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119–14

RURAL BROADBAND PROTECTION ACT OF 2025

REPORT

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 98

APRIL 28, 2025.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINETEENTH CONGRESS

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RURAL BROADBAND PROTECTION ACT OF 2025

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Mr. CRUZ, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 98]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 98) to require the Federal Communications Commission to establish a vetting process for prospective applicants for high-cost universal service program funding, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 98 is to direct the Federal Communications Commission to initiate a rulemaking within 180 days establishing a vetting process for applicants seeking funding, including through a reverse competitive bidding mechanism, under the high-cost universal service program.

BACKGROUND AND NEEDS

The Federal Communications Commission's (FCC) high-cost program provides funding via the Universal Service Fund (USF) to carriers that provide service in rural areas. While the program originally subsidized voice service, it has transitioned to providing support for broadband expansion over the past decade.[1] The high-

[1] Patricia Moloney Figliola, *The Future of the Universal Service Fund and Related Broadband Programs*, Congressional Research Service, March 1, 2024 (*https://crsreports.congress.gov/product/pdf/R/R47621*).

cost program is one of the Federal spending programs designed to connect American homes and businesses to broadband.[2]

USF high-cost funds are awarded via model-based and legacy rate-of-return direct subsidy mechanisms, including the Connect American Cost Model, the Alternative Connect America Cost Model, Enhanced-ACAM, and Connect America Fund Broadband Loop Support.[3] Additionally, reverse auctions award funds to carriers, wherein a bid represents how much funding a company would require in exchange for servicing an area, with awards going to the lowest bidders.

The FCC's most recent high-cost reverse auction, the Rural Digital Opportunity Fund (RDOF), occurred in December 2020. Through RDOF, 180 bidders won $9.23 billion to serve 5,220,833 locations in 49 States and one territory over 10 years.[4] However, a number of the winning bidders have had their awards revoked by the FCC, defaulted on obligations, or surrendered locations back to the FCC, and as a result, approximately 1.9 million of those locations will not ultimately be served by the RDOF program.[5] For example, in 2023, the FCC determined to deny the largest winning bidder in the RDOF program, which had initially been awarded $1.3 billion, concluding after further review that its application "was not reasonably capable of offering the required gigabit-speed, low-latency service throughout the broad areas where it won auction support."[6] In 2024, the FCC issued a second report and order updating the 5G Fund established in 2020, through which the FCC aims to make nearly $10 billion in USF support available to carriers deploying 5G networks in areas that today lack 5G coverage.[7]

Deploying network infrastructure in rural and other remote areas can be difficult and expensive, even with Government subsidies. This legislation, if enacted, would aim to ensure that applicants for the USF high-cost program are able to build and operate the networks and services that they are pledging to provide, while simultaneously discouraging gamesmanship from nonserious bidders.

To that end, this legislation would direct the FCC to initiate a rulemaking requiring applicants to high-cost programs to provide documentation demonstrating their technical, financial, and operational capability to deploy a network and deliver services in accordance with FCC requirements and as pledged by applicants. The FCC would evaluate applicants' proposals against reasonable and well-established technical, financial, and operational standards, as

[2] U.S. Government Accountability Office, *National Strategy Needed to Guide Federal Efforts to Reduce Digital Divide*, GAO–22–104611, May 2022 (*https://www.gao.gov/assets/d22104611.pdf*).

[3] Federal Communications Commission, "Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support, et al." Order, DA 23–778, *FCC Record*, vol. 38 (2023), no. 9, p. 7821 (*https://docs.fcc.gov/public/attachments/DA-23-778A1_Rcd.pdf*).

[4] Federal Communications Commission, "Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes," Public Notice, DA 20–1422, *FCC Record*, vol. 35 (2020), no. 17, p. 13888 (*https://docs.fcc.gov/public/attachments/DA-20-1422A1.pdf*).

[5] Benton Institute for Broadband and Society, *New Dataset Reveals Impact of RDOF Defaults on Each State*, February 18, 2025 (*https://www.benton.org/blog/new-dataset-reveals-impact-rdof-defaults-each-state*) (analyzing data available at *https://www.fcc.gov/auction/904*).

[6] Federal Communications Commission, "Auction 904 Order on Application for Review" Order on Review, FCC 23–103, *FCC Record*, vol. 38 (2023), no. 13, p. 11697. See p. 11703 at para. 16 (*https://docs.fcc.gov/public/attachments/FCC-23-103A1_Rcd.pdf*).

[7] Federal Communications Commission, "Establishing a 5G Fund for Rural America," Second Report and Order, FCC 24–89, released August 29, 2024 (*https://docs.fcc.gov/public/attachments/FCC-24-89A1.pdf*).

well as applicants' history of complying with the FCC's requirements and those of other Government broadband funding programs. The FCC would also establish penalties for applicants who commit pre-authorization default—i.e., carriers that are unable to build and operate the networks and services they pledge to provide.

LEGISLATIVE HISTORY

S. 98, the Rural Broadband Protection Act of 2025, was introduced on January 15, 2025, by Senator Capito (for herself and Senators Klobuchar and Curtis) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. On February 5, 2025, the Committee met in open Executive Session and, by voice vote, ordered S. 98 reported favorably without amendment. On March 11, 2025, Senator Peters was added as a cosponsor.

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S. 275, the Rural Broadband Protection Act of 2024, was introduced on February 7, 2023, by Senator Capito (for herself and Senator Klobuchar) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. On July 31, 2024, the Committee met in open Executive Session and, by voice vote, ordered S. 275 reported favorably with an amendment (in the nature of a substitute). On September 25, 2024, S. 275 passed the Senate by unanimous consent.

H.R. 7005, a House companion bill to S. 275, was introduced on January 17, 2024, by Representative Curtis (for himself and Representative Kuster) and was referred to the Committee on Energy and Commerce of the House of Representatives.

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S. 4126, the Rural Broadband Protection Act of 2022, was introduced on May 3, 2022, by Senator Capito (for herself and Senator Klobuchar) and was referred to the Committee on Commerce, Science, and Transportation of the Senate.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 98, Rural Broadband Protection Act of 2025
As ordered reported by the Senate Committee on Commerce, Science, and Transportation on February 5, 2025

By Fiscal Year, Millions of Dollars	2025	2025-2030	2025-2035
Direct Spending (Outlays)	0	0	0
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	*	*	not estimated

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2036?	No	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2036?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold

* = between -$500,000 and $500,000.

S. 98 would require the Federal Communications Commission (FCC) to issue rules to amend the application review process for the high cost universal service program, which seeks to expand voice and broadband service in unserved or underserved areas. Specifically, the bill would require the FCC to evaluate applicants and funding recipients based on a set of criteria specified in the bill. Recent awards for the high cost program have been made through auctions run by the FCC. The bill would establish minimum civil monetary penalties for bidders who win an auction and subsequently default on their service obligations prior to receiving funding.

Because the FCC currently evaluates applicants for this program, CBO expects that the rules issued under S. 98 would mostly codify the commission's current policies. On that basis, CBO estimates that it would cost the FCC less than $500,000 to issue rules amending the current review process. The FCC is authorized to collect fees each year sufficient to offset the appropriated costs of its regulatory activities; thus, CBO estimates that the net cost for the FCC to implement the bill would be negligible, assuming appropriation actions consistent with that authority.

Under current law, the FCC has broad authority to levy civil monetary penalties, which are recorded in the budget as revenues. Using that authority, the commission currently issues rules for each auction that include penalties for winning bidders that default on their service obligations prior to receiving funding. S. 98 would set minimum penalties for defaulting entities at an amount higher than the amounts the FCC has set for recent auctions.

Using information from the FCC about the size of penalties collected for previous defaults and the uncertainty about the timing of future auctions, CBO estimates that enacting S. 98 would increase revenues by an insignificant amount over the 2025–2035 period. In CBO's estimation, any significant increases in penalty collections under S. 98 would be unlikely to occur before 2036.

If the FCC increases annual fee collections to offset the costs of implementing provisions in the bill, S. 98 would increase the cost of an existing private-sector mandate on entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small and would fall well below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates ($206 million in 2025, adjusted annually for inflation).

S. 98 contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are David Hughes (for federal costs), Nate Frentz (for revenues) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 98, as reported, would direct the FCC to establish a vetting process for applicants seeking funding via the high-cost universal service program. The vetting process would require applicants to provide documentation demonstrating their technical, financial, and operational capability to deploy a network and deliver services in accordance with FCC requirements and as pledged by applicants. While the legislation would affect the FCC, the vetting process for applicants is limited to new covered funding awards. As such, it would only affect additional persons if the FCC established a new covered funding award.

ECONOMIC IMPACT

S. 98 is not expected to have an adverse impact on the Nation's economy. The legislation would help the FCC ensure that applicants for high-cost funding are able to deliver on their commitments.

PRIVACY

S. 98 would not impact the personal privacy of individuals.

PAPERWORK

The Committee does not anticipate a major increase in paperwork burdens for private individuals or businesses resulting from the passage of this legislation. First, the new vetting process would only apply if the FCC established a new covered funding award. Moreover, the FCC has historically held vetting processes for applicants prior to issuing funding awards.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would provide that the legislation may be cited as the "Rural Broadband Protection Act of 2025".

Section 2. Vetting process for prospective high-cost Universal Service Fund applicants

This section would amend section 254 of the Communications Act of 1934,[8] which establishes the FCC's universal service program. Section 254 would be amended by adding a subsection (m) requiring the FCC to initiate a rulemaking proceeding to establish a vetting process for applicants for high-cost program funding within 180 days of the law's enactment. The resulting FCC rules would require applicants for new FCC funding awards to document their technical, financial, and operational capabilities, as well as a reasonable business plan, for deploying and operating the networks they are pledging to stand up. The rules would also require the FCC to evaluate an applicant's proposal against well-established FCC standards, as well as the applicant's history of compliance with FCC program requirements and those of other Government broadband funding programs. Finally, the rules would have to set the penalty for pre-authorization defaults to be at least $9,000 per violation but no less than 30 percent of an applicant's total support, unless the FCC were to demonstrate the need for a lower penalty in a particular instance.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

* * * * * * *

[47 U.S.C. 254]

SEC. 254 UNIVERSAL SERVICE.

(a) * * *

* * * * * * *

(l) * * *

(m) VETTING OF HIGH-COST FUND RECIPIENTS.—

(1) DEFINITIONS.—In this subsection—

(A) the term "covered funding" means any new offer of high-cost universal service program funding, including funding provided through a reverse competitive bidding mechanism provided under this section, for the deployment

[8] 47 U.S.C. 254.

of a broadband-capable network and the provision of supported services over the network; and

(B) the term "new covered funding award" means an award of covered funding that is made based on an application submitted to the Commission on or after the date on which rules are promulgated under paragraph (2).

(2) COMMISSION RULEMAKING.—Not later than 180 days after the date of enactment of this subsection, the Commission shall initiate a rulemaking proceeding to establish a vetting process for applicants for, and other recipients of, a new covered funding award.

(3) CONTENTS.—

(A) IN GENERAL.—In promulgating rules under paragraph (2), the Commission shall provide that, consistent with principles of technology neutrality, the Commission will only award covered funding to applicants that can demonstrate that they meet the qualifications in subparagraph (B).

(B) QUALIFICATIONS DESCRIBED.—An applicant for a new covered funding award shall include in the initial application a proposal containing sufficient detail and documentation for the Commission to ascertain that the applicant possesses the technical, financial, and operational capabilities, and has a reasonable business plan, to deploy the proposed network and deliver services with the relevant performance characteristics and requirements defined by the Commission and as pledged by the applicant.

(C) EVALUATION OF PROPOSAL.—The Commission shall evaluate a proposal described in subparagraph (B) against—

(i) reasonable and well-established technical, financial, and operational standards, including the technical standards adopted by the Commission in orders of the Commission relating to Establishing the Digital Opportunity Data Collection (WC Docket No. 19–195) (or orders of the Commission relating to modernizing any successor collection) for purposes of entities that must report broadband availability coverage; and

(ii) the applicant's history of complying with requirements in Commission and other government broadband deployment funding programs.

(D) PENALTIES FOR PRE-AUTHORIZATION DEFAULTS.—In adopting rules for any new covered funding award, the Commission shall set a penalty for pre-authorization defaults of at least $9,000 per violation and may not limit the base forfeiture to an amount less than 30 percent of the applicant's total support, unless the Commission demonstrates the need for lower penalties in a particular instance.

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