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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Universal Service Contribution Methodology) WC Docket No. 06-122

**COMMENTS FROM THE NATIONAL SCHOOL BOARDS ASSOCIATION (NSBA)
OPPOSING THE NOTICE OF PROPOSED RULEMAKING TO PLACE A CAP ON
THE UNIVERSAL SERVICE FUND AND A SUB-CAP ON THE E-RATE AND RURAL
HEALTH CARE PROGRAMS**

I. INTRODUCTION AND SUMMARY

The National School Boards Association (NSBA) appreciates the past work by the Federal Communications Commission (Commission) to build a stronger Schools and Libraries Program (E-Rate) of the Universal Service Fund. Thanks to the Commission’s decision to modernize and expand E-Rate in 2014, thousands of schools are now connected to high-speed broadband. NSBA also appreciates the Commission’s current interest in continued modernization and oversight of E-Rate. However, NSBA strongly opposes the recently published Notice of Proposed Rulemaking (NPRM) to place a cap on the Universal Service Fund (USF) and a sub-cap on the E-Rate and Rural Health Care Programs.¹ Enactment of this rule would force school boards and districts across the nation to face uncertainty in their yearly budgeting process and place adequate connectivity for their students in jeopardy. The Commission noted the rule would allow it to look at the four programs “holistically” with the focus on the use of federal funds.

In the NPRM, the Commission seeks comments on establishing a cap on the Universal Service Fund (USF or Fund) and ways it could enable the Commission to evaluate the financial aspects of the four USF programs in a more holistic way, and thereby better achieve the overarching universal service principles Congress directed the Commission to preserve and advance. While each of the constituent USF programs are capped or operating under a targeted budget, the Commission has not examined the programs holistically to determine the most efficient and responsible use of these federal funds. A cap could promote meaningful consideration of spending decisions by the Commission, limit the contribution burden borne by ratepayers, provide regulatory and financial certainty, and promote efficiency, fairness, accountability, and sustainability of the USF programs.²

NSBA contends this rule would have the opposite effect of the goals expressed in the NPRM. Moreover, the Commission’s primary focus on the financial aspects of USF ignores the overall

¹ Federal Communications Commission, Note of Proposed Rule Making re Universal Service Fund Contribution Methodology, FCC 19-46; WC Docket No. 06-122, Federal Register p. 27570, June 13, 2019. Accessed July 28, 2019.

² Ibid, p. 27571. Accessed July 28, 2019.

goal and intent of Congress when it passed the Telecommunications Act of 1996.³ Congress created four distinct programs and they are not meant to be viewed holistically in terms of their budgets. This is further bolstered by the fact that all four programs already have their own caps. If enacted, this rule would create confusion, unnecessary competition, and hinder the goal of better connecting the nation to the Internet through high-speed broadband.

Instead of implementing this rule, NSBA supports efforts to better connect schools and libraries to the internet and help all students have access to high-speed broadband which is required for success in the twenty-first century. Therefore, NSBA calls on the Commission to reject this proposed rule and instead to focus on efforts to strengthen E-Rate, a program that is working, and work on positive ways to bridge the digital divide in education, commonly referred to as the Homework Gap. This renewed effort to better connect the nation aligns with the original goals when USF was created.

II. ABOUT THE NATIONAL SCHOOL BOARDS ASSOCIATION

NSBA is a not-for-profit organization and federation of 49 state associations and the U.S. territory of the Virgin Islands, representing more than 90,000 school board officials, that advocate for strong public education. Local school board members govern over 13,600 local school districts serving more than 50 million public school students.

Advocating for equity and excellence in public education through school board governance and the belief that public education is America's most vital institution is at the core of NSBA's goals and mission. Education is a civil right necessary to the dignity and freedom of the American people, and all children deserve equal access to an education which encourages them to reach their potential. To reach those goals, NSBA believes connecting schools and students to the Internet must be a high priority so that public education is strong, and all students are given opportunities to learn and succeed.

III. E-RATE IS WORKING

E-Rate is a crucial program in aiding schools and libraries to connect to high-speed broadband that is especially vital for the type of student learning required in today's modern world. While there is always room for improvement, district board members recognize the important role E-Rate has played in connecting schools and libraries and urge the Commission to not take steps that will jeopardize the success of the program. The Consortium for School Networking's (CoSN) 2018-2019 Annual Infrastructure Report has found that broadband for schools continues to improve thanks to E-Rate modernization and expansion. "Ninety-two percent (92%) of districts are meeting the FCC short-term goal of 100 Mbps per 1,000 students for all their schools. Even more impressive, this year over a third (35%) of districts achieved the FCC long-term goal (1 Gbps per 1,000 students) for all schools – up nearly 100% from last year."⁴ Further,

³ Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996), Section 254 (h). Accessed July 29, 2019.

⁴ The Consortium for School Networking's (CoSN) 2018-2019 Annual Infrastructure Report, page 3. https://www.cosn.org/sites/default/files/CoSNs%202018%202019%20Annual%20Infrastructure%20Survey%20Report%20final_0.pdf Accessed July 5, 2019.

analysis from EducationSuperhighway demonstrates additional success of the program. According to the 2018 State of the States, 40.7 million more students in 81,000 schools have high-speed Internet access than did so in 2013.⁵

NSBA believes that E-Rate is an effective program and any efforts by the Commission should focus on continued modernization and improvement, and not on unnecessary changes that could negatively impact schools across the nation.

IV. THIS RULE WILL HARM E-RATE AND THE OTHER USF PROGRAMS

Placing an overall cap on the universal service fund (USF) will lead to competition among the four USF programs creating unnecessary burdens for them. It is also contrary to the intent of Congress. Further, school boards need as much certainty as possible when planning their budgets. This proposal would lead to instability in budgeting and planning for broadband use by the districts. For those reasons, NSBA opposes the proposed rule.

A. PLACING A CAP ON USF AND SETTING A SUB-CAP ON E-RATE AND RURAL HEALTH CARE WILL JEOPARDIZE BOTH PROGRAMS AND THE PROPOSED RULE IS AGAINST THE INTENT OF CONGRESS

Imposing a sub-cap on the E-rate and Rural Health Care programs creates dangerous precedent. The proposal to merge spending caps for E-Rate and Rural Health Care programs into a single cap is also against the clear legislative intent found in the Telecommunications Act of 1996. Allowing one USF program the opportunity to potentially use another program's designated funds undermines the intent of Congress and threatens all four programs. This issue is of critical importance to the future of public education and the 90,000 school board members.

Placing an overall cap on the universal service fund (USF) will lead to unnecessary competition among the four USF programs which is contrary to the intent of Congress. The legislative goal was to provide four distinct programs, each with specific funding, not one funding pool where the four programs had to fight for funding if an overall cap was reached.

The U.S. House of Representatives affirmed the goals of USF and expressed their strong opposition to the effort being proposed to place a cap on USF or sub-cap on E-Rate and the Rural Health Care program through the recent unanimous passage of House Amendment 483 to H.R. 3351, the FY2020 Financial Services and General Government Appropriations Act, which prohibits the Federal Communications Commission (FCC) from implementing this rule. Similar efforts are now underway in the U.S. Senate, demonstrating the strong concern that Congress has over this proposed rule.

B. A CAP ON USF WOULD CREATE UNCERTAINTY IN BUDGET PLANNING AROUND BROADBAND ACCESS

⁵ See 2018 State of the States, EducationSuperhighway, page 5. <https://s3-us-west-1.amazonaws.com/esh-sots-pdfs/2018%20State%20of%20the%20States.pdf> Accessed July 5, 2019.

NSBA and state school board associations across the nation believe this proposed rule would place severe limitations on school districts and would negatively impact the learning of students. Concerns include uncertainty in budgeting and a regression in the progress that has been made to keep schools connected. For this reason, many state school board associations are also offering their own comments to the Commission. Some of the issues highlighted in their comments include:

Colorado Association of School Boards:

Colorado Boards of Education rely on E-Rate funds when planning district budgets. Introducing uncertainty as to the availability of E-Rate funds would make it more difficult to provide the resources every student needs to reach their full academic potential.⁶

School Administrators of Montana:

In closing, the School Administrators of Montana believe that if the proposed rule making changes are implemented, Montana's schools, and the educational opportunities for our students, would be significantly, and negatively, affected. Further, the proposed funding caps to USF and its specific programs are short sighted policy that will undermine the ability of our schools to continue to address growing connectivity needs.⁷

Texas Association of School Boards:

E-Rate has made a tremendous difference in helping students connect to the world through broadband access in schools and libraries. TASB, in collaboration with the State of Texas, has helped to promote this program and access to the internet for the 5.4 million school children in Texas. In 2015, the Texas Legislature appropriated \$25 million to upgrade or install new fiber-optic cable in public schools – a fast, reliable, and scalable form of internet access. In return, the federal government matched, dollar-for-dollar, the state's investment through the E-rate program. By 2018, 97 percent of school districts had access to internet speeds of at least 100 Kbps/student.⁸

Kansas Association of School Boards:

Reducing support for programs that are designed to provide broadband communications and information in rural schools, hospitals and homes would penalize hundreds of communities and thousands of students across Kansas and further widen the digital divide between rural and urban areas.⁹

⁶ Comments to the Federal Communications Commission, Colorado Association of School Boards, <https://www.fcc.gov/ecfs/filing/10729266785225>. Accessed July 29, 2019.

⁷ Comments to the Federal Communications Commission, School Administrators of Montana <https://www.fcc.gov/ecfs/filing/1072831073447> Accessed July 29, 2019.

⁸ Comments to the Federal Communications Commission, Texas Association of School Boards, <https://www.fcc.gov/ecfs/filing/1072287126401> Accessed July 29, 2019.

⁹ Comments to the Federal Communications Commission, Kansas Association of School Boards, <https://www.fcc.gov/ecfs/filing/1071921419832> Accessed July 29, 2019.

New York State School Boards Association:

However, rural areas continue to lag behind other areas in connectivity and there are still enormous broadband gaps when students are out of school. The work to level this playing field for all students must continue. To ensure that access continues to be expanded, it is critical that the E-rate and associated programs continue.¹⁰

Minnesota School Boards Association:

These E-Rate discounts help schools and libraries in Minnesota obtain affordable telecommunications services and Internet access. E-Rate is an especially invaluable tool for many under-served areas ranging from small rural school districts to low-income urban areas. Discounts range from 20 to 90 percent, with higher discounts for higher poverty and rural schools and libraries.¹¹

The message from the school board members who govern the local schools across the nation is clear, this proposed rule would harm their efforts to provide an equitable and excellent education for their students and create a burden for the districts when planning yearly budgets.

V. CONCLUSION: THE COMMISSION SHOULD FOCUS ON THE DIGITAL DIVIDE, NOT CREATING NEW BURDENS FOR SCHOOLS AND STUDENTS

While NSBA appreciates past work by the Commission to expand and modernize E-Rate and to better connect the nation to the Internet, the proposed rule will hamper learning and create confusion and unnecessary competition. NSBA believes this rule should be rejected and efforts by the Commission should focus on doing more, not less, to help students connect to broadband. E-Rate has made a tremendous difference in improving education. NSBA would welcome the opportunity to work with the Commission and other interested parties in helping better connect schools and students to high-speed broadband. It is imperative that the digital divide be better addressed. Many areas of the nation, especially rural areas, continue to lag behind in connectivity and there are still enormous broadband gaps when students are out of school. The Institute of Education Sciences (IES) released a report in 2018 noting major gaps in connectivity and internet access for many students when they were at home. These gaps can vary depending on the students racial and ethnic background, economic status, and where they live.¹² There must be aggressive steps taken to deal with this issue and give all students the tools they need to succeed.

School board members across the nation are working tirelessly to provide high-quality education to the students in their districts. Part of that effort includes giving students access to high-speed broadband vital for successful learning in today's modern world. NSBA is committed to

¹⁰ Comments to the Federal Communications Commission, New York State School Boards Associations, <https://www.fcc.gov/ecfs/filing/10718264534863> Accessed July 29, 2019.

¹¹ Comments to the Federal Communications Commission, Minnesota School Boards Association, <https://www.fcc.gov/ecfs/filing/107150100429731> Accessed July 29, 2019.

¹² Student Access to Digital Learning Resources Outside of the Classroom, National Center for Education Statistics, Institute for Education Sciences, April 2018, <https://nces.ed.gov/pubs2017/2017098/index.asp>. Accessed July 29, 2019.

improving equitable access to the Internet for all schools and students and “will continue to advocate for the FCC and Congress to work with school districts to modernize and strengthen the E-rate program to ensure its efficient and equitable operation; to improve the capacity, quality, and speed of connectivity in our nation’s schools; and to address the technology gaps that remain.”¹³ We urge the Commission to reject the proposed rule and work with us on this important effort to close the digital divide going forward.

¹³ NSBA, Equity Matters, 2019 Advocacy Agenda. <https://www.nsba.org/-/media/NSBA/File/nsba-advocacy-agenda-2019.pdf>. Accessed July 29, 2019.