CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 16, 2004

S. 2281
VOIP Regulatory Freedom Act of 2004

As ordered reported by the Senate Committee on Commerce, Science, and Transportation on July 22, 2004

SUMMARY

S. 2281 generally would reserve the authority to regulate a form of telephone service known as Voice-over-Internet-Protocol (VOIP) to the federal government for three years. States would retain jurisdiction over the regulation of state Universal Service Funds —programs to ensure all citizens have access to phone service—emergency 911 services, and compensation among phone companies. Within 180 days after enactment of the bill, the Federal Communications Commission (FCC) would be required to develop rules to ensure that all VOIP carriers provide 911 service, to the extent possible. S. 2281 also would require both the Comptroller General and the FCC to complete studies of the effect of the legislation.

Assuming appropriation of the necessary amounts, CBO estimates that implementing the bill would cost the federal government about $1 million a year over the 2005-2009 period. Enacting the bill would not affect direct spending or revenues.

By prohibiting most state and local regulation of VOIP, S. 2281 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates, however, that the costs to comply with this mandate would be small and would not exceed the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation).

S. 2281 also would impose private-sector mandates, as defined in UMRA, on providers of VOIP services. CBO estimates that the aggregate cost of those mandates would not exceed the threshold for private-sector mandates established by UMRA ($120 million in 2004, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

S. 2281 would require the FCC to regulate voice-over-Internet-protocol technology. Based on information provided by the FCC and assuming appropriation of the necessary amounts, CBO estimates that implementing the bill would cost about $1 million a year over the 2005-2009 period for additional regulatory staff. Enacting the bill would not affect direct spending or revenues.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 2281 would prohibit states from regulating VOIP for three years. It would preserve the ability of states to regulate and assess fees on state Universal Service Funds, emergency 911 services, and compensation among phone companies for the use of telephone lines. While this preservation of state authority would protect significant state and local government revenues, the underlying prohibition on state regulation of VOIP would constitute an intergovernmental mandate as defined in UMRA. Because the bill would not require states to implement costly programs or prohibit them from raising significant revenues, however, the costs of S. 2281 would be small and would not exceed the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation).

Based on information from industry analysts, CBO assumes that the bill would not prohibit states from taxing VOIP in the same way that they tax other telephone services. While there are currently court cases pending in both Minnesota and New York, as well as expected FCC action that will address the issue of what state taxing schemes may be applied to VOIP, this legislation does not address that issue.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 2281 would impose private-sector mandates, as defined in UMRA, on certain providers of VOIP. Section 4 would require providers of VOIP applications capable of connecting to the public switched telephone network to provide 911 and enhanced 911 (E-911) services for their subscribers—to the extent that it is technologically and economically feasible—on terms comparable to 911 services offered by traditional telecommunications carriers. CBO estimates that the aggregate cost of mandates in the bill would not exceed the annual threshold for private-sector mandates established by UMRA ($120 million in 2004, adjusted annually for inflation).

VOIP companies incur start-up and ongoing costs to provide 911 and E-911 services to their subscribers. Start-up costs include additional data processing, personnel training, and the development and purchase of equipment. Primary ongoing costs include the costs of maintaining an accurate database of addresses and operating linkages between the Internet protocol networks and the telephone network. According to information from public safety sources, the start-up costs to VOIP providers could amount to about $75 million per year over the next five years.

CBO assumes that the demand for VOIP services will grow over the next five years to account for roughly nine million U.S. households with telephone service in 2009. Public safety sources estimate that the ongoing monthly cost of 911/E-911 services for VOIP providers would average about 35 cents per household. Using those figures, CBO estimates that operating costs of providing 911/E-911 services in 2009 would be about $40 million. Thus, in 2009 the cost of implementing 911/E-911 services for VOIP providers is estimated to be about $115 million.

The 911 requirements under the bill are already being discussed or implemented by some VOIP market participants. VOIP service providers have an incentive to provide 911 services in order to be competitive with other telephone services and some providers are already offering 911 and similar services. In addition, representatives of the VOIP provider industry are currently working with the National Emergency Number Association to develop voluntary standards for VOIP 911 services. Because some VOIP providers would offer 911 services independent of the mandate in S. 2281, the incremental cost to the industry of complying with the mandate would be lower than the total cost of implementing 911services.

ESTIMATE PREPARED BY:

Federal Costs: Melissa Zimmerman
Impact on State, Local, and Tribal Governments: Sarah Puro
Impact on the Private Sector: Philip Webre

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis