

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madam President:

I move to amend Engrossed House Bill No. 2616 as follows:

By deleting all language in Section 5 and inserting the following:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 139.109.1 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The following services are hereby declared to be Special Universal Services:

1. Each eligible healthcare entity in this state as defined in Section 139.102 of this title shall be eligible to receive Special Universal Services for telemedicine providers. Special Universal Services for telemedicine providers shall include the provision of bandwidth per standards as recommended by the Federal Communications Commission sufficient for providing telemedicine services including the telemedicine line, reasonable installation and network termination equipment owned and operated by the eligible provider that is necessary to provide the eligible service. In no instance shall the OUSF provide funding for separately billed quality of service products, public access to Wi-

Fi, or amounts to cover on-site support personnel beyond the repair of carrier owned equipment;

2. Each public school as defined in Section 139.102 of this title shall be eligible to receive Special Universal Services for schools. Special Universal Services for schools shall include the provision of bandwidth sufficient for providing educational services not to exceed, without good cause shown, the standards established for the relevant funding year by the State Educational Technology Directors Association (SETDA) or successor educational broadband standard including Internet access lines, WAN connections, reasonable installation, and network termination equipment owned and operated by the eligible provider that is necessary to provide the eligible service. In no instance shall the OUSF provide funding for separately billed quality of service products, or amounts to cover on-site support personnel beyond the repair of carrier owned equipment. Student counts as reported to the State Department of Education in October of the year prior to the relevant funding year shall be utilized for the purpose of determining bandwidth recommendations established by SETDA for purposes of this paragraph. In the absence of standards prescribed for the applicable funding year, the standards for the next prescribed funding year shall be used; and

3. Each public library as defined in Section 139.102 of this title shall be eligible to receive Special Universal Services for libraries. Special Universal Services for libraries shall include the provision of bandwidth sufficient for providing library

services per standards as recommended by the Federal Communications Commission including Internet access lines, reasonable installation, and network termination equipment owned and operated by the eligible provider that is necessary to provide the eligible service. In no instance shall the OUSF provide funding for separately billed quality of service products, or amounts to cover on-site support personnel beyond the repair of carrier owned equipment.

B. 1. The credit amount for the provision of Special Universal Services as provided for in subsection A of this section shall be determined as provided for in this subsection.

2. An eligible provider shall be entitled to reimbursement from the Oklahoma Universal Service Fund (OUSF) for providing Special Universal Services as described in subsection A of this section. In no case shall the reimbursement from the OUSF be made for an Internet subscriber fee or charges incurred as a result of services accessed via the Internet.

3. For eligible services that are exempt from competitive bidding as set forth in subsection C of this section or were competitively bid by the Oklahoma Universal Service Fund Beneficiary or a consortium, the credit amount shall be the total pre-discount amount of eligible services plus installation charges, less federal funding support for the same services including installation charges issued in a funding commitment letter or similar approval document for the Federal Universal Service Support Mechanism or successor program or programs for the applicable

funding year if the lowest cost reasonable bid was selected in compliance with subparagraph c of paragraph 3 of subsection C of this section.

4. For eligible services associated with an Oklahoma Universal Service Fund Beneficiary that is not eligible to participate individually in one of the Federal Universal Service Support Mechanisms or successor program or programs and that are not exempt from competitive bidding as set forth in subsection C of this section and were not competitively bid by the Oklahoma Universal Service Fund Beneficiary or a consortium in compliance with subparagraph C (3)(c) of this section, the credit amount shall be fifty percent (50%) of the invoiced amount until the next eligible funding year at which time the entity shall seek bids. Failure of the OUSF Beneficiary to pay the balance not paid by the OUSF may result in loss of OUSF funding.

5. For purposes of paragraph 4 of this subsection, "lowest cost reasonable qualifying bid" means a bid that:

- a. represents the lowest total cost proposal including monthly recurring and nonrecurring charges for eligible services,
- b. is reasonable to meet the needs of the Oklahoma Universal Service Fund Beneficiary as explicitly listed in the request for bids,
- c. is submitted during the same competitive bidding period as the awarded bid,

- d. is for the bandwidth requested for bid and selected by the Oklahoma Universal Service Fund Beneficiary,
- e. is for the same contract term as the bid that was selected by the Oklahoma Universal Service Fund Beneficiary,
- f. meets the requirements specified in the request for proposal by the Oklahoma Universal Service Fund Beneficiary,
- g. was the result of a fair and open competitive bidding process that was structured in a competitive manner and was open to all OUSF eligible entities serving in the telephone exchange where the Oklahoma Universal Service Fund Beneficiary is located, and
- h. results in an approved credit amount that is not more than twenty-five percent (25%) greater than other qualifying bids without good cause shown.

6. If an Oklahoma Universal Service Fund Beneficiary is eligible to participate in the Federal Universal Service Support Mechanism or successor program or programs but fails to receive federal funding for the applicable funding year, then the credit amount for the eligible services including installation charges shall be determined at the discretion of the Administrator for the applicable funding year.

C. 1. The competitive bidding requirement for the provision of Special Universal Services as provided for in subsection A of

this section shall be determined as provided for in subparagraph c of paragraph 3 of subsection C of this section .

2. Oklahoma Universal Service Fund Beneficiaries shall conduct a fair and open competitive bidding process to select the services eligible for support under this section.

3. The competitive bidding requirement shall be met for:

- a. any eligible service which is competitively bid by an Oklahoma Universal Service Fund Beneficiary in compliance with subparagraph c of paragraph 3 of subsection C of this section, and
- b. any eligible service that is competitively bid by a consortium in compliance with subparagraph c of paragraph 3 of subsection C of this section, regardless of whether or not the individual Oklahoma Universal Service Fund Beneficiary is eligible for federal support.
- c. all competitive bids that meet the following criteria:
 - (1) the solicitation for bids must clearly identify the bandwidth requested by the Oklahoma Universal Service Fund Beneficiary or consortium, and
 - (2) the Oklahoma Universal Service Fund Beneficiary or consortium may not limit bidders based upon technology, and
 - (3) the bidding must be open to all carriers authorized to receive OUSF funding in the exchange

where the Oklahoma Universal Fund Beneficiary or the members of the consortium are located, and

(4) the bidding may not be structured in a manner to exclude carriers eligible to receive OUSF funding in the exchange where the Oklahoma Universal Service Fund Beneficiary is located.

4. If the eligible services were not competitively bid in compliance with one of the Federal Universal Service Support Mechanisms or successor program or programs, the Oklahoma Universal Service Fund Beneficiary shall conduct a fair and open competitive bidding process pursuant to the state and local or tribal procurement rules applicable to the Oklahoma Universal Service Fund Beneficiary and follow the provisions in subparagraph c of paragraph 3 of subsection C of this section.

5. Eligible services that are exempt from competitive bidding pursuant to state law or the rules of the Federal Universal Service Support Mechanisms or successor program or programs shall be exempt from the Special Universal Services competitive bidding requirements set forth in this subsection and the Oklahoma Universal Service Fund Beneficiary must provide evidence of such exemption as part of the funding request.

D. 1. Special Universal Services shall not be sold, resold or transferred in consideration for money or any other thing of value.

2. The OUSF shall not fund more than one eligible provider for the same service at the same location for the same time period, except during a transition period from one eligible provider to

another. Funding during a transition period shall not exceed thirty (30) days.

E. The Administrator shall have the authority to investigate each request for OUSF funding for Special Universal Services in order to ensure that the OUSF pays only for the Special Universal Services authorized in this section. The Administrator shall deny requests for OUSF funding in excess of the credit amounts authorized in subsection B of this section unless good cause is shown.

F. The Corporation Commission shall have authority to investigate and modify or reject in whole or in part a Special Universal Service request under subsection A of this section if the request does not meet the specified criteria, if the Corporation Commission's investigation determines that the entity has not provided sufficient justification for the requested services, or if the Corporation Commission determined that granting the request is not in the public interest due to waste, fraud, or abuse.

G. 1. The Special Universal Services approval and reimbursement procedures as set forth in this subsection shall be effective and shall apply beginning January 1, 2017, and for each applicable funding year beginning July 1, 2017.

2. The administrative pre-approval process shall be as follows:

- a. the Administrator shall establish an administrative approval process initiated by the eligible provider for the purpose of determining eligible services and

credit amounts for the upcoming funding year. The administrative pre-approval submission process shall include all necessary forms and instructions, hereinafter referred to as the "OUSF administrative pre-approval request". The Administrator shall determine the form for the OUSF administrative pre-approval requests. The form shall be posted on the Commission website no later than October 1 of each year to become effective for any OUSF administrative pre-approval request submitted after December 31 of that year. Any party may file an objection to the form with the Commission within fifteen (15) days of posting. The Commission shall issue a final order on the objection to the form within thirty (30) days,

- b. the OUSF administrative pre-approval request for the request for bid criteria may be submitted at any time. The OUSF administrative pre-approval request for the bid evaluation may be submitted by the eligible provider any time prior to the funding year,
- c. the Administrator shall issue an approval funding letter to the Oklahoma Universal Service Fund Beneficiary and the eligible provider within ninety (90) days of receipt of a properly completed OUSF administrative pre-approval request. Failure by the Administrator to issue an approval funding letter within the ninety-day period means the OUSF

administrative pre-approval request submitted by the eligible provider is approved as submitted and the subsequent request for reimbursement submitted by the eligible provider which is consistent with the information submitted in the OUSF administrative pre-approval request shall be approved as submitted,

d. the approval funding letter shall inform the Oklahoma Universal Service Fund Beneficiary and the eligible provider of the preapproved services and associated credit amount for the applicable funding year. The amount of OUSF funding preapproved under this subsection may be subject to adjustments based on the amount of support received from other sources, if any, and adjustments to pricing that may occur between the time of preapproval and installation of service,

e. any OUSF administrative pre-approval request shall be submitted to the Administrator in the format outlined in instructions posted on the Commission website. The OUSF administrative pre-approval request shall include but not be limited to the following:

(1) a Special Universal Services request form as posted on the Commission's website no later than October 1 of each year for requests made after December 31 of that year,

- (2) a Federal Universal Service Support Mechanism or successor program or programs form used to request federal funding support for the applicable funding year,
 - (3) a federal funding commitment letter for the applicable funding year, if issued, and
 - (4) competitive bidding documentation for the relevant funding year,
- f. issuance of an OUSF approval funding letter by the Administrator shall not require a Commission order, and
- g. OUSF administrative pre-approval requests not filed by June 30 prior to the applicable funding year shall be processed by the Administrator on a first-in-first-out basis.

3. The eligible provider reimbursement process shall be as follows:

- a. requests for reimbursement shall be submitted per procedures as set forth in subsection D of Section 139.106 of this title,
- b. the Administrator shall post the monthly payout report to the Commission website,
- c. funding for eligible services, including federal funding, shall not exceed actual eligible expenses,

- d. any change in cost of eligible services during the funding year shall be reported by the eligible provider to the OUSF and:
 - (1) all decreases in cost shall be deemed approved until the next eligible bidding period and all cost savings shall be properly allocated to the OUSF and the Oklahoma Universal Service Fund Beneficiary, and
 - (2) increases in cost shall be reviewed for approval as provided for in Commission rules, and
- e. issuance of a determination by the Administrator shall not require a Commission order.

Submitted by:

Senator Fields

Fields-MJM-CA-HB2616
3/31/2016 9:28 AM