW SUBSECTION. 13. a. The Iowa broadband initiative is  
32 created to provide access to advanced telecommunications  
33 services in all exchanges served by rate-regulated local  
34 exchange carriers where advanced telecommunications services  
35 are not already available at affordable rates, to the extent

1 consistent with technological limitations and the public  
2 interest as determined by the board. The general assembly  
3 specifically finds that regulatory flexibility is appropriate  
4 when fostering economic development through the increased  
5 availability of advanced telecommunications services.

6 b. For purposes of this section, "advanced  
7 telecommunications service" is defined as infrastructure  
8 capable of delivering a data transmission speed of at least  
9 two hundred kilobits per second in each direction.

10 c. Any rate-regulated local exchange carrier may implement  
11 a single increase in monthly rates for residential or business  
12 dial tone access service lines by an amount not to exceed two  
13 dollars per month. The increase shall be included in the  
14 customer's bill as an unidentified part of the overall rate  
15 for service. The revenue from this increase shall be used to  
16 provide advanced telecommunications services in each of the  
17 carrier's local exchange central office wire centers where  
18 broadband services are not currently available at affordable  
19 rates, subject to the requirements in subparagraphs (1)  
20 through (6). In addition, any increase or decrease required  
21 by an approved price regulation plan that, as of July 1, 2003,  
22 has been deferred pursuant to section 476.97, subsection 3,  
23 paragraph "a", subparagraph (6), shall not be implemented and  
24 the amount of any deferral shall also be used to provide  
25 advanced telecommunications services, subject to the following  
26 requirements:

27 (1) Any carrier electing to participate in the Iowa  
28 broadband initiative shall file for the board's review and  
29 approval a plan for using the revenue resulting from the rate  
30 increase. In reviewing the plan, the board shall consider  
31 investments and expenditures by the carrier that will best  
32 serve the public interest as described in this subsection,  
33 including upgrading the existing telecommunications  
34 infrastructure to permit improved data services, to a minimum  
35 of fifty-six kilobits per second, for customers who cannot be

1 offered advanced telecommunications services because of their  
2 geographical location. The board shall adopt rules to  
3 implement its review process, including rules that specify the  
4 initial plan filing requirements, further define the public  
5 interest, and identify some of the factors the board will  
6 consider in reviewing plans.

7 (2) The carrier shall use the revenue resulting from the  
8 rate increase to implement its approved plan. Whenever the  
9 board is of the opinion that a carrier is not complying with  
10 its approved plan, the board may commence an action in the  
11 district court for any county in which such violation is  
12 alleged to have occurred to have such violation stopped and  
13 prevented by injunction, mandamus, or other appropriate  
14 remedy. The board may also, after notice and opportunity for  
15 hearing, require that the carrier refund any revenue resulting  
16 from the rate increase that has not been used to implement its  
17 approved plan. The board may also enforce the approved plan  
18 with civil penalties, pursuant to section 476.51.

19 (3) The carrier shall file annual reports with the board  
20 detailing its progress toward completion of its approved plan.

21 (4) The carrier, the board, or any other interested person  
22 may propose modifications to a carrier's plan at any time.

23 (5) Upon completion of its initial Iowa broadband  
24 initiative plan, a carrier shall do one or more of the  
25 following:

26 (a) File a plan for board review and approval for  
27 continued use of the revenue resulting from the rate increase  
28 for further deployment of advanced services.

29 (b) File a rate of return rate proceeding pursuant to  
30 section 476.6 to determine new rates.

31 (c) File proposed tariffs for board review and approval to  
32 reduce the monthly rates that were increased under this  
33 subsection by an amount equal to the increase.

34 (6) A carrier choosing to participate in the Iowa  
35 broadband initiative shall also apply a credit, in an amount

1 equal to the amount of the residential service increase, to  
2 the monthly local exchange service rate for qualified  
3 applicants for low-income lifeline assistance programs. This  
4 credit shall continue for as long as the retail rate increase  
5 is in effect.

6 Sec. 8. LOCAL EXCHANGE COMPETITION AND INTRASTATE ACCESS  
7 CHARGES STUDY. The board shall conduct a study of the current  
8 status of local exchange competition in Iowa and a separate  
9 study of intrastate access charges and shall report the  
10 results of the studies to the general assembly by December 15,  
11 2003.

12 In conducting the competition study, the board shall  
13 consider possible alternatives to services received from  
14 incumbent local exchange service providers, including but not  
15 limited to competitive local exchange service providers,  
16 municipal telecommunications service providers, resellers of  
17 the facilities and services of other providers, commercial  
18 mobile radio service or other wireless providers, cable  
19 television service providers, advanced telecommunications  
20 service providers, and providers using voice-over internet  
21 protocol or other similar technologies.

22 In conducting the studies, the board may subpoena books,  
23 papers, records, and any other real evidence necessary or  
24 useful for the board to complete either study. Subpoenas may  
25 be contested using the procedures in section 17A.13,  
26 subsection 1. Company-specific information provided to the  
27 board solely for purposes of the report may be treated as a  
28 trade secret for purposes of section 22.7, subsection 3.

29 EXPLANATION

30 This bill creates an Iowa broadband initiative. The bill  
31 allows local exchange carriers operating under price  
32 regulation plans to rebalance their residential and business  
33 rates and to reduce rate differentials resulting from past  
34 mergers and acquisitions. In addition, the bill clarifies the  
35 authority of the utilities board to deregulate competitive



1 telecommunications services, removes outdated provisions  
2 relating to directory assistance services, creates a  
3 technology-enabled communities ("TEC") town program within the  
4 department of economic development, provides that civil  
5 penalties collected from telecommunications companies will be  
6 used to fund the TEC town program, and requires that the  
7 utilities board conduct studies of the current state of local  
8 exchange competition in Iowa and intrastate access charges.

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**SENATE FILE 368**

**S-3100**

- 1 Amend Senate File 368 as follows:
- 2 1. Page 4, line 33, by inserting after the word "services"
- 3 the following: "to all customers".
- 4 2. Page 5, line 19, by inserting after the word "rates" the
- 5 following: "in all or a substantial part of the exchange".
- 6 3. By renumbering as necessary.

**By JEFF ANGELO**

**S-3100 FILED MARCH 27, 2003**

        3/31/03

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**Description**

Senate File 368 creates an Iowa Broadband Initiative. A local exchange carrier is permitted a single increase in monthly rates to be used to provide advanced telecommunications services in each of the carrier's local exchange central office wire centers where broadband services are not currently available.

The Bill allows local exchange carriers operating under price regulation plans to rebalance their residential and business rates and to reduce rate differentials resulting from past mergers and acquisitions.

The Bill further requires the Utilities Board to conduct studies of the current state of local exchange competition in Iowa and intrastate access charges, and report to the General Assembly by December 15, 2003.

The Bill creates a Technology-Enabled Communities "TEC" Town Program within the Department of Economic Development. Civil penalties collected from telecommunications companies that currently go to the Low Income Home Energy Assistance Program (LIHEAP) will be used to fund the TEC Town Program.

The Bill directs the Department of Economic Development to work with communities in Iowa to develop a survey and scoring system to collect information for educational, health care, local government, and business entities in order to certify communities as TEC Towns.

**Assumptions**

1. Historically, no civil penalty moneys are collected from telecommunications companies, resulting in no funding available to fund the TEC Town Program from that revenue source.
2. Any increased expenses for the Iowa Utilities Board will be billed to and paid by the utility companies.
3. The utilities will elect to participate in the optional rate rebalancing and the broadband initiative.
4. Approximately 30 communities will be surveyed and assisted by the Department of Economic Development each year under the TEC Town Program.

**Fiscal Impact**

The net General Fund fiscal impact of SF 368 to the Department of Economic Development will be approximately \$850,000 in FY 2004 and \$770,000 annually thereafter.

The Iowa Utilities Board would expend approximately \$45,000 and add 1.0 FTE position to work on rate rebalancing, the broadband initiative, and conduct studies of the current state of local exchange competition in Iowa and intrastate access charges. Since the utility companies reimburse the expenses of the Iowa Utilities Board, there would be no net fiscal impact on the Utilities Board.

**Sources**

Iowa Department of Economic Development  
Iowa Utilities Board

/s/ Dennis C Prouty

March 25, 2003

SENATE FILE 368  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1169)

(AS AMENDED AND PASSED BY THE SENATE MARCH 31, 2003)

- \_\_\_\_\_ - New Language by the Senate  
\* - Language Stricken by the Senate

Passed Senate, Date Passed 3/31/03 <sup>4/24/03</sup> Passed House, Date 4/24/03  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved 5/15/03

A BILL FOR

1 An Act relating to advanced telecommunications services,  
2 including modification of rate provisions, economic  
3 development promotional certification, and a study of  
4 competition and access charges by the utilities board.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 368

1 Section 1. NEW SECTION. 15.301 TECHNOLOGY-ENABLED  
2 COMMUNITIES.

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4 to develop a survey and scoring system to collect information  
5 from educational, health care, local government, and business  
6 entities. Survey results shall be used to certify appropriate  
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17 amended to read as follows:

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19 the board as to the regulation of communications services is  
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21 proposed to be provided by a telephone utility that is or  
22 becomes subject to effective competition, as determined by the  
23 board. In determining whether a service or facility is or  
24 becomes subject to effective competition, the board shall  
25 consider, among other factors, whether a comparable service or  
26 facility is available from a supplier other than the telephone  
27 utility in the geographic market being considered by the board  
28 and whether market forces in that market are sufficient to  
29 assure just and reasonable rates without regulation.

30 Sec. 3. Section 476.6, subsection 1, Code 2003, is amended  
31 to read as follows:

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33 regulation shall not make effective a new or changed rate,  
34 charge, schedule or regulation until the rate, charge,  
35 schedule, or regulation has been approved by the board, except

1 as provided in subsections 11 and 13.

2 ~~A subscriber of a telephone exchange or service, who is~~  
3 ~~declared to be legally blind under section 422.12, subsection~~  
4 ~~1, paragraph "e", is exempt from any charges for telephone~~  
5 ~~directory assistance that may be approved by the board.~~

6 Sec. 4. Section 476.6, subsections 2 through 4, Code 2003,  
7 are amended by striking the subsections.

8 Sec. 5. Section 476.51, Code 2003, is amended to read as  
9 follows:

10 476.51 CIVIL PENALTY.

11 1. A public utility which, after written notice by the  
12 board of a specific violation, violates the same provision of  
13 this chapter, the same rule adopted by the board, or the same  
14 provision of an order lawfully issued by the board, is subject  
15 to a civil penalty, which may be levied by the board, of not  
16 less than one hundred dollars nor more than two thousand five  
17 hundred dollars per violation.

18 2. A public utility which willfully, after written notice  
19 by the board of a specific violation, violates the same  
20 provision of this chapter, the same rule adopted by the board,  
21 or the same provision of an order lawfully issued by the  
22 board, is subject to a civil penalty, which may be levied by  
23 the board, of not less than one thousand dollars nor more than  
24 ten thousand dollars per violation. For the purposes of this  
25 section, "willful" means knowing and deliberate, with a  
26 specific intent to violate.

27 3. Each violation is a separate offense. In the case of a  
28 continuing violation, each day a violation continues, after  
29 the time specified for compliance in the written notice by the  
30 board, is a separate and distinct offense. Any civil penalty  
31 may be compromised by the board. In determining the amount of  
32 the penalty, or the amount agreed upon in a compromise, the  
33 board may consider the appropriateness of the penalty in  
34 relation to the size of the public utility, the gravity of the  
35 violation, and the good faith of the public utility in

1 attempting to achieve compliance following notification of a  
2 violation, and any other relevant factors.

3 4. The written notice given by the board to a public  
4 utility under this section shall specify an appropriate time  
5 for compliance.

6 5. Civil penalties collected pursuant to this section from  
7 utilities providing water, electric, or gas service shall be  
8 forwarded by the executive secretary of the board to the  
9 treasurer of state to be credited to the general fund of the  
10 state and to be used only for the low income home energy  
11 assistance program and the weatherization assistance program  
12 administered by the division of community action agencies of  
13 the department of human rights. Civil penalties collected  
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20 this section shall be excluded from the utility's costs when  
21 determining the utility's revenue requirement, and shall not  
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30 gross domestic product price index, as published by the  
31 federal government, for an inflation measure ~~and-two-and-six-~~  
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22 calculations demonstrating that the proposed rebalancing is  
23 expected to be revenue neutral. Notwithstanding contrary  
24 provisions of this chapter, the board shall allow the tariff  
25 provisions to become effective upon a finding by the board  
26 that the carrier's overall revenues from basic communications  
27 services will not be increased as a result of the rebalancing  
28 and that the overall rebalancing is in the public interest.  
29 Cost of service information shall not be considered in making  
30 this determination.

31 NEW SUBSECTION. 13. a. The Iowa broadband initiative is  
32 created to provide access to advanced telecommunications  
33 services to all customers in all exchanges served by rate-  
34 regulated local exchange carriers where advanced  
35 telecommunications services are not already available at

1 affordable rates, to the extent consistent with technological  
2 limitations and the public interest as determined by the  
3 board. The general assembly specifically finds that  
4 regulatory flexibility is appropriate when fostering economic  
5 development through the increased availability of advanced  
6 telecommunications services.

7 b. For purposes of this section, "advanced  
8 telecommunications services" is defined as infrastructure  
9 capable of delivering a data transmission speed of at least  
10 two hundred kilobits per second in each direction.

11 c. Any rate-regulated local exchange carrier may implement  
12 a single increase in monthly rates for residential or business  
13 dial tone access service lines by an amount not to exceed two  
14 dollars per month. The increase shall be included in the  
15 customer's bill as an unidentified part of the overall rate  
16 for service. The revenue from this increase shall be used to  
17 provide advanced telecommunications services in each of the  
18 carrier's local exchange central office wire centers where  
19 advanced telecommunications services are not currently  
20 available at affordable rates in all or a substantial part of  
21 the exchange, subject to the requirements in subparagraphs (1)  
22 through (6). In addition, any increase or decrease required  
23 by an approved price regulation plan that, as of July 1, 2003,  
24 has been deferred pursuant to section 476.97, subsection 3,  
25 paragraph "a", subparagraph (6), shall not be implemented and  
26 the amount of any deferral shall also be used to provide  
27 advanced telecommunications services, subject to the following  
28 requirements:

29 (1) Any carrier electing to participate in the Iowa  
30 broadband initiative shall file for the board's review and  
31 approval a plan for using the revenue resulting from the rate  
32 increase. In reviewing the plan, the board shall consider  
33 investments and expenditures by the carrier that will best  
34 serve the public interest as described in this subsection,  
35 including upgrading the existing telecommunications

\* 1 infrastructure to permit improved data services for customers  
2 who cannot be offered advanced telecommunications services  
3 because of their geographical location. The board shall adopt  
4 rules to implement its review process, including rules that  
5 specify the initial plan filing requirements, further define  
6 the public interest, and identify some of the factors the  
7 board will consider in reviewing plans.

8 (2) The carrier shall use the revenue resulting from the  
9 rate increase to implement its approved plan. Whenever the  
10 board is of the opinion that a carrier is not complying with  
11 its approved plan, the board may commence an action in the  
12 district court for any county in which such violation is  
13 alleged to have occurred to have such violation stopped and  
14 prevented by injunction, mandamus, or other appropriate  
15 remedy. The board may also, after notice and opportunity for  
16 hearing, require that the carrier refund any revenue resulting  
17 from the rate increase that has not been used to implement its  
18 approved plan. The board may also enforce the approved plan  
19 with civil penalties, pursuant to section 476.51.

20 (3) The carrier shall file annual reports with the board  
21 detailing its progress toward completion of its approved plan.

22 (4) The carrier, the board, or any other interested person  
23 may propose modifications to a carrier's plan at any time.

24 (5) Upon completion of its initial Iowa broadband  
25 initiative plan, a carrier shall do one or more of the  
26 following:

27 (a) File a plan for board review and approval for  
28 continued use of the revenue resulting from the rate increase  
29 for further deployment of advanced services.

30 (b) File a rate of return rate proceeding pursuant to  
31 section 476.6 to determine new rates.

32 (c) File proposed tariffs for board review and approval to  
33 reduce the monthly rates that were increased under this  
34 subsection by an amount equal to the increase.

35 (6) A carrier choosing to participate in the Iowa

1 broadband initiative shall also apply a credit, in an amount  
2 equal to the amount of the residential service increase, to  
3 the monthly local exchange service rate for qualified  
4 applicants for low-income lifeline assistance programs. This  
5 credit shall continue for as long as the retail rate increase  
6 is in effect.

7 Sec. 8. LOCAL EXCHANGE COMPETITION AND INTRASTATE ACCESS  
8 CHARGES STUDY. The board shall conduct a study of the current  
9 status of local exchange competition in Iowa and a separate  
10 study of intrastate access charges and shall report the  
11 results of the studies to the general assembly by December 15,  
12 2003.

13 In conducting the competition study, the board shall  
14 consider possible alternatives to services received from  
15 incumbent local exchange service providers, including but not  
16 limited to competitive local exchange service providers,  
17 municipal telecommunications service providers, resellers of  
18 the facilities and services of other providers, commercial  
19 mobile radio service or other wireless providers, cable  
20 television service providers, advanced telecommunications  
21 services providers, and providers using voice-over internet  
22 protocol or other similar technologies.

23 In conducting the studies, the board may subpoena books,  
24 papers, records, and any other real evidence necessary or  
25 useful for the board to complete either study. Subpoenas may  
26 be contested using the procedures in section 17A.13,  
27 subsection 1. Company-specific information provided to the  
28 board solely for purposes of the report may be treated as a  
29 trade secret for purposes of section 22.7, subsection 3.

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HOUSE AMENDMENT TO  
SENATE FILE 368

S-3315

1 Amend Senate File 368, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 1 through 15.

4 2. Page 3, by striking lines 17 and 18 and  
5 inserting the following: "used only for consumer  
6 education programs administered by the board."

7 3. Page 4, by striking lines 4 through 31 and  
8 inserting the following: "the following new  
9 subsection:

10 NEW SUBSECTION. 12. a. The Iowa broadband  
11 initiative is".

12 4. Page 5, line 24, by striking the word and  
13 figure "section 476.97,".

14 5. Page 6, by inserting after line 23 the  
15 following:

16 "( ) By choosing to participate in the Iowa  
17 broadband initiative, the participating carrier agrees  
18 to make available to other carriers, on both a  
19 wholesale and an unbundled basis, the services and  
20 facilities that result from implementation of the  
21 participating carrier's plan. The wholesale rates and  
22 unbundled rates shall be set by the board, which shall  
23 consider, among other factors, the extent to which the  
24 service or facility was financed by the revenues  
25 generated by the rate increase allowed under this  
26 paragraph "c"."

27 6. Page 7, by inserting after line 6 the  
28 following:

29 "Sec. \_\_\_\_ . NEW SECTION. 476.105 SEVERABILITY.  
30 If any provision of this chapter or its application  
31 to any person or circumstance is held invalid or  
32 otherwise rendered ineffective by any entity, the  
33 invalidity or ineffectiveness shall not affect other  
34 provisions or applications of this chapter that can be  
35 given effect without the invalid or ineffective  
36 provision or application, and to this end the  
37 provisions of this chapter are severable."

38 7. Page 7, by striking lines 7 through 29.

39 8. Title page, by striking lines 2 through 4 and  
40 inserting the following: "including rate provisions."

41 9. By renumbering, redesignating, and correcting  
42 internal references as necessary.

RECEIVED FROM THE HOUSE

S-3315 FILED APRIL 24, 2003  
CONCURRED

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SENATE FILE 368

H-1327

1 Amend Senate File 368, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 4, by striking lines 4 through 31 and  
4 inserting the following: "the following new  
5 subsection:

6 NEW SUBSECTION. 12. a. The Iowa broadband  
7 initiative is".

8 2. Page 5, line 24, by striking the word and  
9 figure "section 476.97,".

10 3. Page 6, by inserting after line 23 the  
11 following:

12 "( ) By choosing to participate in the Iowa  
13 broadband initiative, the participating carrier agrees  
14 to make available to other carriers, on both a  
15 wholesale and an unbundled basis, the services and  
16 facilities that result from implementation of the  
17 participating carrier's plan. The wholesale rates  
18 shall be set by the board, which shall consider, among  
19 other factors, the extent to which the service or  
20 facility was financed by the revenues generated by the  
21 rate increase allowed under this paragraph "c".

22 4. Page 7, by inserting after line 6 the  
23 following:

24 "Sec. \_\_\_\_ . NEW SECTION. 476.105 SEVERABILITY.

25 If any provision of this chapter or its application  
26 to any person or circumstance is held invalid or  
27 otherwise rendered ineffective by any entity, the  
28 invalidity or ineffectiveness shall not affect other  
29 provisions or applications of this chapter that can be  
30 given effect without the invalid or ineffective  
31 provision or application, and to this end the  
32 provisions of this chapter are severable."

33 5. Page 7, by striking lines 7 through 29.

34 6. By renumbering, redesignating, and correcting  
35 internal references as necessary.

**By** COMMITTEE ON COMMERCE, REGULATION AND  
HANSEN of Pottawattamie, CHAIRPERSON

H-1327 FILED APRIL 14, 2003

*Adopted as amended 4/24/03*

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SENATE FILE 368

H-1453

1 Amend the amendment, H-1327, to Senate File 368, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, by inserting after line 2 the  
5 following:

6 "\_\_\_\_. Page 1, by striking lines 1 through 15.

7 \_\_\_\_\_. Page 3, by striking lines 17 and 18 and  
8 inserting the following: "used only for consumer  
9 education programs administered by the board."

10 2. Page 1, line 17, by inserting after the word  
11 "rates" the following: "and unbundled rates".

12 3. Page 1, by inserting after line 33 the  
13 following:

14 "\_\_\_\_. Title page, by striking lines 2 through 4  
15 and inserting the following: "including rate  
16 provisions.""

17 4. By renumbering, redesignating, and correcting  
18 internal references as necessary.

By DIX of Butler

H-1453 FILED APRIL 24, 2003

ADOPTED

Angelo  
Wieck  
Brunkhorst  
Cronstal  
Warnstadt

Commerce

SSB 1169  
Succeeded By  
SI/HF 368

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY  
CHAIRPERSON ANGELO)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to advanced telecommunications services,  
2 including modification of rate provisions, economic  
3 development promotional certification, and a study of  
4 competition and access charges by the utilities board.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 15.301 TECHNOLOGY-ENABLED  
2 COMMUNITIES.

3 The department is directed to work with communities in Iowa  
4 to develop a survey and scoring system to collect information  
5 from educational, health care, local government, and business  
6 entities. Survey results shall be used to certify appropriate  
7 communities as technology-enabled communities, or "TEC towns".  
8 The TEC town designation shall be used to recognize those  
9 communities that have achieved a high level of deployment of  
10 advanced telecommunications services and public access to and  
11 that have used advanced telecommunications services in  
12 delivering government services. The TEC town certification  
13 entitles the certified community to use any logo or other mark  
14 of the TEC town program in the community's own marketing and  
15 promotional efforts.

16 Sec. 2. Section 476.1D, subsection 1, Code 2003, is  
17 amended to read as follows:

18 1. Except as provided in this section, the jurisdiction of  
19 the board as to the regulation of communications services is  
20 not applicable to a service or facility that is provided or is  
21 proposed to be provided by a telephone utility that is or  
22 becomes subject to effective competition, as determined by the  
23 board. In determining whether a service or facility is or  
24 becomes subject to effective competition, the board shall  
25 consider, among other factors, whether a comparable service or  
26 facility is available from a supplier other than the telephone  
27 utility in the geographic market being considered by the board  
28 and whether market forces in that market are sufficient to  
29 assure just and reasonable rates without regulation.

30 Sec. 3. Section 476.6, subsection 1, Code 2003, is amended  
31 to read as follows:

32 1. FILING WITH BOARD. A public utility subject to rate  
33 regulation shall not make effective a new or changed rate,  
34 charge, schedule or regulation until the rate, charge,  
35 schedule, or regulation has been approved by the board, except

1 as provided in subsections 11 and 13.

2 ~~A-subscriber-of-a-telephone-exchange-or-service7-who-is~~  
3 ~~declared-to-be-legally-blind-under-section-422-127-subsection~~  
4 ~~17-paragraph-"e"-is-exempt-from-any-charges-for-telephone~~  
5 ~~directory-assistance-that-may-be-approved-by-the-board-~~

6 Sec. 4. Section 476.6, subsections 2 through 4, Code 2003,  
7 are amended by striking the subsections.

8 Sec. 5. Section 476.51, Code 2003, is amended to read as  
9 follows:

10 476.51 CIVIL PENALTY.

11 1. A public utility which, after written notice by the  
12 board of a specific violation, violates the same provision of  
13 this chapter, the same rule adopted by the board, or the same  
14 provision of an order lawfully issued by the board, is subject  
15 to a civil penalty, which may be levied by the board, of not  
16 less than one hundred dollars nor more than two thousand five  
17 hundred dollars per violation.

18 2. A public utility which willfully, after written notice  
19 by the board of a specific violation, violates the same  
20 provision of this chapter, the same rule adopted by the board,  
21 or the same provision of an order lawfully issued by the  
22 board, is subject to a civil penalty, which may be levied by  
23 the board, of not less than one thousand dollars nor more than  
24 ten thousand dollars per violation. For the purposes of this  
25 section, "willful" means knowing and deliberate, with a  
26 specific intent to violate.

27 3. Each violation is a separate offense. In the case of a  
28 continuing violation, each day a violation continues, after  
29 the time specified for compliance in the written notice by the  
30 board, is a separate and distinct offense. Any civil penalty  
31 may be compromised by the board. In determining the amount of  
32 the penalty, or the amount agreed upon in a compromise, the  
33 board may consider the appropriateness of the penalty in  
34 relation to the size of the public utility, the gravity of the  
35 violation, and the good faith of the public utility in

1 attempting to achieve compliance following notification of a  
2 violation, and any other relevant factors.

3 4. The written notice given by the board to a public  
4 utility under this section shall specify an appropriate time  
5 for compliance.

6 5. Civil penalties collected pursuant to this section from  
7 utilities providing water, electric, or gas service shall be  
8 forwarded by the executive secretary of the board to the  
9 treasurer of state to be credited to the general fund of the  
10 state and to be used only for the low income home energy  
11 assistance program and the weatherization assistance program  
12 administered by the division of community action agencies of  
13 the department of human rights. Civil penalties collected  
14 pursuant to this section from utilities providing  
15 telecommunications service shall be forwarded to the treasurer  
16 of state to be credited to the general fund of the state to be  
17 used only by the department of economic development in  
18 furtherance of activities pursuant to section 15.301.

19 Penalties paid by a rate-regulated public utility pursuant to  
20 this section shall be excluded from the utility's costs when  
21 determining the utility's revenue requirement, and shall not  
22 be included either directly or indirectly in the utility's  
23 rates or charges to customers.

24 Sec. 6. Section 476.97, subsection 3, paragraph a,  
25 subparagraph (5), Code 2003, is amended to read as follows:

26 (5) The plan shall provide for both increases and  
27 decreases in the prices for basic communications services  
28 reflecting annual changes in inflation ~~and-productivity~~.  
29 ~~Prior-to-January-17-20007~~ Initially, the board shall use the  
30 gross domestic product price index, as published by the  
31 federal government, for an inflation measure ~~7-and-two-and-six-~~  
32 ~~tenths-percentage-points-for-a-productivity-measure~~. ~~On-or~~  
33 ~~after-January-17-20007-the~~ The board by rule may adopt a more  
34 current measures measure of inflation ~~and-productivity~~. Any  
35 plan in effect as of July 1, 2003, that contains a

1 productivity factor shall strike the productivity factor on a  
2 prospective basis.

3 Sec. 7. Section 476.97, Code 2003, is amended by adding  
4 the following new subsections:

5 NEW SUBSECTION. 12. Notwithstanding any contrary  
6 provisions of this chapter relating to rate regulation, a  
7 rate-regulated local exchange carrier operating under a price  
8 regulation plan shall be allowed to rebalance basic  
9 communications rates by implementing a rate increase of not  
10 more than one dollar in the monthly rate for selected basic  
11 exchange access service lines each year for three years. The  
12 resulting increase in revenues shall be offset by an equal  
13 decrease in revenues by simultaneously decreasing other basic  
14 communications services rates. This rebalancing provision may  
15 be used to rebalance rates to reduce the rate differential  
16 between rates for comparable residential and business services  
17 or between rates for comparable services in different service  
18 zones as defined in the carrier's tariffs. After notice  
19 pursuant to section 476.6, subsection 5, a carrier proposing  
20 to rebalance rates shall file proposed tariffs with the board  
21 containing the revised rates, along with supporting  
22 calculations demonstrating that the proposed rebalancing is  
23 expected to be revenue neutral. Notwithstanding contrary  
24 provisions of this chapter, the board shall allow the tariff  
25 provisions to become effective upon a finding by the board  
26 that the carrier's overall revenues from basic communications  
27 services will not be increased as a result of the rebalancing  
28 and that the overall rebalancing is in the public interest.  
29 Cost of service information shall not be considered in making  
30 this determination.

31 NEW SUBSECTION. 13. a. The Iowa broadband initiative is  
32 created to provide access to advanced telecommunications  
33 services in all exchanges served by rate-regulated local  
34 exchange carriers where advanced telecommunications services  
35 are not already available at affordable rates, to the extent

1 consistent with technological limitations and the public  
2 interest as determined by the board. The general assembly  
3 specifically finds that regulatory flexibility is appropriate  
4 when fostering economic development through the increased  
5 availability of advanced telecommunications services.

6 b. For purposes of this section, "advanced  
7 telecommunications service" is defined as infrastructure  
8 capable of delivering a data transmission speed of at least  
9 two hundred kilobits per second in each direction.

10 c. Any rate-regulated local exchange carrier may implement  
11 a single increase in monthly rates for residential or business  
12 dial tone access service lines by an amount not to exceed two  
13 dollars per month. The increase shall be included in the  
14 customer's bill as an unidentified part of the overall rate  
15 for service. The revenue from this increase shall be used to  
16 provide advanced telecommunications services in each of the  
17 carrier's local exchange central office wire centers where  
18 broadband services are not currently available at affordable  
19 rates, subject to the requirements in subparagraphs (1)  
20 through (6). In addition, any increase or decrease required  
21 by an approved price regulation plan that, as of July 1, 2003,  
22 has been deferred pursuant to section 476.97, subsection 3,  
23 paragraph "a", subparagraph (6), shall not be implemented and  
24 the amount of any deferral shall also be used to provide  
25 advanced telecommunications services, subject to the following  
26 requirements:

27 (1) Any carrier electing to participate in the Iowa  
28 broadband initiative shall file for the board's review and  
29 approval a plan for using the revenue resulting from the rate  
30 increase. In reviewing the plan, the board shall consider  
31 investments and expenditures by the carrier that will best  
32 serve the public interest as described in this subsection,  
33 including upgrading the existing telecommunications  
34 infrastructure to permit improved data services, to a minimum  
35 of fifty-six kilobits per second, for customers who cannot be

1 offered advanced telecommunications services because of their  
2 geographical location. The board shall adopt rules to  
3 implement its review process, including rules that specify the  
4 initial plan filing requirements, further define the public  
5 interest, and identify some of the factors the board will  
6 consider in reviewing plans.

7 (2) The carrier shall use the revenue resulting from the  
8 rate increase to implement its approved plan. Whenever the  
9 board is of the opinion that a carrier is not complying with  
10 its approved plan, the board may commence an action in the  
11 district court for any county in which such violation is  
12 alleged to have occurred to have such violation stopped and  
13 prevented by injunction, mandamus, or other appropriate  
14 remedy. The board may also, after notice and opportunity for  
15 hearing, require that the carrier refund any revenue resulting  
16 from the rate increase that has not been used to implement its  
17 approved plan. The board may also enforce the approved plan  
18 with civil penalties, pursuant to section 476.51.

19 (3) The carrier shall file annual reports with the board  
20 detailing its progress toward completion of its approved plan.

21 (4) The carrier, the board, or any other interested person  
22 may propose modifications to a carrier's plan at any time.

23 (5) Upon completion of its initial Iowa broadband  
24 initiative plan, a carrier shall do one or more of the  
25 following:

26 (a) File a plan for board review and approval for  
27 continued use of the revenue resulting from the rate increase  
28 for further deployment of advanced services.

29 (b) File a rate of return rate proceeding pursuant to  
30 section 476.6 to determine new rates.

31 (c) File proposed tariffs for board review and approval to  
32 reduce the monthly rates that were increased under this  
33 subsection by an amount equal to the increase.

34 (6) A carrier choosing to participate in the Iowa  
35 broadband initiative shall also apply a credit, in an amount

1 equal to the amount of the residential service increase, to  
2 the monthly local exchange service rate for qualified  
3 applicants for low-income lifeline assistance programs. This  
4 credit shall continue for as long as the retail rate increase  
5 is in effect.

6 Sec. 8. LOCAL EXCHANGE COMPETITION AND INTRASTATE ACCESS  
7 CHARGES STUDY. The board shall conduct a study of the current  
8 status of local exchange competition in Iowa and a separate  
9 study of intrastate access charges and shall report the  
10 results of the studies to the general assembly by December 15,  
11 2003.

12 In conducting the competition study, the board shall  
13 consider possible alternatives to services received from  
14 incumbent local exchange service providers, including but not  
15 limited to competitive local exchange service providers,  
16 municipal telecommunications service providers, resellers of  
17 the facilities and services of other providers, commercial  
18 mobile radio service or other wireless providers, cable  
19 television service providers, advanced telecommunications  
20 service providers, and providers using voice-over internet  
21 protocol or other similar technologies.

22 In conducting the studies, the board may subpoena books,  
23 papers, records, and any other real evidence necessary or  
24 useful for the board to complete either study. Subpoenas may  
25 be contested using the procedures in section 17A.13,  
26 subsection 1. Company-specific information provided to the  
27 board solely for purposes of the report may be treated as a  
28 trade secret for purposes of section 22.7, subsection 3.

29

#### EXPLANATION

30 This bill creates an Iowa broadband initiative. The bill  
31 allows local exchange carriers operating under price  
32 regulation plans to rebalance their residential and business  
33 rates and to reduce rate differentials resulting from past  
34 mergers and acquisitions. In addition, the bill clarifies the  
35 authority of the utilities board to deregulate competitive

1 telecommunications services, removes outdated provisions  
2 relating to directory assistance services, creates a  
3 technology-enabled communities ("TEC") town program within the  
4 department of economic development, provides that civil  
5 penalties collected from telecommunications companies will be  
6 used to fund the TEC town program, and requires that the  
7 utilities board conduct studies of the current state of local  
8 exchange competition in Iowa and intrastate access charges.

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SENATE FILE 368

AN ACT

RELATING TO ADVANCED TELECOMMUNICATIONS SERVICES, INCLUDING  
RATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 476.1D, subsection 1, Code 2003, is amended to read as follows:

1. Except as provided in this section, the jurisdiction of the board as to the regulation of communications services is not applicable to a service or facility that is provided or is proposed to be provided by a telephone utility that is or becomes subject to effective competition, as determined by the board. In determining whether a service or facility is or becomes subject to effective competition, the board shall consider, among other factors, whether a comparable service or facility is available from a supplier other than the telephone utility in the geographic market being considered by the board and whether market forces in that market are sufficient to assure just and reasonable rates without regulation.

Sec. 2. Section 476.6, subsection 1, Code 2003, is amended to read as follows:

1. FILING WITH BOARD. A public utility subject to rate regulation shall not make effective a new or changed rate, charge, schedule or regulation until the rate, charge, schedule, or regulation has been approved by the board, except as provided in subsections 11 and 13.

~~A subscriber of a telephone exchange or service, who is declared to be legally blind under section 422.127 subsection 17, paragraph "e", is exempt from any charges for telephone directory assistance that may be approved by the board.~~

Sec. 3. Section 476.6, subsections 2 through 4, Code 2003, are amended by striking the subsections.

Sec. 4. Section 476.51, Code 2003, is amended to read as follows:

476.51 CIVIL PENALTY.

1. A public utility which, after written notice by the board of a specific violation, violates the same provision of this chapter, the same rule adopted by the board, or the same provision of an order lawfully issued by the board, is subject to a civil penalty, which may be levied by the board, of not less than one hundred dollars nor more than two thousand five hundred dollars per violation.

2. A public utility which willfully, after written notice by the board of a specific violation, violates the same provision of this chapter, the same rule adopted by the board, or the same provision of an order lawfully issued by the board, is subject to a civil penalty, which may be levied by the board, of not less than one thousand dollars nor more than ten thousand dollars per violation. For the purposes of this section, "willful" means knowing and deliberate, with a specific intent to violate.

3. Each violation is a separate offense. In the case of a continuing violation, each day a violation continues, after the time specified for compliance in the written notice by the

board, is a separate and distinct offense. Any civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in a compromise, the board may consider the appropriateness of the penalty in relation to the size of the public utility, the gravity of the violation, and the good faith of the public utility in attempting to achieve compliance following notification of a violation, and any other relevant factors.

4. The written notice given by the board to a public utility under this section shall specify an appropriate time for compliance.

5. Civil penalties collected pursuant to this section from utilities providing water, electric, or gas service shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the general fund of the state and to be used only for the low income home energy assistance program and the weatherization assistance program administered by the division of community action agencies of the department of human rights. Civil penalties collected pursuant to this section from utilities providing telecommunications service shall be forwarded to the treasurer of state to be credited to the general fund of the state to be used only for consumer education programs administered by the board. Penalties paid by a rate-regulated public utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement, and shall not be included either directly or indirectly in the utility's rates or charges to customers.

Sec. 5. Section 476.97, subsection 3, paragraph a, subparagraph (5), Code 2003, is amended to read as follows:

(5) The plan shall provide for both increases and decreases in the prices for basic communications services reflecting annual changes in inflation ~~and productivity~~. ~~Prior to January 17, 2000,~~ Initially, the board shall use the gross domestic product price index, as published by the

federal government, for an inflation measure ~~and two and six-tenths percentage points for a productivity measure~~. ~~On or after January 17, 2000,~~ The board by rule may adopt a more current measure of inflation and productivity. Any plan in effect as of July 1, 2003, that contains a productivity factor shall strike the productivity factor on a prospective basis.

Sec. 6. Section 476.97, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 12. a. The Iowa broadband initiative is created to provide access to advanced telecommunications services to all customers in all exchanges served by rate-regulated local exchange carriers where advanced telecommunications services are not already available at affordable rates, to the extent consistent with technological limitations and the public interest as determined by the board. The general assembly specifically finds that regulatory flexibility is appropriate when fostering economic development through the increased availability of advanced telecommunications services.

b. For purposes of this section, "advanced telecommunications services" is defined as infrastructure capable of delivering a data transmission speed of at least two hundred kilobits per second in each direction.

c. Any rate-regulated local exchange carrier may implement a single increase in monthly rates for residential or business dial tone access service lines by an amount not to exceed two dollars per month. The increase shall be included in the customer's bill as an unidentified part of the overall rate for service. The revenue from this increase shall be used to provide advanced telecommunications services in each of the carrier's local exchange central office wire centers where advanced telecommunications services are not currently available at affordable rates in all or a substantial part of the exchange, subject to the requirements in subparagraphs (1)

through (7). In addition, any increase or decrease required by an approved price regulation plan that, as of July 1, 2003, has been deferred pursuant to subsection 3, paragraph "a", subparagraph (6), shall not be implemented and the amount of any deferral shall also be used to provide advanced telecommunications services, subject to the following requirements:

(1) Any carrier electing to participate in the Iowa broadband initiative shall file for the board's review and approval a plan for using the revenue resulting from the rate increase. In reviewing the plan, the board shall consider investments and expenditures by the carrier that will best serve the public interest as described in this subsection, including upgrading the existing telecommunications infrastructure to permit improved data services for customers who cannot be offered advanced telecommunications services because of their geographical location. The board shall adopt rules to implement its review process, including rules that specify the initial plan filing requirements, further define the public interest, and identify some of the factors the board will consider in reviewing plans.

(2) The carrier shall use the revenue resulting from the rate increase to implement its approved plan. Whenever the board is of the opinion that a carrier is not complying with its approved plan, the board may commence an action in the district court for any county in which such violation is alleged to have occurred to have such violation stopped and prevented by injunction, mandamus, or other appropriate remedy. The board may also, after notice and opportunity for hearing, require that the carrier refund any revenue resulting from the rate increase that has not been used to implement its approved plan. The board may also enforce the approved plan with civil penalties, pursuant to section 476.51.

(3) The carrier shall file annual reports with the board detailing its progress toward completion of its approved plan.

(4) The carrier, the board, or any other interested person may propose modifications to a carrier's plan at any time.

(5) By choosing to participate in the Iowa broadband initiative, the participating carrier agrees to make available to other carriers, on both a wholesale and an unbundled basis, the services and facilities that result from implementation of the participating carrier's plan. The wholesale rates and unbundled rates shall be set by the board, which shall consider, among other factors, the extent to which the service or facility was financed by the revenues generated by the rate increase allowed under this paragraph "c".

(6) Upon completion of its initial Iowa broadband initiative plan, a carrier shall do one or more of the following:

(a) File a plan for board review and approval for continued use of the revenue resulting from the rate increase for further deployment of advanced services.

(b) File a rate of return rate proceeding pursuant to section 476.6 to determine new rates.

(c) File proposed tariffs for board review and approval to reduce the monthly rates that were increased under this subsection by an amount equal to the increase.

(7) A carrier choosing to participate in the Iowa broadband initiative shall also apply a credit, in an amount equal to the amount of the residential service increase, to the monthly local exchange service rate for qualified applicants for low-income lifeline assistance programs. This credit shall continue for as long as the retail rate increase is in effect.

**Sec. 7. NEW SECTION. 476.105 SEVERABILITY.**

If any provision of this chapter or its application to any person or circumstance is held invalid or otherwise rendered ineffective by any entity, the invalidity or ineffectiveness shall not affect other provisions or applications of this chapter that can be given effect without the invalid or

ineffective provision or application, and to this end the provisions of this chapter are severable.

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MARY E. KRAMER  
President of the Senate

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CHRISTOPHER C. RANTS  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 368, Eightieth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved \_\_\_\_\_, 2003

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THOMAS J. VILSACK  
Governor