

117TH CONGRESS
1ST SESSION

S. 1885

To provide funds to assess the availability, accelerate the deployment, and improve the sustainability of advanced communications services and communications infrastructure in rural America, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27, 2021

Mr. THUNE (for himself, Ms. HASSAN, Mr. MORAN, and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide funds to assess the availability, accelerate the deployment, and improve the sustainability of advanced communications services and communications infrastructure in rural America, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rural Connectivity Ad-
5 vancement Program Act of 2021”.

1 **SEC. 2. DEPOSIT OF SPECTRUM AUCTION PROCEEDS IN**
 2 **RURAL BROADBAND ASSESSMENT AND DE-**
 3 **PLOYMENT FUND.**

4 Section 309(j)(8) of the Communications Act of 1934
 5 (47 U.S.C. 309(j)(8)) is amended—

6 (1) in subparagraph (A), by striking “and (G)”
 7 and inserting “(G), and (H)”; and

8 (2) by adding at the end the following:

9 “(H) CERTAIN PROCEEDS DESIGNATED
 10 FOR RURAL BROADBAND ASSESSMENT AND DE-
 11 PLOYMENT FUND.—

12 “(i) ASSESSMENT AND DEPLOYMENT
 13 SET-ASIDE.—Notwithstanding subpara-
 14 graph (A), and except as provided in sub-
 15 paragraphs (B), (D), (E), (F), and (G), 10
 16 percent of the net proceeds from each use
 17 of a system of competitive bidding under
 18 this subsection that is mandated by an Act
 19 of Congress and that begins on or after the
 20 date of enactment of the Rural
 21 Connectivity Advancement Program Act of
 22 2021 shall be deposited in the Rural
 23 Broadband Assessment and Deployment
 24 Fund established under section 3 of that
 25 Act.

“(ii) DEFINITION.—For purposes of this subparagraph, the term ‘net proceeds’, with respect to the use of a system of competitive bidding, means the proceeds remaining after subtracting all auction-related expenditures, including—

“(I) relocation payments, including accelerated relocation payments;

“(II) payments to incumbent licensees for the relinquishment of all or a portion of the spectrum usage rights of those licensees;

“(III) costs associated with the reallocation of spectrum, whether on an exclusive or shared use basis;

“(IV) relocation or sharing costs, including for planning for relocation or sharing; and

“(V) bidding credits.”.

SEC. 3. DIRECTION AND USE OF RURAL BROADBAND ASSESSMENT AND DEPLOYMENT FUND PROCEEDS.

(a) DEFINITIONS.—In this section—

(1) the term “Commission” means the Federal Communications Commission;

1 (2) the term “high-cost programs” means—

2 (A) the program for Universal Service
3 Support for High-Cost Areas set forth under
4 subpart D of part 54 of title 47, Code of Fed-
5 eral Regulations, or any successor regulations;

6 (B) the Rural Digital Opportunity Fund
7 set forth under subpart J of part 54 of title 47,
8 Code of Federal Regulations, or any successor
9 regulations;

10 (C) the Interstate Common Line Support
11 Mechanism for Rate-of-Return Carriers set
12 forth under subpart K of part 54 of title 47,
13 Code of Federal Regulations, or any successor
14 regulations;

15 (D) the Mobility Fund set forth under sub-
16 part L of part 54 of title 47, Code of Federal
17 Regulations, or any successor regulations;

18 (E) the High Cost Loop Support for Rate-
19 of-Return Carriers program set forth under
20 subpart M of part 54 of title 47, Code of Fed-
21 eral Regulations, or any successor regulations;

22 (F) the Uniendo a Puerto Rico Fund and
23 the Connect USVI Fund set forth under sub-
24 part O of part 54 of title 47, Code of Federal
25 Regulations, or any successor regulations; and

1 (G) the Rural Broadband Experiments, as
2 established by the Commission under part 54 of
3 title 47, Code of Federal Regulations;

4 (3) the term “net proceeds” has the meaning
5 given the term in subparagraph (H) of section
6 309(j)(8) of the Communications Act of 1934 (47
7 U.S.C. 309(j)(8)), as added by section 2 of this Act;
8 and

9 (4) the term “Rural Broadband Assessment
10 and Deployment Fund” means the fund established
11 under subsection (b).

12 (b) ESTABLISHMENT OF FUND.—There is estab-
13 lished in the Treasury of the United States a fund to be
14 known as the “Rural Broadband Assessment and Deploy-
15 ment Fund”.

16 (c) BORROWING AUTHORITY.—

17 (1) IN GENERAL.—With respect to any auction
18 described in subparagraph (H)(i) of section
19 309(j)(8) of the Communications Act of 1934 (47
20 U.S.C. 309(j)(8)), as added by section 2 of this Act,
21 on or after the date on which the Commission makes
22 a final determination of the amount of net proceeds
23 that will be deposited in the Rural Broadband As-
24 sessment and Deployment Fund under such sub-
25 paragraph (H)(i) as a result of that auction, the

1 Commission may borrow not more than that amount
2 from the Treasury of the United States.

3 (2) REIMBURSEMENT.—The Commission shall
4 reimburse the general fund of the Treasury, without
5 interest, for any amounts borrowed under paragraph
6 (1) as funds are deposited into the Rural Broadband
7 Assessment and Deployment Fund.

8 (d) AVAILABILITY OF AMOUNTS.—Any amounts bor-
9 rowed under subsection (c)(1) and any amounts in the
10 Rural Broadband Assessment and Deployment Fund that
11 are not necessary for reimbursement of the general fund
12 of the Treasury for such borrowed amounts shall be avail-
13 able to the Commission for use in accordance with sub-
14 section (e).

15 (e) USE OF AMOUNTS.—

16 (1) ESTABLISHMENT OF PROGRAM OR PRO-
17 GRAMS.—The Commission shall use the amounts
18 made available under subsection (d) to establish 1 or
19 more programs that are separate from, but are co-
20 ordinated with and complement, the high-cost pro-
21 grams to address—

22 (A) gaps that remain in broadband inter-
23 net access service coverage in high-cost rural
24 areas despite the operations of the high-cost
25 programs; and

1 (B) shortfalls in sufficient funding of the
2 high-cost programs that could adversely affect
3 the sustainability of services or reasonable com-
4 parability of rates that are supported by those
5 programs.

6 (2) PURPOSES.—In carrying out paragraph (1),
7 the Commission shall use amounts made available
8 under subsection (d) in an efficient and cost-effec-
9 tive manner only—

10 (A) for the assessment of, and to provide
11 subsidies in a technology-neutral manner
12 through a competitive process (subject to
13 weighting preferences for performance quality
14 and other service metrics as the Commission
15 may find appropriate) to providers for support
16 of, deployment of broadband-capable infrastruc-
17 ture in high-cost rural areas that the Commis-
18 sion determines are unserved by fixed terres-
19 trial broadband internet access service at a
20 download speed of not less than 25 megabits
21 per second and an upload speed of not less than
22 3 megabits per second (or such higher speed as
23 the Commission may determine appropriate
24 based upon an evolving definition of universal
25 service); and

(B) to assess, and provide subsidies to providers to enable providers to sustain, broadband internet access service in any rural area in which—

(i) not more than 1 provider of fixed terrestrial broadband internet access service operates; and

(ii) the high-cost nature of the area precludes the offering of voice service and broadband internet access service at rates and performance levels available in urban areas as determined by the Urban Rate Survey conducted by the Commission.

(3) TRIBAL CONSIDERATIONS.—In distributing amounts under this subsection, the Commission shall consider the broadband internet access service needs of residents of Tribal lands (as defined in section 54.400 of title 47, Code of Federal Regulations, or any successor regulation).

(4) LIMITATIONS.—

(A) PROHIBITION ON FUNDING OTHER PROGRAMS.—

(i) IN GENERAL.—The Commission may not use amounts made available under subsection (d) to fund any program that

1 was not established by the Commission
2 under paragraph (1) of this subsection, in-
3 cluding any program established under sec-
4 tion 254 of the Communications Act of
5 1934 (47 U.S.C. 254) in effect on the date
6 of enactment of this Act, except for using
7 the Universal Service Administrative Com-
8 pany to administer funding.

9 (ii) RULE OF CONSTRUCTION.—Noth-
10 ing in clause (i) shall be construed to pro-
11 hibit the Commission from using amounts
12 made available under subsection (d) to
13 supplement the provision of support under
14 the high-cost programs, as authorized
15 under paragraph (1)(B) of this subsection.

16 (B) TRANSPARENCY AND ACCOUNTABILITY
17 FOR ADDRESSING GAPS IN COVERAGE.—The
18 Commission shall establish transparency and
19 accountability requirements for amounts made
20 available for the purpose set forth in paragraph
21 (1)(A) that, at a minimum—

22 (i) provide—

23 (I) a process for challenging any
24 initial determination by the Commis-

1 sion regarding whether an area is
2 served or unserved; and

3 (II) written public notice on the
4 website of the Commission of—

5 (aa) how each challenge
6 under subparagraph (I) was de-
7 cided; and

8 (bb) the reasons of the Com-
9 mission for each decision;

10 (ii) establish broadband service build-
11 out milestones and require periodic certifi-
12 cation by funding recipients to ensure com-
13 pliance with the broadband service buildout
14 milestones;

15 (iii) establish a maximum buildout
16 timeframe of 4 years beginning on the date
17 on which funding is provided to a funding
18 recipient;

19 (iv) establish periodic reporting re-
20 quirements for funding recipients that
21 identify, at a minimum, the speed of, and
22 technology used for, the service provided in
23 each area where funding is provided;

24 (v) establish standard penalties for
25 noncompliance with the requirements es-

1 tablished under this subparagraph and as
 2 may be further prescribed by the Commis-
 3 sion;

4 (vi) establish procedures for recovery
 5 of funds, in whole or in part, from funding
 6 recipients in the event of default or non-
 7 compliance with the requirements estab-
 8 lished under this subparagraph and as may
 9 be further prescribed by the Commission;
 10 and

11 (vii) require a funding recipient to—

12 (I) offer voice service and
 13 broadband internet access service; and

14 (II) permit a consumer to sub-
 15 scribe to one type of service described
 16 in subclause (I) or both types.

17 (C) TRANSPARENCY AND ACCOUNTABILITY

18 FOR ADDRESSING SHORTFALLS IN FUNDING.—

19 The Commission shall establish transparency
 20 and accountability requirements for amounts
 21 made available for the purpose set forth in sub-
 22 paragraph (1)(B) that, at a minimum—

23 (i) establish periodic reporting and
 24 certification requirements for funding re-
 25 cipients to ensure that the funding results

1 in the offering of voice service and
 2 broadband internet access service at rea-
 3 sonably comparable rates and performance
 4 levels;

5 (ii) establish standard penalties for
 6 noncompliance with the requirements es-
 7 tablished under this subparagraph and as
 8 may be further prescribed by the Commis-
 9 sion;

10 (iii) establish procedures for recovery
 11 of funds, in whole or in part, from funding
 12 recipients in the event of default or non-
 13 compliance with the requirements estab-
 14 lished under this subparagraph and as may
 15 be further prescribed by the Commission;
 16 and

17 (iv) require a funding recipient to—

18 (I) offer voice service and
 19 broadband internet access service; and

20 (II) permit a consumer to sub-
 21 scribe to one type of service described
 22 in subclause (I) or both types.

23 (f) REPORTS.—

24 (1) ANNUAL AUCTION PROCEEDS DEPLOYMENT
 25 REPORT.—Not later than 270 days after the date of

1 enactment of this Act, and not less frequently than
2 annually thereafter until all amounts have been dis-
3 tributed, the Commission shall publish and submit
4 to the Committee on Commerce, Science, and Trans-
5 portation of the Senate and the Committee on En-
6 ergy and Commerce of the House of Representatives
7 a report on the distribution of amounts made avail-
8 able under subsection (d).

9 (2) AUCTION-SPECIFIC DEPOSIT REPORTS.—

10 Not later than 30 days after the date on which the
11 Commission announces the results of an auction de-
12 scribed in subparagraph (H)(i) of section 309(j)(8)
13 of the Communications Act of 1934 (47 U.S.C.
14 309(j)(8)), as added by section 2 of this Act, the
15 Commission shall publish and submit to the Com-
16 mittee on Commerce, Science, and Transportation of
17 the Senate and the Committee on Energy and Com-
18 merce of the House of Representatives a report that
19 estimates the amount of net proceeds that will be
20 deposited in the Rural Broadband Assessment and
21 Deployment Fund under that subparagraph as a re-
22 sult of that auction.

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