

Calendar No. 659

114TH CONGRESS }
2d Session }

SENATE

{ REPORT
114-368

RURAL HEALTH CARE CONNECTIVITY ACT
OF 2015

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1916



OCTOBER 27, 2016.—Ordered to be printed
Filed, under authority of the order of the Senate of September 29, 2016

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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RURAL HEALTH CARE CONNECTIVITY ACT OF 2015

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

R E P O R T

[To accompany S. 1916]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1916) to include skilled nursing facilities as a type of health care provider under section 254(h) of the Communications Act of 1934, having considered the same, reports favorably thereon (without amendment) and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 1916, the Rural Health Care Connectivity Act of 2015, is to include skilled nursing facilities (SNFs) among the types of health care providers that may obtain support from the Universal Service Fund's (USF) Rural Health Care Program (RHCP).

BACKGROUND AND NEEDS

Americans living in rural areas face acute shortages of primary care physicians and specialists, and often must travel long distances to obtain medical care. SNFs are particularly well-suited to improve patient outcomes in these rural areas, providing some of the same post-acute services that are traditionally provided at hospitals, such as the management, observation, and evaluation of patient care. As the Federal Communications Commission (FCC) has noted, by their nature, SNFs are often remote from doctors and sophisticated laboratory and testing facilities, making the availability of electronic health records and telehealth an especially valuable

benefit to rural convalescents or patients for whom traveling to see a doctor, diagnostician, or specialist would be especially difficult.

The RHCP provides USF funding for telecommunications and broadband services used to provide health care services to rural Americans. Section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) specifies which types of health care providers are eligible to receive RHCP support. These include: post-secondary educational institutions offering healthcare instruction, teaching hospitals, and medical schools; community health centers or health centers providing health care to migrants; local health departments or agencies; community mental health centers; not-for-profit hospitals; rural health clinics; and a consortia of health care providers consisting of one or more of the aforementioned entities. SNFs, however, are not included in that Act.

In 2012, the FCC proposed to include not-for-profit SNFs within the definition of “not-for-profit hospital” under the Communications Act of 1934 (47 U.S.C. 151 et seq.), and it also proposed to establish a pilot program to provide limited RHCP support to those SNFs beginning in 2014. That pilot program was later deferred pending FCC action on other issues related to the RHCP, and the FCC has not implemented the expanded definition of “non-for-profit hospitals.” Thus, SNFs remain ineligible today to receive RHCP support.

SUMMARY OF PROVISIONS

S. 1916 would amend the Communications Act of 1934 to include SNFs among the types of health care providers that are eligible for RHCP support and may request from a telecommunications carrier under the USF the necessary telecommunications and information services to serve persons who reside in rural areas at rates that are reasonably comparable to rates charged for similar services in urban areas.

LEGISLATIVE HISTORY

On August 3, 2015, Chairman Thune introduced the Rural Health Care Connectivity Act of 2015. The legislation is cosponsored by Senators Klobuchar, Hoeven, and Fischer. Similar legislation (H.R. 4111) was introduced in the House of Representatives by Representative Leonard Lance on November 19, 2015.

On November 18, 2015, the Committee ordered that S. 1916 be reported favorably without amendment.

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. 1916—Rural Health Care Connectivity Act of 2015

Summary: S. 1916 would make certain skilled nursing facilities eligible for grants under the Universal Service Fund’s (USF’s) Rural Health Care (RHC) program. The Universal Service program is administered by the Federal Communications Commission (FCC) and is intended to promote the availability of telecommunications

services at affordable rates. The cash flows of the USF appear in the budget as direct spending (for amounts distributed from the fund) and as revenues (for fund collections).

CBO estimates that enacting S. 1916 would increase direct spending by \$197 million over the 2017–2026 period and result in increased revenue collections of \$215 million over the same period, resulting in an estimated net reduction in the deficit of \$18 million. CBO estimates that implementing the bill would have no significant discretionary costs. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in one or more of the four consecutive 10-year periods beginning in 2027.

S. 1916 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO expects the FCC would increase fee collections associated with the USF to offset some of the costs of expanding the Rural Health Care program. As a result, the bill would increase the cost of an existing mandate on private entities required to pay those fees. Based on information from the FCC, CBO estimates that the cost of the mandate would amount to no more than \$25 million in any of the next five years. Thus, the aggregate cost of the mandate would fall below the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 1916 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—											
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2017– 2021	2017– 2026
INCREASE IN DIRECT SPENDING												
Estimated Budget Authority ..	5	10	15	20	25	25	25	30	30	30	75	215
Estimated Outlays	3	7	12	17	22	24	25	28	29	30	61	197
INCREASE IN REVENUES												
Estimated Revenues	5	10	15	20	25	25	25	30	30	30	75	215
NET DECREASE IN THE DEFICIT												
Impact on Deficit	–2	–3	–3	–3	–3	–1	0	–2	–1	0	–14	–18

Basis of estimate: Current law authorizes the Universal Service program to collect and spend up to \$400 million a year for Rural Health Care (RHC) programs, which provide reduced rates for telecommunications services for certain rural public and nonprofit health care providers. Expanding the eligibility criteria to include skilled nursing facilities (SNFs) would increase direct spending and revenues because the RHC programs currently operate below the statutory cap on total spending.

CBO estimates that enacting the program over the 2017–2026 period would increase direct spending and revenues by \$197 million and \$215 million, respectively, resulting in a net reduction in the deficit of \$18 million over that period. CBO estimates that an average of 1,650 public and nonprofit SNFs in rural areas would be eligible for grants during that period and that participation

rates and grant awards would be similar to those for existing RHC programs. Based on information from the FCC, CBO estimates that participation rates would reach 75 percent over a period of several years and that certain non-rural entities affiliated with those participants also would receive funding. Grant awards would vary in size depending on the recipient's location and choice of benefits. In 2015, most RHC grantees received an average of about \$14,000 for telecommunications services; by contrast, payments to entities in Alaska averaged roughly \$140,000 because of the higher cost of services in that state. CBO estimates that grants would average about \$18,000 a year over the next 10 years, reflecting the historical growth in payments for other RHC programs.

Finally, based on information from the FCC, CBO estimates that the administrative activities needed to implement the new program would not have a significant effect on the agency's operating costs. Moreover, under current law, the FCC is authorized to collect fees sufficient to offset the cost of its regulatory activities each year.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 1916, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION ON NOVEMBER 18, 2015

	By fiscal year, in millions of dollars—												
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2016– 2021	2016– 2026
DECREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	-2	-3	-3	-3	-3	-1	0	-2	-1	0	-14	-18
Memorandum:													
Changes in													
Outlays	0	3	7	12	17	22	24	25	28	29	30	61	197
Changes in													
Revenues	0	5	10	15	20	25	25	25	30	30	30	75	215

Increase in long-term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2027.

Estimated impact on state, local, and tribal governments: S. 1916 contains no intergovernmental mandates as defined in UMRA.

Estimated impact on the private sector: CBO expects the FCC to increase fee collections to offset the costs associated with expanding the USF's Rural Health Care program to cover skilled nursing facilities. As a result, the bill would increase the cost of an existing mandate on some telecommunications companies required to pay those fees. Based on information from the FCC, CBO estimates that the cost of the mandate would amount to about \$5 million in 2017, increasing to about \$25 million in 2021. Therefore, the incremental cost of the mandate would fall below the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation). CBO expects that telecommunications companies would generally pass most of the cost of the fee increase on to consumers.

Estimate prepared by: Federal costs: Kathleen Gramp; impact on state, local, and tribal governments: Melisa Merrell; impact on the private sector: Logan Smith.

Estimate approved by: Theresa Gullo, Assistant Director for Budget Analysis.

REGULATORY IMPACT

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

There are approximately 1,650 public and nonprofit SNFs in rural areas, many of which would be eligible to participate in the RHCP if S. 1916 is enacted.

ECONOMIC IMPACT

This legislation would not have an adverse economic impact on the Nation. The bill would promote rural health care by making SNFs eligible to receive telecommunications and information services to serve persons who reside in rural areas at rates that are reasonably comparable to rates charged for similar services in urban areas.

PRIVACY

The bill would not have any adverse impact on the personal privacy of individuals.

PAPERWORK

The Committee does not anticipate a major increase in paperwork burdens resulting from the passage of this legislation.

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.

Section 1 would designate this Act as the “Rural Health Care Connectivity Act of 2015.”

Section 2. Telecommunications services for skilled nursing facilities.

Section 2 would amend section 254(h) of the Communications Act of 1934 (47 U.S.C. 254) to include SNFs in the definition of health care providers under that subsection.

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. 151 et seq.]

SEC. 254. UNIVERSAL SERVICE.

* * * * *

(h) TELECOMMUNICATIONS SERVICES FOR CERTAIN PROVIDERS.—

(1) IN GENERAL.—

(A) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services in a State, including instruction relating to such services, to any public or nonprofit health care provider that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State. A telecommunications carrier providing service under this paragraph shall be entitled to have an amount equal to the difference, if any, between the rates for services provided to health care providers for rural areas in a State and the rates for similar services provided to other customers in comparable rural areas in that State treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service.

(B) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3), provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission, with respect to interstate services, and the States, with respect to intrastate services, determine is appropriate and necessary to ensure affordable access to and use of such services by such entities. A telecommunications carrier providing service under this paragraph shall—

(i) have an amount equal to the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service, or

(ii) notwithstanding the provisions of subsection (e) of this section, receive reimbursement utilizing the support mechanisms to preserve and advance universal service.

(2) ADVANCED SERVICES.—The Commission shall establish competitively neutral rules—

(A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and non-

profit elementary and secondary school classrooms, health care providers, and libraries; and

(B) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users.

(3) TERMS AND CONDITIONS.—Telecommunications services and network capacity provided to a public institutional telecommunications user under this subsection may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.

(4) ELIGIBILITY OF USERS.—No entity listed in this subsection shall be entitled to preferential rates or treatment as required by this subsection, if such entity operates as a for-profit business, is a school described in paragraph (7)(A) with an endowment of more than \$50,000,000, or is a library or library consortium not eligible for assistance from a State library administrative agency under the Library Services and Technology Act.

(5) REQUIREMENTS FOR CERTAIN SCHOOLS WITH COMPUTERS HAVING INTERNET ACCESS.—

(A) INTERNET SAFETY.—

(i) IN GENERAL.—Except as provided in clause (ii), an elementary or secondary school having computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the school, school board, local educational agency, or other authority with responsibility for administration of the school—

(I) submits to the Commission the certifications described in subparagraphs (B) and (C);

(II) submits to the Commission a certification that an Internet safety policy has been adopted and implemented for the school under subsection (1); and

(III) ensures the use of such computers in accordance with the certifications.

(ii) APPLICABILITY.—The prohibition in clause (i) shall not apply with respect to a school that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

(iii) PUBLIC NOTICE; HEARING.—An elementary or secondary school described in clause (i), or the school board, local educational agency, or other authority with responsibility for administration of the school, shall provide reasonable public notice and hold at least 1 public hearing or meeting to address the proposed Internet safety policy. In the case of an elementary or secondary school other than an elementary or secondary school as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), the notice and hearing required by this clause may be limited to those members of the public with a relationship to the school.

(B) CERTIFICATION WITH RESPECT TO MINORS.—A certification under this subparagraph is a certification that the school, school board, local educational agency, or other authority with responsibility for administration of the school—

(i) is enforcing a policy of Internet safety for minors that includes monitoring the online activities of minors and the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

- (I) obscene;
- (II) child pornography; or
- (III) harmful to minors;

(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

(iii) as part of its Internet safety policy is educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.

(C) CERTIFICATION WITH RESPECT TO ADULTS.—A certification under this paragraph is a certification that the school, school board, local educational agency, or other authority with responsibility for administration of the school—

(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

- (I) obscene; or
- (II) child pornography; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers.

(D) DISABLING DURING ADULT USE.—An administrator, supervisor, or other person authorized by the certifying authority under subparagraph (A)(i) may disable the technology protection measure concerned, during use by an adult, to enable access for bona fide research or other lawful purpose.

(E) TIMING OF IMPLEMENTATION.—

(i) IN GENERAL.—Subject to clause (ii) in the case of any school covered by this paragraph as of the effective date of this paragraph under section 1721(h) of the Children’s Internet Protection Act, the certification under subparagraphs (B) and (C) shall be made—

(I) with respect to the first program funding year under this subsection following such effective date, not later than 120 days after the beginning of such program funding year; and

(II) with respect to any subsequent program funding year, as part of the application process for such program funding year.

(ii) PROCESS.—

(I) Schools with internet safety policy and technology protection measures in place. A school covered by clause (i) that has in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C) shall certify its compliance with subparagraphs (B) and (C) during each annual program application cycle under this subsection, except that with respect to the first program funding year after the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act [note to this section], the certifications shall be made not later than 120 days after the beginning of such first program funding year.

(II) SCHOOLS WITHOUT INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A school covered by clause (i) that does not have in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C)—

(aa) for the first program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C); and

(bb) for the second program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is in compliance with subparagraphs (B) and (C).

Any school that is unable to certify compliance with such requirements in such second program year shall be ineligible for services at discount rates or funding in lieu of services at such rates under this subsection for such second year and all subsequent program years under this subsection, until such time as such school comes into compliance with this paragraph.

(III) WAIVERS.—Any school subject to subclause (II) that cannot come into compliance with subparagraphs (B) and (C) in such second year program may seek a waiver of subclause (II)(bb) if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by such subclause. A school, school board, local educational agency, or other authority with responsibility for administration of the school shall notify

the Commission of the applicability of such subclause to the school. Such notice shall certify that the school in question will be brought into compliance before the start of the third program year after the effective date of this subsection in which the school is applying for funds under this subsection.

(F) NONCOMPLIANCE.—

(i) FAILURE TO SUBMIT CERTIFICATION.—Any school that knowingly fails to comply with the application guidelines regarding the annual submission of certification required by this paragraph shall not be eligible for services at discount rates or funding in lieu of services at such rates under this subsection.

(ii) FAILURE TO COMPLY WITH CERTIFICATION.—Any school that knowingly fails to ensure the use of its computers in accordance with a certification under subparagraphs (B) and (C) shall reimburse any funds and discounts received under this subsection for the period covered by such certification.

(iii) REMEDY OF NONCOMPLIANCE.—

(I) FAILURE TO SUBMIT.—A school that has failed to submit a certification under clause (i) may remedy the failure by submitting the certification to which the failure relates. Upon submittal of such certification, the school shall be eligible for services at discount rates under this subsection.

(II) FAILURE TO COMPLY.—A school that has failed to comply with a certification as described in clause (ii) may remedy the failure by ensuring the use of its computers in accordance with such certification. Upon submittal to the Commission of a certification or other appropriate evidence of such remedy, the school shall be eligible for services at discount rates under this subsection.

(6) REQUIREMENTS FOR CERTAIN LIBRARIES WITH COMPUTERS HAVING INTERNET ACCESS.—

(A) INTERNET SAFETY.—

(i) IN GENERAL.—Except as provided in clause (ii), a library having one or more computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the library—

(I) submits to the Commission the certifications described in subparagraphs (B) and (C); and

(II) submits to the Commission a certification that an Internet safety policy has been adopted and implemented for the library under subsection (1); and

(III) ensures the use of such computers in accordance with the certifications.

(ii) APPLICABILITY.—The prohibition in clause (i) shall not apply with respect to a library that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

(iii) PUBLIC NOTICE; HEARING.—A library described in clause (i) shall provide reasonable public notice and hold at least 1 public hearing or meeting to address the proposed Internet safety policy.

(B) CERTIFICATION WITH RESPECT TO MINORS.—A certification under this subparagraph is a certification that the library—

(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene;

(II) child pornography; or

(III) harmful to minors; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors.

(C) CERTIFICATION WITH RESPECT TO ADULTS.—A certification under this paragraph is a certification that the library—

(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene; or

(II) child pornography; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers.

(D) DISABLING DURING ADULT USE.—An administrator, supervisor, or other person authorized by the certifying authority under subparagraph (A)(i) may disable the technology protection measure concerned, during use by an adult, to enable access for bona fide research or other lawful purpose.

(E) TIMING OF IMPLEMENTATION.—

(i) IN GENERAL.—Subject to clause (ii) in the case of any library covered by this paragraph as of the effective date of this paragraph under section 1721(h) of the Children’s Internet Protection Act [note to this section], the certification under subparagraphs (B) and (C) shall be made—

(I) with respect to the first program funding year under this subsection following such effective date, not later than 120 days after the beginning of such program funding year; and

(II) with respect to any subsequent program funding year, as part of the application process for such program funding year.

(ii) PROCESS.—

(I) LIBRARIES WITH INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A library covered by clause (i) that has in place an Internet safety policy and technology pro-

tection measures meeting the requirements necessary for certification under subparagraphs (B) and (C) shall certify its compliance with subparagraphs (B) and (C) during each annual program application cycle under this subsection, except that with respect to the first program funding year after the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act [note to this section], the certifications shall be made not later than 120 days after the beginning of such first program funding year.

(II) LIBRARIES WITHOUT INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A library covered by clause (i) that does not have in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C)—

(aa) for the first program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C); and

(bb) for the second program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is in compliance with subparagraphs (B) and (C).

Any library that is unable to certify compliance with such requirements in such second program year shall be ineligible for services at discount rates or funding in lieu of services at such rates under this subsection for such second year and all subsequent program years under this subsection, until such time as such library comes into compliance with this paragraph.

(III) WAIVERS.—Any library subject to subclause (II) that cannot come into compliance with subparagraphs (B) and (C) in such second year may seek a waiver of subclause (II)(bb) if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by such subclause. A library, library board, or other authority with responsibility for administration of the library shall notify the Commission of the applicability of such subclause to the library. Such notice shall certify that the library in question will be brought into compliance before the start of the third program year after the effective date of this sub-

section in which the library is applying for funds under this subsection.

(F) NONCOMPLIANCE.—

(i) FAILURE TO SUBMIT CERTIFICATION.—Any library that knowingly fails to comply with the application guidelines regarding the annual submission of certification required by this paragraph shall not be eligible for services at discount rates or funding in lieu of services at such rates under this subsection.

(ii) FAILURE TO COMPLY WITH CERTIFICATION.—Any library that knowingly fails to ensure the use of its computers in accordance with a certification under subparagraphs (B) and (C) shall reimburse all funds and discounts received under this subsection for the period covered by such certification.

(iii) REMEDY OF NONCOMPLIANCE.—

(I) FAILURE TO SUBMIT.—A library that has failed to submit a certification under clause (i) may remedy the failure by submitting the certification to which the failure relates. Upon submittal of such certification, the library shall be eligible for services at discount rates under this subsection.

(II) FAILURE TO COMPLY.—A library that has failed to comply with a certification as described in clause (ii) may remedy the failure by ensuring the use of its computers in accordance with such certification. Upon submittal to the Commission of a certification or other appropriate evidence of such remedy, the library shall be eligible for services at discount rates under this subsection.

(7) DEFINITIONS.—For purposes of this subsection:

(A) ELEMENTARY AND SECONDARY SCHOOLS.—The term “elementary and secondary schools” means elementary schools and secondary schools, as defined in section 9101 of the Elementary and Secondary Education Act of 1965.

(B) HEALTH CARE PROVIDER.—The term “health care provider” means—

(i) post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools;

(ii) community health centers or health centers providing health care to migrants;

(iii) local health departments or agencies;

(iv) community mental health centers;

(v) not-for-profit hospitals;

(vi) rural health clinics; **[and]**

(vii) *skilled nursing facilities*;

[(vii)](viii) consortia of health care providers consisting of one or more entities described in **[clauses (i) through (vi)]** *clauses (i) through (vii)*.¹

¹ Nothing in the amendment to subsection (h)(7)(B) would be construed to affect the aggregate annual cap on Federal universal service support for health care providers under section 54.675 of title 47, Code of Federal Regulations, or any successor regulation.

(C) PUBLIC INSTITUTIONAL TELECOMMUNICATIONS USER.—The term “public institutional telecommunications user” means an elementary or secondary school, a library, or a health care provider as those terms are defined in this paragraph.

(D) MINOR.—The term “minor” means any individual who has not attained the age of 17 years.

(E) OBSCENE.—The term “obscene” has the meaning given such term in section 1460 of title 18, United States Code.

(F) CHILD PORNOGRAPHY.—The term “child pornography” has the meaning given such term in section 2256 of title 18, United States Code.

(G) HARMFUL TO MINORS.—The term “harmful to minors” means any picture, image, graphic image file, or other visual depiction that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(H) SEXUAL ACT; SEXUAL CONTACT.—The terms “sexual act” and “sexual contact” have the meanings given such terms in section 2246 of title 18, United States Code.

(I) TECHNOLOGY PROTECTION MEASURE.—The term “technology protection measure” means a specific technology that blocks or filters Internet access to the material covered by a certification under paragraph (5) or (6) to which such certification relates.

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