

111TH CONGRESS
1ST SESSION

H. R. _____

To reform the universal service provisions of the Communications Act of 1934, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BOUCHER (for himself and Mr. TERRY) introduced the following bill; which was referred to the Committee on _____

A BILL

To reform the universal service provisions of the Communications Act of 1934, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Universal Service Re-
5 form Act of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—Section 3(a) of the Communica-
8 tions Act of 1934 (47 U.S.C. 153(a)) is amended—

9 (1) by adding the following new paragraphs:

1 “(53) COMMUNICATIONS SERVICE PROVIDER.—

2 The term ‘communications service provider’ means
3 any entity that—

4 “(A) contributes to or receives universal
5 service support for the most recent calendar
6 quarter ending before the date of enactment of
7 the Universal Service Reform Act of 2009;

8 “(B) uses telephone numbers or Internet
9 protocol addresses, or their functional equiva-
10 lents or successors, to offer a service or a capa-
11 bility—

12 “(i) that provides or enables real-time
13 2-way voice communications; and

14 “(ii) in which the voice component is
15 the primary function; or

16 “(C) offers directly to the public, or to
17 such classes of users as to be effectively avail-
18 able directly to the public, a physical trans-
19 mission facility, whether circuit-switched, pack-
20 et-switched, a leased line, or using radio fre-
21 quency transmissions (regardless of the form),
22 protocol, or statutory classification of the serv-
23 ice that allows an end user to obtain access
24 from a particular end user location to a net-
25 work that permits the end user to engage in

1 electronic communications (including tele-
2 communications) with the public.

3 “(54) HIGH-SPEED BROADBAND SERVICE.—

4 “(A) DEFINITION.—The term ‘high-speed
5 broadband service’ means a 2-way network that
6 uses Internet protocol (and the associated capa-
7 bilities and functionalities, services, and appli-
8 cations provided over an Internet protocol plat-
9 form or for which an Internet protocol capa-
10 bility is an integral component) and services, fa-
11 cilities, equipment, or applications that enable
12 an end-user to receive communications in Inter-
13 net protocol format, regardless of whether the
14 communications are voice, data, video, or any
15 other form, at a download receiving rate of 1.5
16 megabits per second or greater.

17 “(B) COMMISSION SPEED ADJUSTMENT
18 REQUIREMENTS.—Beginning with the sixth
19 year after the date of enactment of the Uni-
20 versal Service Reform Act of 2009, the Com-
21 mission shall review the speed requirement in
22 subparagraph (A) biennially and shall make the
23 necessary adjustments to increase the minimum
24 download receiving rate as advancement and de-
25 ployment of new technology allows communica-

1 tions service providers to provide broadband
2 service at such increased minimum download
3 receiving rate to end users in an economically
4 efficient manner.

5 “(C) INTERNET PROTOCOL.—The term
6 ‘Internet protocol’ means the Transmission
7 Control Protocol/Internet Protocol or any pred-
8 ecessor or successor protocols to such protocol.

9 “(55) MOBILE WIRELESS COMMUNICATIONS
10 SERVICE PROVIDER.—The term ‘mobile wireless
11 communications service provider’ means a provider
12 of commercial mobile service (as defined in section
13 332(d) of the Communications Act of 1934 (47
14 U.S.C. 332(d))), except that such term shall only
15 apply to a provider of such service as it relates to
16 2-way communications.”; and

17 (2) by reordering paragraphs (1) through (52)
18 of such section and the additional paragraphs added
19 by paragraph (1) of this section in alphabetical
20 order based on the headings of such paragraphs and
21 renumbering such paragraphs as so reordered.

22 (b) RULE OF CONSTRUCTION.—Terms used in this
23 Act shall have the meanings set forth in the Communica-
24 tions Act of 1934 (47 U.S.C. 151 et seq.) unless otherwise
25 specified.

1 **TITLE I—UNIVERSAL SERVICE**
2 **REFORM**

3 **SEC. 101. UNIVERSAL SERVICE REFORM PROCEDURES AND**
4 **PRINCIPLES.**

5 Section 254 of the Communications Act of 1934 (47
6 U.S.C. 254) is amended by amending subsections (a)
7 through (c) to read as follows:

8 “(a) PROCEDURES TO REFORM UNIVERSAL SERV-
9 ICE.—

10 “(1) FEDERAL-STATE JOINT BOARD ON UNI-
11 VERSAL SERVICE.—Within 1 month after the date of
12 enactment of the Universal Service Reform Act of
13 2009, the Commission shall institute and refer to
14 the Federal-State Joint Board under section 410(c)
15 a proceeding to recommend changes to any of its
16 regulations in order to implement section 214(e) of
17 this title and this section (as amended by the Uni-
18 versal Service Reform Act of 2009), including the
19 definition of the services that are supported by Fed-
20 eral universal service support mechanisms and a spe-
21 cific timetable for completion of such recommenda-
22 tions. In addition to the members of the Joint Board
23 required under section 410(c), 1 member of such
24 Joint Board shall be a State-appointed utility con-
25 sumer advocate nominated by a national organiza-

1 tion of State utility consumer advocates. The Joint
2 Board shall, after notice and opportunity for public
3 comment, make its recommendations to the Commis-
4 sion within 9 months after the date of enactment of
5 the Universal Service Reform Act of 2009.

6 “(2) COMMISSION ACTION.—The Commission
7 shall initiate a single proceeding to consider the rec-
8 ommendations from the Joint Board required by
9 paragraph (1) and shall complete such proceeding
10 within 18 months after the date of enactment of the
11 Universal Service Reform Act of 2009. The rules es-
12 tablished by such proceeding shall include a defini-
13 tion of the services that are supported by Federal
14 universal service support mechanisms and a specific
15 timetable for implementation.

16 “(b) UNIVERSAL SERVICE PRINCIPLES.—The Joint
17 Board and the Commission shall base policies for the pres-
18 ervation and advancement of universal service on the fol-
19 lowing principles:

20 “(1) QUALITY AND RATES.—Quality services
21 should be available at just, reasonable, and afford-
22 able rates.

23 “(2) ACCESS TO ADVANCED SERVICES.—Access
24 to advanced telecommunications and information

1 services should be provided in all regions of the Na-
2 tion.

3 “(3) ACCESS IN RURAL, INSULAR, OR HIGH
4 COST AREAS.—Consumers in all regions of the Na-
5 tion, including low-income consumers and those in
6 rural, insular, or high cost areas, should have access
7 to the services the Commission determines to be uni-
8 versal services in accordance with subsection (c), in-
9 cluding interexchange services and advanced tele-
10 communications and information services, that are
11 reasonably comparable to those services provided in
12 urban areas and that are available at rates that are
13 reasonably comparable to rates charged for similar
14 services in urban areas.

15 “(4) COMPARABLE TREATMENT OF COMMU-
16 NICATIONS SERVICE PROVIDERS.—

17 “(A) EQUITABLE AND NONDISCRIM-
18 INATORY CONTRIBUTIONS.—All communications
19 service providers should make equitable and
20 nondiscriminatory contributions to the preserva-
21 tion and advancement of universal service.

22 “(B) COMPETITIVE NEUTRALITY.—Federal
23 and State mechanisms to preserve and advance
24 universal service should be competitively neutral
25 such that those mechanisms neither unfairly ad-

1 vantage nor disadvantage one communications
2 service provider over another and neither un-
3 fairly favor nor disfavor one technology over an-
4 other.

5 “(5) EXPLICIT, SPECIFIC, AND PREDICTABLE
6 SUPPORT MECHANISMS.—There should be explicit,
7 specific, predictable, and sufficient Federal and
8 State mechanisms to preserve and advance universal
9 service.

10 “(6) ACCESS TO ADVANCED TELECOMMUNI-
11 CATIONS SERVICES FOR SCHOOLS, HEALTH CARE,
12 AND LIBRARIES.—Elementary and secondary schools
13 and classrooms, health care providers, and libraries
14 should have access to advanced telecommunications
15 services as described in subsection (h).

16 “(7) ADDITIONAL PRINCIPLES.—Such other
17 principles as the Joint Board and the Commission
18 determine are necessary and appropriate for the pro-
19 tection of the public interest, convenience, and ne-
20 cessity and are consistent with this Act.

21 “(c) DEFINITION.—

22 “(1) IN GENERAL.—Universal service includes
23 the services defined on the day before the date of en-
24 actment of the Universal Service Reform Act of
25 2009 as universal services, as modified by the Com-

1 mission as necessary to implement the provisions of
2 such Act, high-speed broadband service, and an
3 evolving level of telecommunications and information
4 services that the Commission shall establish periodi-
5 cally under this section, taking into account ad-
6 vances in telecommunications and information tech-
7 nologies and services. The Joint Board in recom-
8 mending, and the Commission in establishing, the
9 definition of the services that are supported by Fed-
10 eral universal service support mechanisms shall con-
11 sider the extent to which such services—

12 “(A) are essential to education, public
13 health, or public safety;

14 “(B) are being deployed in public tele-
15 communications networks by communications
16 service providers; and

17 “(C) are consistent with the public inter-
18 est, convenience, and necessity.

19 “(2) ALTERATIONS AND MODIFICATIONS.—The
20 Joint Board shall consider whether to recommend to
21 the Commission modifications in the definition of
22 the services that are supported by Federal universal
23 service support mechanisms not less than once every
24 5 years.

1 “(3) SPECIAL SERVICES.—In addition to the
2 services included in the definition of universal serv-
3 ice under paragraph (1), the Commission may des-
4 ignate additional services for such support mecha-
5 nisms for schools, libraries, and health care pro-
6 viders for the purposes of subsection (h).

7 “(4) HIGH-SPEED BROADBAND SERVICE.—The
8 definition of universal service shall not be construed
9 to exclude eligible communications service providers
10 from using universal service funding for the provi-
11 sion, maintenance, and upgrading of high-speed
12 broadband service.”.

13 **SEC. 102. UNIVERSAL SERVICE SUPPORT CONTRIBUTIONS.**

14 (a) IN GENERAL.—Section 254(d) of the Commu-
15 nications Act of 1934 (47 U.S.C. 254(d)) is amended to
16 read as follows:

17 “(d) UNIVERSAL SERVICE SUPPORT CONTRIBU-
18 TIONS.—

19 “(1) CALCULATING UNIVERSAL SERVICE SUP-
20 PORT CONTRIBUTIONS.—

21 “(A) IN GENERAL.—To preserve and ad-
22 vance universal service in accordance with the
23 principles in subsection (b), the Commission
24 shall assess contributions to universal service
25 support mechanisms from communications serv-

1 ice providers in a manner that is equitable,
2 competitively neutral, nondiscriminatory, and
3 ensures that communications service providers
4 are subject to similar obligations. The Commis-
5 sion may employ any methodology to assess
6 such contributions, including consideration of—

7 “(i) revenues derived from the provi-
8 sion of intrastate, interstate, and foreign
9 communications services by communica-
10 tions service providers;

11 “(ii) working telephone numbers used
12 by communications service providers; or

13 “(iii) any other current or successor
14 identifier protocols or connections to the
15 network used by communications service
16 providers.

17 “(B) USE OF MORE THAN ONE METHOD-
18 OLOGY.—If no one methodology designated
19 under subparagraph (A) effectuates the prin-
20 ciples described in this Act, the Commission
21 may employ a combination of any such meth-
22 odologies.

23 “(C) LOW VOLUME EXCEPTION.—The
24 Commission shall not materially increase the
25 contributions of communications service pro-

1 viders whose customers typically make a low
2 volume of calls on a monthly basis.

3 “(D) DE MINIMIS EXCEPTION.—The Com-
4 mission may exempt a communications service
5 provider from the requirements of this sub-
6 section if the communications activities of such
7 provider are limited to such an extent that the
8 level of contributions of such provider to the
9 preservation and advancement of universal serv-
10 ice would be de minimis.

11 “(E) GROUP PLAN EXCEPTION.—If the
12 Commission uses a methodology under subpara-
13 graph (A) based in whole or in part on working
14 telephone numbers, it may provide a discount
15 for additional numbers provided under a group
16 or family pricing plan for residential customers
17 provided in one bill.

18 “(2) REPORTS.—The Commission shall estab-
19 lish annual reporting requirements for all commu-
20 nications service providers contributing to universal
21 service support mechanisms or receiving universal
22 service support. The reporting requirements shall
23 not impose unnecessary burdens and shall be neutral
24 with respect to technology and provider. The Com-
25 mission shall periodically review the reporting re-

1 requirements to ensure that universal service support
2 is used for the provision, maintenance, and upgrad-
3 ing of the facilities for which support is intended.

4 “(3) UNIVERSAL SERVICE SUPPORT CONTRIBU-
5 TION LIMITS.—

6 “(A) LIMITATION.—The total amount of
7 universal service support for all universal serv-
8 ice support mechanisms other than support for
9 schools, libraries, rural health care, life-line,
10 link-up, and toll limitation shall not exceed the
11 total amount that was collected from all sources
12 for all universal service support mechanisms
13 other than schools, libraries, rural health care,
14 life-line, link-up, and toll limitation in the last
15 year prior to the date of enactment of the Uni-
16 versal Service Reform Act of 2009, as ad-
17 justed—

18 “(i) annually by the growth factor de-
19 scribed in subparagraph (B); and

20 “(ii) once, within 1 year after the date
21 of enactment of the Universal Service Re-
22 form Act of 2009, by the amounts that the
23 adjustments in subsections (e)(4) and (m)
24 increase demand for universal service sup-
25 port.

1 “(B) GROWTH FACTOR.—The growth fac-
2 tor shall be the annual percentage change in
3 the Gross Domestic Product–Chained Price
4 Index, or any successor general inflationary fac-
5 tor that the Bureau of Economic Analysis of
6 the Department of Commerce determines shall
7 supersede such index, plus the annual percent-
8 age change in the total number of incumbent
9 local exchange carrier working loops in rural,
10 insular, or high cost areas, if that percentage
11 change is greater than zero.”.

12 (b) STUDY.—

13 (1) IN GENERAL.—Not later than 270 days
14 after the date of enactment of this Act, the Federal
15 Communications Commission shall complete a study,
16 including a cost-benefit analysis, of using a system
17 based on working telephone numbers or revenues for
18 calculating contributions by communications service
19 providers to universal service support mechanisms.

20 (2) REPORT.—The Federal Communications
21 Commission shall transmit a report to the Com-
22 mittee on Energy and Commerce of the House of
23 Representatives and the Committee on Commerce,
24 Science, and Transportation of the Senate on the

1 study conducted under paragraph (1) within 1 year
2 after the date of enactment of this Act.

3 **SEC. 103. UNIVERSAL SERVICE SUPPORT DISTRIBUTION.**

4 Section 254(e) of the Communications Act of 1934
5 (47 U.S.C. 254(e)) is amended to read as follows:

6 “(e) DISTRIBUTION AND USE OF UNIVERSAL SERV-
7 ICE SUPPORT.—

8 “(1) IN GENERAL.—Only a communications
9 service provider designated as an eligible commu-
10 nications service provider under section 214(e) shall
11 be eligible to receive specific Federal universal serv-
12 ice support. An eligible communications service pro-
13 vider that receives such support shall use that sup-
14 port only for the provision, maintenance, and up-
15 grading of facilities and facilities-based services for
16 which the support is intended. Any such support
17 should be explicit and sufficient to achieve the pur-
18 poses of this section.

19 “(2) USE OF UNIVERSAL SERVICE SUPPORT.—
20 The use of universal service support for all rural, in-
21 sular, or high cost areas—

22 “(A) should be expanded to include high-
23 speed broadband service and any other service
24 that is determined to be a universal service by
25 the Commission under subsection (c); and

1 “(B) should be available to eligible commu-
2 nications service providers designated under
3 section 214(e), but an eligible communications
4 service provider that is also an incumbent local
5 exchange carrier may elect to have the Commis-
6 sion calculate the amount of universal service
7 support payable to such provider in the same
8 manner as support based on how average for-
9 ward looking cost is calculated for eligible com-
10 munications service providers in paragraph (3).

11 “(3) CALCULATING SUPPORT FOR CARRIERS
12 PROVIDING SERVICE IN RURAL, INSULAR, OR HIGH
13 COST AREAS.—

14 “(A) CALCULATING SUPPORT.—In calcu-
15 lating the need for and distribution of Federal
16 universal service support for eligible commu-
17 nications service providers that serve high cost
18 areas, but not insular areas, the Commission
19 shall revise the Commission’s current non-rural
20 high cost model support mechanism for rural,
21 insular, or high cost areas to provide support to
22 each wire center to the extent the incumbent
23 local exchange carrier’s average forward-looking
24 cost per line for such wire center exceeds 2.75
25 times the national average cost per line.

1 “(B) HOLD HARMLESS.—In implementing
2 subparagraph (A), the Commission shall ensure
3 that, for 1 year after the date of enactment of
4 the Universal Service Reform Act of 2009, no
5 incumbent local exchange carrier receives less
6 Federal support for rural, insular, or high cost
7 areas than the incumbent local exchange carrier
8 would have received under the Commission’s
9 support mechanism for such areas as in effect
10 on the day before the date of enactment of the
11 Universal Service Reform Act of 2009. The
12 Commission shall determine the difference be-
13 tween the amount an incumbent local exchange
14 carrier would have received under the Commis-
15 sion’s support for rural, insular, or high cost
16 areas as in effect on the day before the date of
17 enactment of the Universal Service Reform Act
18 of 2009 and the amount that such incumbent
19 local exchange carrier would receive after such
20 date of enactment and shall, beginning in the
21 fifth quarter that begins after such date of en-
22 actment, reduce the amount of such difference
23 in equal increments over a 10-year period such
24 that the amount of the difference has been re-
25 duced to zero at the end of such period.”.

1 **SEC. 104. ELIGIBLE RECIPIENTS OF UNIVERSAL SERVICE**

2 **SUPPORT.**

3 (a) AMENDMENT.—Section 214(e) of the Commu-
4 nications Act of 1934 (47 U.S.C. 214(e)) is amended—

5 (1) in paragraph (1)—

6 (A) by striking “ELIGIBLE TELECOMMUNI-
7 CATIONS CARRIERS.—A common carrier” and
8 all that follows through “paragraph (2), (3), or
9 (6)” and inserting the following: “ELIGIBLE
10 COMMUNICATIONS SERVICE PROVIDER.—A com-
11 munications service provider designated as an
12 eligible communications service provider under
13 paragraph (2), (3), (6), or (8)”;

14 (B) in subparagraph (A), by striking “;
15 and” and inserting the following: “and adhere
16 to the State carrier-of-last-resort requirements
17 that are imposed on incumbent carriers serving
18 such service area;”;

19 (C) in subparagraph (B), by striking the
20 period at the end and inserting the following:
21 “throughout the service area and advertise the
22 availability of life-line and link-up services in a
23 manner reasonably designed to reach those like-
24 ly to qualify for those services;”;

25 (D) by adding at the end the following:

1 “(C) demonstrate the ability to remain
2 functional in emergency situations;

3 “(D) comply with applicable State and
4 Federal consumer protection and service quality
5 standards; and

6 “(E) meet the basic requirements for the
7 deployment of high-speed broadband service
8 and provide high-speed broadband service either
9 itself or through resale of another provider’s
10 services, including, for purposes of this sub-
11 paragraph only, the resale of satellite
12 broadband service, except that the Commission
13 shall establish a process in which—

14 “(i) a determination can be made to
15 waive the requirements of this subpara-
16 graph for 3 years upon a communications
17 service provider’s application covering all
18 or part of such communications service
19 provider’s service area demonstrating that
20 the deployment and provision of high-speed
21 broadband service is not technically fea-
22 sible or would materially impair the com-
23 munications service provider’s ability to
24 continue to provide local exchange service
25 throughout its service area, except that a

1 waiver shall be deemed automatically
2 granted under this clause for a commu-
3 nications service provider demonstrating
4 that the cost per line of deploying and pro-
5 viding high-speed broadband service to
6 unserved high cost portions of its service
7 area is at least 3 times the national aver-
8 age cost per line of providing high-speed
9 broadband service among all wire centers
10 included in the national average calculation
11 in section 254(e)(3)(A), subject to the re-
12 newal provisions set forth in clause (ii);

13 “(ii) the communications service pro-
14 vider may seek renewal of such waiver
15 every 3 years for as long as the deploy-
16 ment and provision of high-speed
17 broadband service is not technically fea-
18 sible or would materially impair the com-
19 munications service provider’s ability to
20 continue to provide local exchange service
21 throughout its service area or the cost per
22 line of deploying and providing high-speed
23 broadband service to unserved high cost
24 portions of its service area remains at least
25 3 times the national average cost per line

1 of providing high-speed broadband service
2 for all wire centers included in the national
3 average calculation in section 254(e)(3)(A);
4 and

5 “(iii) any application of a communica-
6 tions service provider for a waiver pursu-
7 ant to clause (i) on which the Commission
8 has not taken final action within 60 days
9 after the date of submission to the Com-
10 mission shall be deemed granted.”;

11 (2) by amending paragraphs (2) through (4) to
12 read as follows:

13 “(2) ELIGIBILITY CRITERIA.—

14 “(A) IN GENERAL.—In addition to the cri-
15 teria specified in paragraph (1), the Commis-
16 sion shall establish such additional eligibility
17 criteria for the receipt of universal service sup-
18 port by eligible communications service pro-
19 viders as it deems necessary and in the public
20 interest. The criteria established in paragraph
21 (1) and the criteria established by the Commis-
22 sion pursuant to this paragraph shall be used
23 by State commissions in determining which pro-
24 viders shall be designated as eligible recipients

1 of universal service support for the purpose of
2 paragraph (3).

3 “(B) ADDITIONAL DESIGNATION.—The
4 Commission may establish a life-line service
5 provider designation that is not subject to the
6 eligibility requirements in paragraph (1) or the
7 eligibility criteria established in subparagraph
8 (A).

9 “(3) DESIGNATION OF ELIGIBLE RECIPIENTS.—
10 A State commission shall, upon its own motion or
11 upon request, designate as an eligible recipient of
12 universal service support only those providers meet-
13 ing the requirements of paragraphs (1) and (2).

14 “(4) GRANDFATHER PROVISION.—

15 “(A) ELIGIBILITY REQUIREMENTS.—Com-
16 munications service providers who were recipi-
17 ents of universal service support in any service
18 area prior to the date of enactment of the Uni-
19 versal Service Reform Act of 2009 shall meet
20 the eligibility requirements for eligible commu-
21 nications service providers—

22 “(i) as described in paragraphs (1)(A)
23 through (D), within 1 year after the date
24 of enactment of the Universal Service Re-
25 form Act of 2009; and

1 “(ii) as described in paragraph
2 (1)(E), within 5 years after the date of en-
3 actment of the Universal Service Reform
4 Act of 2009.

5 Failure of such an eligible communications service
6 provider to maintain and meet the eligibility require-
7 ments within the period required by clause (i) or (ii)
8 after the date of enactment of the Universal Service
9 Reform Act of 2009 shall require the automatic ter-
10 mination of specific Federal universal service sup-
11 port to that recipient. Such a recipient shall simulta-
12 neously be relieved of its obligation under this sec-
13 tion, except as described in subparagraph (B). A re-
14 cipient of universal service support is permitted to
15 maintain and meet the eligibility requirements in
16 part of its service territory and is eligible to continue
17 to receive specific Federal universal service support
18 in those service areas within its service territory in
19 which it meets the eligibility requirements. This
20 paragraph shall not be construed to prohibit such a
21 recipient from obtaining a waiver under paragraph
22 (1)(E).

23 “(B) LIFE-LINE AND LINK-UP EXCEP-
24 TION.—A recipient of universal service support
25 in any service area prior to the date of enact-

1 ment of the Universal Service Reform Act of
2 2009 that relinquishes its eligible telecommuni-
3 cations carrier or eligible communications serv-
4 ice provider designation shall continue to offer
5 and receive support for providing life-line and
6 link-up service to its subscribers throughout its
7 service area unless another provider is des-
8 ignated as an eligible communications service
9 provider or a life-line service provider in all or
10 part of that service area.”;

11 (3) in paragraph (6)—

12 (A) in the heading, by striking “COMMON
13 CARRIERS” and inserting “COMMUNICATIONS
14 SERVICE PROVIDERS”;

15 (B) by striking “common carrier” each
16 place it appears and inserting “communications
17 service provider”;

18 (C) by striking “eligible telecommuni-
19 cations carrier” each place it appears and in-
20 serting “eligible communications service pro-
21 vider”; and

22 (D) by striking “carrier” and inserting
23 “provider”; and

24 (4) by adding at the end the following:

1 “(7) AMOUNT OF SPECIFIC FEDERAL UNI-
2 VERSAL SERVICE SUPPORT AVAILABLE TO MOBILE
3 WIRELESS COMMUNICATIONS SERVICE PROVIDERS.—

4 “(A) IN GENERAL.—The Commission shall
5 establish the amount of specific Federal uni-
6 versal service support for rural, insular, or high
7 cost areas to be distributed to all mobile wire-
8 less communications service providers des-
9 ignated as eligible communications service pro-
10 viders under this subsection through a competi-
11 tive bidding process established by the Commis-
12 sion.

13 “(B) LIMITATION.—The amount of such
14 universal service support available to be distrib-
15 uted annually to mobile wireless communica-
16 tions service providers shall not exceed the
17 amount of specific Federal universal service
18 support received by all mobile wireless commu-
19 nications service providers for rural, insular, or
20 high cost areas in the last full calendar year im-
21 mediately preceding the date of enactment of
22 the Universal Service Reform Act of 2009, as
23 adjusted annually by the growth factor de-
24 scribed in section 254(d)(3)(B).

1 “(8) COMPETITIVE BIDDING.—Within 1 year
2 after the date of enactment of the Universal Service
3 Reform Act of 2009, the Commission shall adopt a
4 competitive bidding process for mobile wireless com-
5 munications service providers to provide service to
6 rural, insular, or high cost areas that incorporates
7 the following:

8 “(A) To participate in the competitive bid-
9 ding process, a mobile wireless communications
10 service provider shall—

11 “(i) be designated as an eligible com-
12 munications service provider under this
13 subsection or commit to immediately seek-
14 ing such designation under this subsection
15 if the Commission selects its bid; and

16 “(ii) establish that it is legally, tech-
17 nically, financially, and otherwise qualified
18 to serve a rural, insular, or high cost area.

19 “(B) The Commission shall determine
20 whether a mobile wireless communications serv-
21 ice provider is legally, technically, financially,
22 and otherwise qualified to serve a rural, insular,
23 or high cost area in approximately the same
24 manner as the Commission uses to qualify par-

1 participants for the Commission's wireless spec-
2 trum auctions.

3 “(C) The Commission shall seek competi-
4 tive bids to provide mobile wireless communica-
5 tions service in rural, insular, or high cost areas
6 where there are at least 3 mobile wireless com-
7 munications service providers qualified to bid.
8 In rural, insular, or high cost areas where there
9 are not at least 3 mobile wireless communica-
10 tions service providers qualified to bid, the
11 Commission shall continue to provide support
12 at the per-line level in effect as of the day be-
13 fore the date of enactment of the Universal
14 Service Reform Act of 2009, subject to adjust-
15 ment over time pursuant to the interim cap on
16 support to competitive eligible telecommuni-
17 cations carriers adopted by the Commission
18 prior to such date of enactment.

19 “(D) Prior to soliciting competitive bids,
20 the Commission shall issue a request for pro-
21 posals identifying the area a winning bidder
22 must serve and the minimum requirements for
23 serving such area. In determining the appro-
24 priate service area for competitive bidding, the
25 Commission shall take into account existing

1 wireless service areas, including the areas where
2 mobile wireless communications service pro-
3 viders are licensed to provide service.

4 “(E) No more than 2 mobile wireless com-
5 munications service providers shall be selected
6 by the Commission to receive specific Federal
7 universal service support in each service area
8 based on the Commission’s evaluation of the
9 competitive bids received for each service area.
10 In evaluating competitive bids received for each
11 service area, the amount of the bid and the
12 minimum broadband speeds proposed by each
13 mobile wireless communications service provider
14 shall be primary factors in selecting a winning
15 bid, but the Commission may take into account
16 other factors, including timing of service build-
17 out.

18 “(F) When awarding bids to mobile wire-
19 less communications service providers, the Com-
20 mission shall prioritize funding as follows:

21 “(i) First, to service areas where no
22 mobile wireless communications service
23 providers offer voice service.

24 “(ii) Second, to service areas where no
25 mobile wireless communications service

1 providers offer high-speed broadband serv-
2 ice.

3 “(iii) Third, to all other service areas.

4 “(G) If the Commission selects a bid from
5 a mobile wireless communications service pro-
6 vider that has not been designated as an eligible
7 communications service provider in that service
8 area, the mobile wireless communications serv-
9 ice provider shall apply for such designation
10 within 1 month after the date the Commission
11 selects its bid. The Commission or applicable
12 State commission shall act on such application
13 within 6 months after the date of its receipt.

14 “(H) Each mobile wireless communications
15 service provider selected as a Federal universal
16 service provider for a service area shall receive
17 specific Federal universal service support based
18 on each mobile wireless communications service
19 provider’s respective bid, for a multi-year pe-
20 riod, up to 10 years, as determined by the Com-
21 mission to be appropriate, after which time the
22 area shall be rebid.

23 “(I) If specific Federal universal service
24 support is made available to a second mobile
25 wireless communications service provider in a

1 rural, insular, or high cost area that is subject
2 to competitive bidding, the amount of such sup-
3 port shall be based on that mobile wireless com-
4 munications service provider's bid and shall be
5 no more than the amount of specific Federal
6 universal service support awarded by the Com-
7 mission to the first mobile wireless communica-
8 tions service provider in such area.

9 “(J) Each mobile wireless communications
10 service provider that is selected to serve each
11 service area shall execute a service contract
12 with the Commission.

13 “(K) The Commission shall provide for a
14 transition to competitive bidding from the cur-
15 rent system of specific Federal universal service
16 support for wireless providers that shall last no
17 longer than 3 years after the date of enactment
18 of the Universal Service Reform Act of 2009.
19 As of the date the Commission implements
20 competitive bidding, provider-specific Federal
21 universal service adjustments to wireless sup-
22 port imposed by the Commission in effect as of
23 the date of enactment of the Universal Service
24 Reform Act of 2009 shall also be superseded
25 and void.”.

1 (b) DEFINITIONS.—Paragraph (5) of section 214(e)
2 is amended to read as follows:

3 “(5) SERVICE AREA DEFINED.—As used in this
4 subsection, the term ‘service area’ means a geo-
5 graphic area determined by the Commission for the
6 purpose of determining universal service obligations
7 and support mechanisms for eligible communications
8 service providers. In the case of an area served by
9 a rural telephone company, ‘service area’ means
10 such company’s ‘study area’ or the licensed or au-
11 thorized service area of any other communications
12 service provider serving an area that overlaps with
13 the service area of a rural telephone company.”.

14 **SEC. 105. REMOVAL OF IMPEDIMENTS TO SUFFICIENT SUP-**
15 **PORT MECHANISMS.**

16 Section 254 of the Communications Act of 1934 (47
17 U.S.C. 254) is further amended by adding at the end the
18 following new subsection:

19 “(m) REMOVAL OF LIMITATIONS ON UNIVERSAL
20 SUPPORT MECHANISMS.—The limitations on universal
21 service support contained in section 54.305 of the Com-
22 mission’s regulations (47 CFR 54.305) and the individual
23 caps imposed upon carriers contained in section 36.631
24 of the Commission’s regulations (47 CFR 36.631) shall

1 cease to be effective on the date of enactment of the Uni-
2 versal Service Reform Act of 2009.”.

3 **SEC. 106. SCOPE OF SUPPORT.**

4 Section 254 of the Communications Act of 1934 (47
5 U.S.C. 254) is further amended by adding after subsection
6 (m), as added by section 105 of this Act, the following
7 new subsection:

8 “(n) **SCOPE OF SUPPORT.**—The Commission in im-
9 plementing the requirements of this section (as amended
10 by the Universal Service Reform Act of 2009) with respect
11 to the distribution and use of Federal universal service
12 support shall not limit such distribution and use to a sin-
13 gle connection or primary line, and all residential and
14 business lines served by an eligible communications service
15 provider shall be eligible for Federal universal service sup-
16 port.”.

17 **SEC. 107. APPLICATION OF ANTIDEFICIENCY ACT; INVEST-**
18 **MENT OF CONTRIBUTIONS.**

19 Section 254 of the Communications Act of 1934 (47
20 U.S.C. 254) is further amended by adding after subsection
21 (n), as added by section 106 of this Act, the following new
22 subsections:

23 “(o) **PROPER ACCOUNTING OF UNIVERSAL SERVICE**
24 **CONTRIBUTIONS.**—

1 “(1) FROM ALL BUDGETS.—Notwithstanding
2 any other provision of law, the receipts and disburse-
3 ments of universal service contributions under this
4 section shall not be counted as new budget author-
5 ity, outlays, receipts, deficit, or surplus for purposes
6 of—

7 “(A) the budget of the United States Gov-
8 ernment as submitted by the President;

9 “(B) the Congressional budget;

10 “(C) the Balanced Budget and Emergency
11 Deficit Control Act of 1985; or

12 “(D) any other law requiring budget se-
13 questers.

14 “(2) ADDITIONAL EXEMPTIONS.—Section 1341,
15 subchapter II of chapter 15, and sections 3302,
16 3321, 3322, and 3325 of title 31, United States
17 Code, shall not apply to—

18 “(A) the collection and receipt of universal
19 service contributions, including the interest
20 earned on such contributions; or

21 “(B) disbursements or other obligations
22 authorized by the Commission under this sec-
23 tion.

24 “(p) INVESTMENT OF UNIVERSAL SERVICE SUPPORT
25 CONTRIBUTIONS.—Notwithstanding any other provision

1 of law, including sections 3302, 3321, 3322, and 3325 of
2 title 31, United States Code, the cash balance of receipts
3 of universal service support contributions collected pursu-
4 ant to this section shall be invested by the Commission
5 or its designee in conservative, liquid, interest-bearing in-
6 vestment vehicles of Government backed securities until
7 such time as such receipts are disbursed pursuant to this
8 section.”.

9 **SEC. 108. STATE AUTHORITY.**

10 Section 254(f) of the Communications Act of 1934
11 (47 U.S.C. 254(f)) is amended to read as follows:

12 “(f) STATE AUTHORITY.—

13 “(1) IN GENERAL.—A State may adopt regula-
14 tions not inconsistent with the Commission’s rules to
15 preserve and advance universal service. In adopting
16 those rules, a State may require communications
17 service providers to contribute to universal service on
18 the basis of a billing address or service address as-
19 signed to that State for—

20 “(A) revenues derived from the provision
21 of intrastate communications services by com-
22 munications service providers;

23 “(B) working telephone numbers used by
24 communications service providers; or

1 “(C) any other current or successor identi-
2 fier protocols or connections to the network
3 used by communications service providers.

4 “(2) DISREGARD OF INTERSTATE COMPO-
5 NENT.—With respect to a combination of services
6 which includes interstate services, the Commission
7 shall determine how States may calculate the pro-
8 portion of intrastate services for which they are per-
9 mitted to make an assessment.

10 “(3) GUIDELINES.—Regulations adopted by a
11 State under this subsection shall result in a specific,
12 predictable, and sufficient mechanism to support
13 universal service and shall be competitively and tech-
14 nologically neutral, equitable, and nondiscrim-
15 inatory.”.

16 **TITLE II—ACCOUNTABILITY**

17 **SEC. 201. PERFORMANCE MEASURES.**

18 Within 1 year after the date of enactment of this Act,
19 the Federal Communications Commission shall establish
20 and implement outcome-oriented performance goals and
21 measures for each universal service support program.

22 **SEC. 202. AUDITS.**

23 The Federal Communications Commission shall,
24 within 270 days after the date of enactment of this Act,
25 establish rules to—

1 (1) determine the appropriate audit method-
2 ology for audits of recipients of Federal universal
3 service support;

4 (2) ensure that universal service support audi-
5 tors are trained in universal service support program
6 compliance and audit only in connection with such
7 compliance;

8 (3) provide that auditors may not penalize re-
9 cipients of universal service support by requesting
10 and auditing for program compliance records, in-
11 cluding copies of invoices for equipment purchased
12 or maintained with program disbursements, that are
13 older than records that recipients of universal service
14 support are required to retain pursuant to the Fed-
15 eral Communications Commission's rules; and

16 (4) provide that any appeal of a finding by the
17 Universal Service Administrative Company or any
18 successor organization in connection with a program
19 audit is resolved by the Federal Communications
20 Commission within 180 days after the date of filing.

21 **SEC. 203. REPORT TO CONGRESS.**

22 The Federal Communications Commission shall, not
23 later than 3 years after the date of enactment of this Act
24 and triennially thereafter, report to Congress regarding
25 the availability of the services designated by the Commis-

1 sion as universal services, including the availability of such
2 services to schools, libraries, rural health care providers,
3 and low income consumers. Such report shall include the
4 outcome-oriented performance goals and measures for
5 each universal service support program, an analysis of the
6 implementation of such goals and measures, and an anal-
7 ysis of the progress towards meeting such goals and meas-
8 ures.

9 **TITLE III—INTERCARRIER** 10 **COMPENSATION REFORM**

11 **SEC. 301. INTERCARRIER COMPENSATION REFORM.**

12 (a) **AUTHORITY.**—

13 (1) **IN GENERAL.**—Notwithstanding any other
14 provision of law, the Federal Communications Com-
15 mission shall have authority to reform intercarrier
16 compensation systems for both interstate and intra-
17 state traffic.

18 (2) **DEADLINE.**—The Federal Communications
19 Commission shall complete an initial intercarrier
20 compensation reform proceeding within 1 year after
21 the date of enactment of this Act.

22 (3) **PRIVATE ARRANGEMENTS.**—Entities that
23 are required to participate in intercarrier compensa-
24 tion shall be permitted to enter into arrangements
25 by mutual agreement for the exchange of traffic

1 without regard to the rules established by the Fed-
2 eral Communications Commission pursuant to this
3 subsection.

4 (b) INTERCARRIER COMPENSATION RECOVERY
5 MECHANISM.—If, at any time after the date of enactment
6 of this Act, the Federal Communications Commission
7 mandates that intercarrier compensation revenues be re-
8 covered through an alternative revenue recovery mecha-
9 nism, such alternative revenue recovery mechanism shall
10 be included in the limitation set forth in section
11 254(d)(3)(A) of the Communications Act of 1934 (47
12 U.S.C. 254(d)(3)(A)), and the Commission shall adjust
13 such limitation by the amount that such alternated rev-
14 enue recovery mechanism increases demand for universal
15 service support.

16 **SEC. 302. NETWORK TRAFFIC IDENTIFICATION ACCOUNT-**
17 **ABILITY STANDARDS.**

18 Part II of title II of the Communications Act of 1934
19 is amended by adding at the end the following:

20 **“SEC. 262. NETWORK TRAFFIC IDENTIFICATION ACCOUNT-**
21 **ABILITY STANDARDS.**

22 “(a) NETWORK TRAFFIC IDENTIFICATION STAND-
23 ARDS.—A communications service provider shall ensure,
24 to the degree technically possible and in accordance with
25 industry standards, that all traffic that originates on its

1 network contains or, in the case of non-originated traffic,
2 preserves sufficient information in call signaling to allow
3 for traffic identification by other communications service
4 providers that transport or terminate such traffic, includ-
5 ing the telephone number of the calling and called parties
6 and such other information as the Commission deems ap-
7 propriate. Except as otherwise permitted by the Commis-
8 sion, to the degree technically possible, a communications
9 service provider that transports traffic between commu-
10 nications service providers shall transmit without altering
11 the call signaling information it receives from another
12 communications service provider.

13 “(b) NETWORK TRAFFIC IDENTIFICATION RULE-
14 MAKING.—The Commission shall establish rules for traffic
15 identification consistent with this paragraph not later than
16 180 days after the date of enactment of the Universal
17 Service Reform Act of 2009.

18 “(c) NETWORK TRAFFIC IDENTIFICATION ENFORCE-
19 MENT.—The Commission shall adopt and enforce pen-
20 alties, fines, and sanctions under this section.”.

21 **SEC. 303. TRAFFIC PUMPING.**

22 (a) ACCESS STIMULATION CHARGE.—The term “ac-
23 cess stimulation charge” means any switched access
24 charge assessed by a local exchange carrier upon a con-
25 necting carrier for delivery of telecommunications during

1 which a free or below cost service or product is provided
2 by an entity with which the local exchange carrier has a
3 business, financial, or contractual arrangement relating
4 directly or indirectly to switched access revenues from the
5 offering of such service or product.

6 (b) PROHIBITION.—The assessment of an access
7 stimulation charge constitutes an unreasonable practice
8 under section 201(b) of the Communications Act of 1934
9 (47 U.S.C. 201(b)), and local exchange carriers are pro-
10 hibited from assessing access stimulation charges.

11 (c) NO PRESUMPTION OF VALIDITY.—Nothing in
12 this Act shall be construed as indicating that access stimu-
13 lation charges assessed prior to the effective date of this
14 Act were just, reasonable, or in accordance with the Com-
15 munications Act of 1934 or any other statute, regulation,
16 tariff, or policy.

17 **TITLE IV—RURAL HEALTH CARE** 18 **SUPPORT MECHANISMS**

19 **SEC. 401. RURAL HEALTH CARE SUPPORT MECHANISMS.**

20 (a) AMENDMENT.—Subparagraph (A) of section
21 254(h)(1) of the Communications Act of 1934 (47 U.S.C.
22 254(h)(1)(A)) is amended to read as follows:

23 “(A) HEALTH CARE SERVICES FOR RURAL
24 AREAS.—Within 180 days after the date of en-
25 actment of the Universal Service Reform Act of

1 2009, the Commission shall prescribe regula-
2 tions that provide that a communications serv-
3 ice provider shall, upon receiving a bona fide re-
4 quest, provide covered services which are nec-
5 essary for the provision of health care services
6 in a State, including instruction relating to
7 such services, to any public or not-for-profit
8 health care provider that serves persons who re-
9 side in rural areas in that State at rates that
10 are reasonably comparable to rates charged for
11 similar services in urban areas in that State. A
12 communications service provider providing serv-
13 ice under this subparagraph shall be entitled to
14 have an amount equal to the difference, if any,
15 between the rates for services provided to health
16 care providers for rural areas in a State and
17 the rates for similar services in urban areas in
18 that State treated as a service obligation as a
19 part of its obligation to participate in the mech-
20 anisms to preserve and advance universal serv-
21 ice.”.

22 (b) DEFINITION OF HEALTH CARE PROVIDER.—
23 Subparagraph (B) of section 254(h)(7) of such Act (47
24 U.S.C. 254(h)(7)(B)) is amended to read as follows:

1 “(B) HEALTH CARE PROVIDER.—The term
2 ‘health care provider’ means—
3 “(i) post-secondary educational insti-
4 tutions offering health care instruction,
5 teaching hospitals, and medical schools;
6 “(ii) community health centers or
7 health centers providing health care to mi-
8 grants;
9 “(iii) local health departments or
10 agencies;
11 “(iv) community mental health cen-
12 ters;
13 “(v) not-for-profit hospitals;
14 “(vi) critical access hospitals;
15 “(vii) rural hospitals with emergency
16 rooms;
17 “(viii) rural health clinics;
18 “(ix) not-for-profit nursing homes or
19 skilled nursing homes;
20 “(x) hospice providers;
21 “(xi) emergency medical services fa-
22 cilities;
23 “(xii) rural dialysis facilities;
24 “(xiii) elementary, secondary, and
25 post-secondary school health clinics; and

1 “(xiv) consortia of health care pro-
2 viders consisting of one or more entities
3 described in clauses (i) through (xiii).”.

4 (c) DEFINITION OF RURAL FOR HEALTH CARE SUP-
5 PORT.—Section 254(h)(7) of such Act (47 U.S.C.
6 254(h)(7)) is further amended by adding at the end the
7 following new subparagraph:

8 “(J) RURAL AREA.—Within 180 days after
9 the date of enactment of the Universal Service
10 Reform Act of 2009, the Commission shall pre-
11 scribe regulations that provide that, for pur-
12 poses of the rural health care universal service
13 support mechanisms established pursuant to
14 this subsection, a ‘rural area’ is—

15 “(i) any incorporated or unincor-
16 porated place in the United States, its ter-
17 ritories and insular possessions (including
18 any area within the Federated States of
19 Micronesia, the Republic of the Marshall
20 Islands and the Republic of Palau) that
21 has no more than 20,000 inhabitants
22 based on the most recent available popu-
23 lation statistics from the Census Bureau;

24 “(ii) any area located outside of the
25 boundaries of any incorporated or unincor-

1 porated city, village, or borough having a
2 population exceeding 20,000;

3 “(iii) any area with a population den-
4 sity of fewer than 250 persons per square
5 mile; or

6 “(iv) any place that qualified as a
7 ‘rural area’ and received support from the
8 rural health care support mechanism pur-
9 suant to the Commission’s rules in effect
10 prior to December 1, 2004, and that con-
11 tinues to qualify as a ‘rural area’ pursuant
12 to such rules.”.

13 (d) SCHOOLS, LIBRARIES, RURAL HEALTH CARE,
14 LIFE-LINE, LINK-UP, AND TOLL LIMITATION HOLD
15 HARMLESS.—Except as provided in subsections (h)(1)(A),
16 (h)(7)(B), and (h)(7)(J) of section 254 of the Communica-
17 tions Act of 1934 (47 U.S.C. 254), as amended by this
18 section—

19 (1) nothing in this Act (and the amendments
20 made by this Act) shall be construed as limiting,
21 changing, modifying, or altering the amount or
22 means of distribution of universal service support for
23 the schools, libraries, rural health care, life-line,
24 link-up, and toll limitation programs; and

1 (2) the Federal Communications Commission
2 shall ensure that such amendments do not result in
3 a decrease of such support to a level below the level
4 for the fiscal year preceding the fiscal year in which
5 this Act is enacted.