

110TH CONGRESS
1ST SESSION

S. 711

To amend the Communications Act of 1934 to expand the contribution base for universal service, establish a separate account within the universal service fund to support the deployment of broadband service in unserved areas of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2007

Mr. SMITH (for himself, Mr. DORGAN, and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to expand the contribution base for universal service, establish a separate account within the universal service fund to support the deployment of broadband service in unserved areas of the United States, 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 for
5 the 21st Century Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The preservation and advancement of uni-
2 versal service is a fundamental goal of the Commu-
3 nications Act of 1934 and the Telecommunications
4 Act of 1996.

5 (2) Access throughout the Nation to high-qual-
6 ity and advanced telecommunications and informa-
7 tion services is essential to secure the many benefits
8 of our modern society.

9 (3) As the Internet becomes a critical element
10 of any economic and social growth, universal service
11 should shift from sustaining voice grade infrastruc-
12 ture promoting the development of efficient and ad-
13 vanced networks that can sustain advanced commu-
14 nications services.

15 (4) The current structure established by the
16 Federal Communications Commission has placed the
17 burden of universal service support on only a limited
18 class of carriers, causing inequities in the system, in-
19 centives to avoid contribution, and a threat to the
20 long term sustainability of the universal service
21 fund.

22 (5) Current fund contributors are paying an in-
23 creasing portion of their interstate and international
24 service revenue into the universal service fund.

1 (6) Any fund contribution system should be eq-
 2 uitable, nondiscriminatory and competitively neutral,
 3 and the funding mechanism must be sufficient to en-
 4 sure affordable communications services for all.

5 **SEC. 3. UNIVERSAL SERVICE FUND CONTRIBUTION RE-**
 6 **QUIREMENTS.**

7 (a) INCLUSION OF INTRASTATE REVENUES.—Section
 8 254(d) of the Communications Act of 1934 (47 U.S.C.
 9 254(d)) is amended—

10 (1) by striking “Every” and inserting “Not-
 11 withstanding section 2(b) of this Act, a”;

12 (2) by striking “interstate” each place it ap-
 13 pears; and

14 (3) by adding at the end “Nothing in this sub-
 15 section precludes a State from adopting rules or reg-
 16 ulations to preserve and advance universal service
 17 within that State as permitted by section 2(b) and
 18 subsections (b) and (f) of this section.”.

19 (b) UNIVERSAL SERVICE PROCEEDING.—

20 (1) PROCEEDING.—The Federal Communica-
 21 tions Commission shall initiate a proceeding, or take
 22 action pursuant to any proceeding on universal serv-
 23 ice existing on the date of enactment of this Act, to
 24 establish a permanent mechanism to support uni-
 25 versal service, that will preserve and enhance the

1 long term financial stability of universal service, and
2 will promote the public interest.

3 (2) CRITERIA.—In establishing such a perma-
4 nent mechanism, the Commission may include collec-
5 tion methodologies such as total telecommunications
6 revenues, the assignment of telephone numbers and
7 any successor identifier, connections (which could in-
8 clude carriers with a retail connection to a cus-
9 tomer), and any combination thereof if the method-
10 ology—

11 (A) promotes competitive neutrality among
12 providers and technologies;

13 (B) to the greatest extent possible ensures
14 that all communications services that are capa-
15 ble of supporting 2-way voice communications
16 be included in the assessable base for universal
17 service support;

18 (C) takes into account the impact on low
19 volume users, and proportionately assesses high
20 volume users, through a capacity analysis or
21 some other means; and

22 (D) ensures that a carrier is not required
23 to contribute more than once for the same
24 transaction, activity, or service.

1 (3) EXCLUDED PROVIDERS.—If a provider of
2 communications services that are capable of sup-
3 porting 2-way voice communications would not con-
4 tribute under the methodology established by the
5 Commission, the Commission shall require such a
6 provider to contribute to universal service under an
7 equitable alternative methodology if exclusion of the
8 provider from the contribution base would jeopardize
9 the preservation, enhancement, and long term sus-
10 tainability of universal service.

11 (4) DEADLINE.—The Commission shall com-
12 plete the proceeding and issue a final rule not more
13 than 6 months after the date of enactment of this
14 Act.

15 **SEC. 4. INTERCARRIER COMPENSATION.**

16 (a) JURISDICTION.—Notwithstanding section 2(b) of
17 the Communications Act of 1934 (47 U.S.C. 152(b)), the
18 Federal Communications Commission shall have exclusive
19 jurisdiction to establish rates for inter-carrier compensa-
20 tion payments and shall establish rules providing a com-
21 prehensive, unified system of inter-carrier compensation,
22 including compensation for the origination and termi-
23 nation of intrastate telecommunications traffic.

24 (b) CRITERIA.—In establishing these rules, and in
25 conjunction with its action in its universal service pro-

1 ceeding under section 3, the Commission, in consultation
2 with the Federal-State Joint Board on Universal Service,
3 shall—

4 (1) ensure that the costs associated with the
5 provision of interstate and intrastate telecommuni-
6 cations services are fully recoverable;

7 (2) examine whether sufficient requirements
8 exist to ensure traffic contains necessary identifiers
9 for the purposes of inter-carrier compensation; and

10 (3) to the greatest extent possible, minimize op-
11 portunities for arbitrage.

12 (c) SUFFICIENT SUPPORT.—The Commission should,
13 to the greatest extent possible, ensure that as a result of
14 its universal service and inter-carrier compensation pro-
15 ceedings, the aggregate amount of universal service sup-
16 port and inter-carrier compensation provided to local ex-
17 change carriers with fewer than 2 percent of the Nation’s
18 subscriber lines will be sufficient to meet the just and rea-
19 sonable costs of such local exchange carriers.

20 (d) NEGOTIATED AGREEMENTS.—Nothing in this
21 section precludes carriers from negotiating their own
22 inter-carrier compensation agreements.

23 (e) DEADLINE.—The Commission shall complete the
24 pending Intercarrier Compensation proceeding in Docket

1 No. 01–92 and issue a final rule not more than 6 months
2 after the date of enactment of this Act.

3 **SEC. 5. ESTABLISHMENT OF BROADBAND ACCOUNT WITHIN**
4 **UNIVERSAL SERVICE FUND.**

5 Part I of title II of the Communications Act of 1934
6 (47 U.S.C. 201 et seq.) is amended by inserting after sec-
7 tion 254 the following:

8 **“SEC. 254A. BROADBAND FOR UNSERVED AREAS ACCOUNT.**

9 “(a) ACCOUNT ESTABLISHED.—

10 “(1) IN GENERAL.—There shall be, within the
11 universal service fund established pursuant to sec-
12 tion 254, a separate account to be known as the
13 ‘Broadband for Unserved Areas Account’.

14 “(2) PURPOSE.—The purpose of the account is
15 to provide financial assistance for the deployment of
16 broadband communications services to unserved
17 areas throughout the United States.

18 “(b) IMPLEMENTATION.—

19 “(1) IN GENERAL.—The Commission shall by
20 rule establish—

21 “(A) guidelines for determining which
22 areas may be considered to be unserved areas
23 for purposes of this section;

24 “(B) criteria for determining which facili-
25 ties-based providers of broadband communica-

1 tions service, and which projects, are eligible for
2 support from the account;

3 “(C) procedural guidelines for awarding
4 assistance from the account on a merit-based
5 and competitive basis;

6 “(D) guidelines for application procedures,
7 accounting and reporting requirements, and
8 other appropriate fiscal controls for assistance
9 made available from the account; and

10 “(E) a procedure for making funds in the
11 account available among the several States on
12 an equitable basis.

13 “(2) STUDY AND ANNUAL REPORTS ON
14 UNSERVED AREAS.—

15 “(A) IN GENERAL.—Within 6 months after
16 the date of enactment of the Universal Service
17 for the 21st Century Act, the Commission shall
18 conduct a study to determine which areas of the
19 United States may be considered to be
20 ‘unserved areas’ for purposes of this section.
21 For purposes of the study and for purposes of
22 the guidelines to be established under sub-
23 section (a)(1), the availability of broadband
24 communications services by satellite in an area
25 shall not preclude designation of that area as

1 unserved if the Commission determines that
2 subscribership to the service in that area is de
3 minimis.

4 “(B) ANNUAL UPDATES.—The Commis-
5 sion shall update the study annually.

6 “(C) REPORT.—The Commission shall
7 transmit a report to the Senate Committee on
8 Commerce, Science, and Transportation and the
9 House of Representatives Committee on Energy
10 and Commerce setting forth the findings and
11 conclusions of the Commission for the study
12 and each update under this paragraph and
13 making recommendations for an increase or de-
14 crease, if necessary, in the amounts credited to
15 the account under this section.

16 “(3) STATE INVOLVEMENT.—The Commission
17 may delegate the distribution of funding under this
18 section to States subject to Commission guidelines
19 and approval by the Commission.

20 “(c) LIMITATIONS.—

21 “(1) ANNUAL AMOUNT.—Amounts obligated or
22 expended under subsection (c) for any fiscal year
23 may not exceed \$500,000,000.

24 “(2) USE OF FUNDS.—To the extent that
25 amounts in the account are not obligated or ex-

1 pended for financial assistance under this section,
 2 they shall be used to support universal service under
 3 section 254.

4 “(3) SUPPORT LIMITED TO FACILITIES-BASED
 5 SINGLE PROVIDER PER UNSERVED AREA.—Assist-
 6 ance under this section may be provided only to—

7 “(A) facilities-based providers of
 8 broadband communications service; and

9 “(B) 1 facility-based provider of broadband
 10 communications service in any unserved area.

11 “(d) APPLICATION WITH SECTIONS 214, 254, AND
 12 410.—

13 “(1) SECTION 214(e).—Section 214(e) shall not
 14 apply to the Broadband for Unserved Areas Ac-
 15 count.

16 “(2) SECTION 254.—Section 254 shall be ap-
 17 plied to the Broadband for Unserved Areas Ac-
 18 count—

19 “(A) by disregarding—

20 “(i) subsections (a) and (e) thereof;

21 and

22 “(ii) any other provision thereof deter-
 23 mined by the Commission to be inappro-
 24 priate or inapplicable to implementation of
 25 this section; and

1 “(B) by reconciling, to the maximum ex-
2 tent feasible and in accordance with guidelines
3 prescribed by the Commission, the implementa-
4 tion of this section with the provisions of sub-
5 sections (h) and (l) thereof.

6 “(3) SECTION 410.—Section 410 shall not apply
7 to the Broadband for Unserved Areas Account.

8 “(e) DEFINITIONS.—In this section:

9 “(1) BROADBAND.—

10 “(A) IN GENERAL.—The term ‘broadband’
11 shall be defined by the Commission in accord-
12 ance with the requirements of this paragraph.

13 “(B) REVISION OF INITIAL DEFINITION.—
14 Within 30 days after the date of enactment of
15 the Universal Service for the 21st Century Act,
16 the Commission shall revise its definition of
17 broadband to require a data rate—

18 “(i) greater than the 200 kilobits per
19 second standard established in its Section
20 706 Report (14 FCC Rec. 2406); and

21 “(ii) consistent with data rates for
22 broadband communications services gen-
23 erally available to the public on the date of
24 enactment of that Act.

1 “(C) ANNUAL REVIEW OF DEFINITION.—
2 The Commission shall review its definition of
3 broadband no less frequently than once each
4 year and revise that definition as appropriate.

5 “(2) BROADBAND COMMUNICATIONS SERVICE
6 DEFINED.—The term ‘broadband communications
7 service’ means a high-speed communications capa-
8 bility that enables users to originate and receive
9 high-quality voice, data, graphics, and video commu-
10 nications using any technology.”.

11 **SEC. 6. IMPLEMENTATION OF SECTION 254A.**

12 The Federal Communications Commission shall com-
13 plete a proceeding and issue a final rule to implement sec-
14 tion 254A of the Communications Act of 1934 not more
15 than 6 months after the date of enactment of this Act.

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