

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2842 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Trey Caldwell _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2842

By: Caldwell (Trey)

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to utilities; amending 17 O.S. 2021,
9 Section 139.109.1, which relates to Special Universal
10 Services; requiring the Oklahoma Corporation
11 Commission to make certain cost-effectiveness
12 evaluation; and providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 17 O.S. 2021, Section 139.109.1,
15 is amended to read as follows:

16 Section 139.109.1 A. The following services are hereby
17 declared to be Special Universal Services:

18 1. Each eligible healthcare entity in this state as defined in
19 Section 139.102 of Title 17 of the Oklahoma Statutes shall be
20 eligible to receive Special Universal Services for telemedicine
21 providers. Special Universal Services for telemedicine providers
22 shall include the provision of bandwidth per standards as
23 recommended by the Federal Communications Commission sufficient for
24 providing telemedicine services including the telemedicine line,

1 reasonable installation and network termination equipment owned and
2 operated by the eligible provider that is necessary to provide the
3 eligible telemedicine service;

4 2. Each public school as defined in Section 139.102 of Title 17
5 of the Oklahoma Statutes shall be eligible to receive Special
6 Universal Services for schools. Special Universal Services for
7 schools shall include the E-rate Eligible Services List (ESL) for
8 Category One services as determined by the FCC for the applicable
9 funding year or, in the absence of such a list, as published by the
10 Universal Services Administrative Company. In the event no ESL is
11 available from the FCC or USAC for the applicable funding year,
12 eligible services will be those on the ESL for the last funding year
13 for which an ESL was available. Special Universal Services shall
14 include the provision of bandwidth sufficient for providing
15 educational services not to exceed, without good cause shown, the
16 standards established for the relevant funding year by the State
17 Educational Technology Directors Association (SETDA) or successor
18 educational broadband standard including Internet access lines, WAN
19 connections, reasonable installation, and network termination
20 equipment owned and operated by the eligible provider as defined by
21 the ESL that is necessary to provide the eligible service. Student
22 counts as reported to the State Department of Education in October
23 of the year prior to the relevant funding year shall be utilized for
24 the purpose of determining bandwidth recommendations established by

1 SETDA for purposes of this paragraph. In the absence of standards
2 prescribed for the applicable funding year, the standards for the
3 next prescribed funding year shall be used. Special Universal
4 Services shall not include voice services that use separate lines or
5 have allocated bandwidth. The Commission may modify the service
6 considered to be Special Universal Services pursuant to rule, after
7 notice and hearing; and

8 3. Each public library as defined in Section 139.102 of Title
9 17 of the Oklahoma Statutes shall be eligible to receive Special
10 Universal Services for libraries. Special Universal Services for
11 libraries shall include the E-rate Eligible Services List ~~("ESL")~~
12 (ESL) for Category One services as determined by the Federal
13 Communications Commission for the applicable funding year or, in the
14 absence of such a list, as published by the Universal Services
15 Administrative Company. In the event no ESL is available from the
16 FCC or USAC for the applicable funding year, eligible services will
17 be those on the ESL for the last funding year for which an ESL was
18 available. Special Universal Services shall include the provision
19 of bandwidth sufficient for providing library services per standards
20 as recommended by the Federal Communications Commission including
21 Internet access lines, reasonable installation and network
22 termination equipment owned and operated by the eligible provider
23 that is necessary to provide the eligible service. Special
24 Universal Services shall not include voice services that use

1 separate lines or have allocated bandwidth. The Commission may
2 modify the services considered to be Special Universal Services
3 pursuant to rule, after notice and hearing.

4 B. 1. Eligible services that are exempt from competitive
5 bidding pursuant to state law or the rules of the Federal Universal
6 Service Support Mechanisms or successor program or programs shall be
7 exempt from the Special Universal Services competitive bidding
8 requirements set forth in this subsection, and the Oklahoma
9 Universal Service Fund Beneficiary must provide evidence of such
10 exemption as part of the funding request.

11 2. An OUSF Beneficiary may be eligible to receive funding from
12 both the OUSF and other state or federal funds; however, in no
13 instance shall there be a double recovery. The OUSF Beneficiary
14 shall make every reasonable effort to obtain funding from another
15 state and/or federal fund designed to support Special Universal
16 Services. The OUSF Beneficiary shall provide the OUSF Administrator
17 with information regarding the recipient's request for funding from
18 government sources designed to support the provisioning of Special
19 Universal Services, or an explanation of why such funding is not
20 available or why the recipient of the Special Universal Services did
21 not request such funding. Failure to provide such documentation may
22 result in the OUSF Administrator denying in whole or in part, a
23 request for Special Universal Services funding from the OUSF. If an
24 OUSF Beneficiary is not eligible to receive funding from other state

1 or federal funds per the program rules of the other state or federal
2 funds, the OUSF Beneficiary shall be exempt from the requirement to
3 obtain funding from another state and/or federal fund designed to
4 support Special Universal Services set forth in this subsection.
5 The OUSF Beneficiary must provide evidence of such exemption as part
6 of the funding request.

7 3. The credit amount for the provision of Special Universal
8 Services as provided for in subsection A of this section shall be
9 determined as provided for in this subsection.

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

16 5. Oklahoma Universal Service Fund Beneficiaries shall conduct
17 a fair and open competitive bidding process to select the services
18 and carrier eligible for support. The competitive bidding process
19 shall meet the following standards:

20 a. the solicitation of bids shall clearly identify the
21 bandwidth range requested by the Oklahoma Universal
22 Service Fund Beneficiary or consortium,

23 b. the Oklahoma Universal Service Fund Beneficiary shall
24 not limit bidders based upon technology,

1 c. the bidding shall be open to all carriers authorized
2 to receive OUSF funding in the telephone exchange
3 where the Oklahoma Universal Service Fund Beneficiary
4 is located or where the members of the consortium are
5 located, and

6 d. the bidding shall not be structured in a manner to
7 exclude carriers eligible to receive OUSF funding in
8 the telephone exchange where the Oklahoma Universal
9 Services Fund Beneficiary is located.

10 6. For Special Universal Services that are competitively bid in
11 compliance with this act, the credit amount shall be not more than
12 twenty-five percent (25%) greater than the lowest cost reasonable
13 qualifying bid of the total prediscount amount of eligible services
14 plus installation charges, less federal funding support for the same
15 services including installation charges issued in a funding
16 commitment letter or similar approval document for the Federal
17 Universal Service Support Mechanism or successor program or programs
18 for the applicable funding year.

19 7. For purposes of this act, "lowest cost reasonable qualifying
20 bid" means a bid that:

21 a. represents the lowest total cost proposal including
22 monthly recurring and nonrecurring charges for
23 eligible services,
24

- b. is reasonable to meet the needs of the Oklahoma Universal Service Fund Beneficiary as listed in the request for bids,
- c. is submitted during the same competitive bidding period as the awarded bid,
- d. is for a bandwidth within the range 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 bid by the Oklahoma Universal Service Fund Beneficiary, and
- g. was the result of a fair and open competitive bidding process as defined in this act.

8. If a long-term contract includes change clauses for changes in sites or services, the Oklahoma Universal Service Fund Beneficiary shall not be required to conduct a new competitive bid during the life of the original contract, which may not exceed five (5) years.

9. For eligible services associated with an Oklahoma Universal Service Fund Beneficiary that does not competitively bid in

1 compliance with this act, the credit amount shall be determined at
2 the discretion of the Administrator.

3 10. Notwithstanding the limit on the duration of the contract
4 as prescribed by paragraph 8 of this subsection, the Oklahoma
5 Corporation Commission shall evaluate cost-effectiveness of special
6 construction over the entire useful life of the asset.

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

9 2. The OUSF shall not fund more than one eligible provider for
10 the same service at the same location for the same time period,
11 except during a transition period from one eligible provider to
12 another. Funding during a transition period shall not exceed thirty
13 (30) days.

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

20 E. The Corporation Commission shall have authority to
21 investigate and modify or reject in whole or part a Special
22 Universal Service request under subsection A of this section if the
23 request does not meet the specified criteria, if the Corporation
24 Commission's investigation determines that the entity has not

1 provided sufficient documentation for the requested services, or if
2 the Corporation Commission determines that granting the request is
3 not in the public interest due to fraud.

4 F. 1. The Special Universal Services preapproval and
5 reimbursement procedures as set forth in this subsection shall be
6 effective and shall apply for each applicable funding year beginning
7 July 1, 2017.

8 2. The Oklahoma Universal Service Fund Beneficiary
9 administrative preapproval submission process shall be as follows:

10 a. the Administrator shall establish an administrative
11 approval process to be initiated by the Oklahoma
12 Universal Service Fund Beneficiary in a timely fashion
13 for the purpose of determining eligible services and
14 credit amounts for the upcoming funding year. The
15 administrative preapproval submission process shall
16 include all necessary forms and instructions,
17 hereinafter referred to as the "OUSF administrative
18 preapproval request". The Administrator shall
19 determine the form for the OUSF administrative
20 preapproval requests. The form shall be posted on the
21 Commission website no later than June 30 of each year
22 to become effective for any OUSF administrative
23 preapproval requests submitted after August 31 of that
24 year. Any party may file an objection to the form

1 with the Commission within fifteen (15) days of
2 posting. The Commission shall issue a final order on
3 the objection to the form within thirty (30) days,
4 b. the Administrator shall issue an approval funding
5 letter to the Oklahoma Universal Service Fund
6 Beneficiary and the eligible provider within ninety
7 (90) days of receipt of a properly completed OUSF
8 administrative preapproval request. Failure by the
9 Administrator to issue an approval funding letter
10 within the ninety-day period means the OUSF
11 administrative preapproval request submitted by the
12 Oklahoma Universal Service Fund Beneficiary is
13 approved as submitted and the subsequent request for
14 reimbursement submitted by the eligible provider which
15 is consistent with the information submitted in the
16 OUSF administrative preapproval request shall be
17 approved as submitted,
18 c. the approval funding letter shall inform the Oklahoma
19 Universal Service Fund Beneficiary of the preapproved
20 services and associated credit amount for the
21 applicable funding year. The amount of OUSF funding
22 preapproved under this subsection may be subject to
23 adjustments based on the amount of support received
24 from other sources, if any, and adjustments to pricing

1 that may occur between the time of preapproval and
2 installation of service,

3 d. any OUSF administrative preapproval request shall be
4 submitted to the Administrator in the format outlined
5 in instructions posted on the Commission website. The
6 OUSF administrative preapproval request shall include
7 but not be limited to the following:

8 (1) a Special Universal Services request form as
9 posted on the Commission website no later than
10 June 30 of each year for requests made after
11 August 31 of that year,

12 (2) a Federal Universal Service Support Mechanism or
13 successor program or programs form used to
14 request federal funding support for the
15 applicable funding year,

16 (3) a federal funding commitment letter for the
17 applicable funding year, if issued, and

18 (4) competitive bidding documentation for the
19 relevant funding year,

20 e. issuance of an OUSF approval funding letter by the
21 Administrator shall occur without a Commission order,

22 f. OUSF administrative preapproval requests not submitted
23 by June 30 prior to the applicable funding year shall
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1 be processed by the Administrator on a first-in-first-
2 out basis, and

- 3 g. after a preapproval funding letter has been issued, an
4 OUSF Beneficiary may submit a new administrative
5 preapproval request to provide corrections or
6 additional information per program rules issued by the
7 Commission.

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

- 10 a. requests for reimbursement shall be submitted per
11 procedures as set forth in subsection D of Section
12 139.106 of Title 17 of the Oklahoma Statutes,
13 b. the Administrator shall post the monthly payout report
14 to the Commission website,
15 c. funding for eligible services, including federal
16 funding, shall not exceed actual eligible expenses,
17 d. any change in cost of eligible services during the
18 funding year shall be reported by the eligible
19 provider to the OUSF and:

- 20 (1) all decreases in cost shall be deemed approved
21 until the next eligible bidding period and all
22 cost savings shall be properly allocated to the
23 OUSF and the Oklahoma Universal Service Fund
24 Beneficiary, and

1 (2) increases in cost shall be reviewed for approval
2 as provided for in Commission rules, and
3 e. issuance of a determination by the Administrator shall
4 not require a Commission order.

5 SECTION 2. This act shall become effective November 1, 2023.

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7 59-1-7276 MJ 02/07/23
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