

117TH CONGRESS
1ST SESSION

S. 436

To provide Federal matching funding for State-level broadband programs.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2021

Ms. COLLINS (for herself and Ms. ROSEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide Federal matching funding for State-level
broadband programs.

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 “American Broadband
5 Buildout Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ASSISTANT SECRETARY.—The term “Assist-
9 ant Secretary” means the Assistant Secretary of
10 Commerce for Communications and Information.

1 (2) BROADBAND AVAILABILITY MAPS.—The
 2 term “broadband availability maps” means the maps
 3 created by the Federal Communications Commission
 4 under section 802(c)(1) of the Communications Act
 5 of 1934 (47 U.S.C. 642(c)(1)).

6 (3) BROADBAND INTERNET ACCESS SERVICE.—
 7 The term “broadband internet access service”—

8 (A) means mass-market retail service by
 9 wire or radio that provides the capability to
 10 transmit data to and receive data from all or
 11 substantially all internet endpoints, including
 12 any capabilities that are incidental to and en-
 13 able the operation of the communications serv-
 14 ice, but excluding dial-up internet access serv-
 15 ice; and

16 (B) includes any service that the Commis-
 17 sion finds to be providing a functional equiva-
 18 lent of the service described in subparagraph
 19 (A) or that is used to evade the protections set
 20 forth in part 8 of title 47, Code of Federal Reg-
 21 ulations, or any successor thereto.

22 (4) COMMISSION.—The term “Commission”
 23 means the Federal Communications Commission.

24 (5) ELIGIBLE ENTITY.—The term “eligible enti-
 25 ty” means—

1 (A) a State; or

2 (B) an entity authorized by a State to
3 spend funds for a purpose described in section
4 3 or 4.

5 (6) LAST-MILE INFRASTRUCTURE.—The term
6 “last-mile infrastructure” means infrastructure the
7 predominant purpose of which is to provide
8 broadband internet access service to end users or
9 end user devices, including households, businesses,
10 community anchor institutions, public safety entities,
11 and critical community facilities.

12 (7) OVERBUILDING.—

13 (A) IN GENERAL.—Except as provided in
14 subparagraph (B), the term “overbuilding”
15 means deploying broadband infrastructure in an
16 area—

17 (i) that already has—

18 (I) facilities capable of providing
19 standard broadband service; or

20 (II) broadband infrastructure
21 that was built using funds from a
22 Federal or State program that were
23 provided for the express purpose of
24 deploying broadband infrastructure;

1 (ii) where Federal or State funding
2 has already been committed for the deploy-
3 ment of facilities capable of providing
4 standard broadband service, even if such
5 service is not yet available, provided that
6 the funding recipient is meeting any appli-
7 cable buildout deadlines; or

8 (iii) with respect to which a broad-
9 band internet access service provider has
10 already made enforceable commitments to
11 a Federal agency or State to deploy facili-
12 ties capable of providing standard broad-
13 band service, even if such service is not yet
14 available, provided that the broadband
15 internet access service provider is meeting
16 any applicable buildout deadlines.

17 (B) INTERCONNECT POINTS.—The term
18 “overbuilding” does not include deploying
19 broadband infrastructure in an area described
20 in subparagraph (A) if the infrastructure is de-
21 ployed for the purpose of reaching interconnect
22 points of standard broadband service to meet
23 the needs of broadband users in another area
24 that is an unserved area.

(8) QUALIFYING PROJECT.—The term “qualifying project” means a project—

(A) to construct last-mile infrastructure that will provide broadband internet access service at a speed of not less than 100 megabits per second for downloads and 10 megabits per second for uploads in an unserved area, without engaging in overbuilding; and

(B) that is funded by a public-private partnership in which—

(i)(I) the State in which the project is located provides a portion of the funds; or

(II) the State in which the project is located and another entity, which may be a political subdivision of the State in which the project is located, together provide not less than 25 percent of the funds; and

(ii) the private company or electric cooperative that will provide broadband internet access service to customers connected to the last-mile infrastructure provides not less than 25 percent of the funds.

(9) STANDARD BROADBAND SERVICE.—The term “standard broadband service” means broad-

1 band internet access service with a speed of not less
 2 than—

3 (A) 25 megabits per second for downloads;

4 and

5 (B) 3 megabits per second for uploads.

6 (10) STATE.—The term “State” has the mean-
 7 ing given the term in section 3 of the Communica-
 8 tions Act of 1934 (47 U.S.C. 153).

9 (11) UNSERVED AREA.—The term “unserved
 10 area” means a census block in which standard
 11 broadband service is not available to all households
 12 according to—

13 (A) the broadband availability maps; or

14 (B) if the maps described in subparagraph

15 (A) have not been completed at the time when
 16 the relevant grant is being awarded, any exist-
 17 ing broadband availability data of the Commis-
 18 sion, as well as any relevant data from the Na-
 19 tional Broadband Availability Map produced by
 20 the Assistant Secretary.

21 **SEC. 3. LAST-MILE BROADBAND INFRASTRUCTURE.**

22 (a) GRANTS.—

23 (1) IN GENERAL.—The Commission shall award
 24 grants to eligible entities for qualifying projects.

1 (2) ADVISORY ROLE OF NTIA.—The Commis-
 2 sion shall carry out paragraph (1) in consultation
 3 with the Assistant Secretary, including by soliciting
 4 and taking into account the advice of the Assistant
 5 Secretary.

6 (b) PRIORITIZATION.—The Commission shall give
 7 priority to qualifying projects in States in which, accord-
 8 ing to the broadband availability maps—

9 (1) less than 68 percent of households subscribe
 10 to fixed terrestrial broadband internet access service
 11 with a speed of not less than—

12 (A) 10 megabits per second for downloads;

13 and

14 (B) 1 megabit per second for uploads; and

15 (2) less than 40.5 percent of households sub-
 16 scribe to fixed terrestrial standard broadband serv-
 17 ice.

18 (c) HIGH-COST, GEOGRAPHICALLY CHALLENGED
 19 AREAS.—The Commission shall ensure that not less than
 20 15 percent of the amounts awarded under this section are
 21 used in unserved areas that are high-cost and geographi-
 22 cally challenged, as determined by the Commission.

23 (d) POPULATION-BASED ALLOCATION.—

24 (1) IN GENERAL.—In awarding grants under
 25 this section, the Commission shall allocate not less

1 than \$5,000,000,000 among the States based on the
 2 proportion that the population of each State bears to
 3 the population of all States.

4 (2) EXCESS FUNDS.—If the amount allocated
 5 for a State under paragraph (1) exceeds the allow-
 6 able Federal share of the costs of projects of the
 7 State (or other eligible entity acting on behalf of the
 8 State) that are eligible for funding under this sec-
 9 tion, the Commission shall withhold the excess
 10 amount, which shall revert to the general fund of the
 11 Treasury.

12 (3) FAILURE TO APPLY.—If an eligible entity
 13 does not apply for a grant under this section by the
 14 last day of fiscal year 2022, the amount that would
 15 have been awarded to the eligible entity under para-
 16 graph (1) shall revert to the general fund of the
 17 Treasury.

18 **SEC. 4. PUBLIC AWARENESS CAMPAIGNS; DIGITAL LIT-**
 19 **ERACY PROGRAMS.**

20 The Commission shall award grants to eligible enti-
 21 ties—

22 (1) to carry out public awareness campaigns de-
 23 signed to highlight the value and benefits of
 24 broadband internet access service, in order to in-

1 crease the adoption of broadband internet access
2 service; and

3 (2) to support digital literacy programs in areas
4 in which a qualifying project that receives funding
5 under section 3 is located.

6 **SEC. 5. FEDERAL SHARE.**

7 (a) IN GENERAL.—The Federal share of the cost of
8 a project, campaign, or program that receives funding
9 under this Act shall be not more than 50 percent.

10 (b) USE OF CERTAIN FEDERAL FUNDS FOR NON-
11 FEDERAL SHARE.—

12 (1) IN GENERAL.—A State may use any
13 amounts described in paragraph (2) for the non-
14 Federal share of the cost of a project, campaign, or
15 program that receives funding under this Act.

16 (2) ELIGIBLE AMOUNTS.—The amounts re-
17 ferred to in paragraph (1) are amounts received
18 from—

19 (A) the Secretary of Housing and Urban
20 Development under the community development
21 block grant program under title I of the Hous-
22 ing and Community Development Act of 1974
23 (42 U.S.C. 5301 et seq.);

1 (B) the Appalachian Regional Commission
 2 established under section 14301(a) of title 40,
 3 United States Code;

4 (C) the Economic Development Adminis-
 5 tration of the Department of Commerce;

6 (D) any rural telehealth program of the
 7 Commission; or

8 (E) the Northern Border Regional Com-
 9 mission established under section 15301(a)(3)
 10 of title 40, United States Code.

11 **SEC. 6. TECHNOLOGY NEUTRALITY REQUIRED.**

12 The Commission shall award grants to eligible enti-
 13 ties under this Act in a manner that does not favor the
 14 use of any particular technology.

15 **SEC. 7. TRANSPARENCY AND ACCOUNTABILITY.**

16 (a) LAST-MILE BROADBAND INFRASTRUCTURE
 17 GRANTS.—For grants awarded under section 3, the Com-
 18 mission shall establish transparency and accountability
 19 rules under which—

20 (1) after receiving an application for a grant to
 21 carry out a qualifying project in an area, the Com-
 22 mission shall determine whether the area is served
 23 or unserved using accurate and granular information
 24 regarding the availability of broadband internet ac-
 25 cess service at the sub-census block level;

1 (2) the Commission shall—

2 (A) permit a person or entity to challenge
3 an initial determination of the Commission
4 under paragraph (1); and

5 (B) provide a period of not less than 45
6 days, after the Commission makes an initial de-
7 termination under paragraph (1) with respect
8 to an area, during which a provider of broad-
9 band internet access service may voluntarily
10 submit information concerning the broadband
11 internet access service that the provider offers
12 in the area;

13 (3) the Commission shall provide the public
14 with notice of—

15 (A) an initial determination with respect to
16 an area under paragraph (1);

17 (B) the final determination of whether an
18 area is served or unserved after the process for
19 challenging the initial determination, as de-
20 scribed in paragraph (2), has concluded;

21 (C) the entities that have applied for a
22 grant; and

23 (D) the results of any decision regarding a
24 grant application, including by identifying—

1 (i) each eligible entity that was award-
2 ed a grant;

3 (ii) the areas that each grantee will
4 serve using the grant funds;

5 (iii) the nature of the service that
6 each grantee will provide in each area de-
7 scribed in clause (ii); and

8 (iv) the amount that the Commission
9 has authorized each grantee to use to carry
10 out a qualifying project in each unserved
11 area; and

12 (4) the Commission shall establish—

13 (A) broadband buildout milestones and
14 periodic certifications that a grantee must sub-
15 mit to demonstrate compliance with the broad-
16 band buildout milestones;

17 (B) a maximum buildout timeframe of 5
18 years from the date on which the Commission
19 first awards a grant to an eligible entity;

20 (C) requirements for grantees to submit to
21 the Commission and to the broadband office or
22 other applicable authority of the State in which
23 the grantee is carrying out the project periodic
24 reports that identify—

1 (i) the nature of the service provided
 2 in each unserved area; and

3 (ii) the latitude and longitude coordi-
 4 nates of each location to which the grantee
 5 has provided broadband internet access
 6 service in each census block;

7 (D) penalties for noncompliance with—

8 (i) the broadband buildout milestones
 9 under subparagraph (A);

10 (ii) the certification requirements
 11 under subparagraph (A); and

12 (iii) the reporting requirements under
 13 subparagraph (C);

14 (E) procedures through which the Commis-
 15 sion may recover grant funds, in whole or in
 16 part, from a grantee if the grantee defaults or
 17 does not comply with the requirements under
 18 this Act; and

19 (F) any additional methods or reporting
 20 necessary to reduce waste, fraud, and abuse
 21 within the grant program.

22 (b) PUBLIC AWARENESS AND DIGITAL LITERACY
 23 GRANTS.—For grants awarded under section 4, the Com-
 24 mission shall establish transparency and accountability
 25 rules that—

1 (1) require the Commission to provide the pub-
2 lic with notice of—

3 (A) the entities that have applied for a
4 grant; and

5 (B) the results of any decision regarding a
6 grant application, including by—

7 (i) identifying each eligible entity that
8 was awarded a grant;

9 (ii) identifying the areas that each
10 grantee will serve using the grant funds;

11 (iii) providing a summary of the
12 projects that each grantee will carry out in
13 each area described in clause (ii); and

14 (iv) the amount that the Commission
15 has authorized a grantee to use to carry
16 out a public awareness campaign or sup-
17 port digital literacy programs in each area
18 described in clause (ii); and

19 (2) establish—

20 (A) project milestones and periodic certifi-
21 cations that a grantee must submit to dem-
22 onstrate compliance with the project milestones;

23 (B) a maximum project completion time-
24 frame of 5 years from the date on which the

1 Commission first awards a grant to an eligible
2 entity;

3 (C) periodic reporting requirements for
4 grantees to demonstrate progress in meeting
5 the project milestones under subparagraph (A);

6 (D) penalties for noncompliance with—

7 (i) the project milestones under sub-
8 paragraph (A);

9 (ii) the certification requirements
10 under subparagraph (A); and

11 (iii) the reporting requirements under
12 subparagraph (C);

13 (E) procedures through which the Commis-
14 sion may recover grant funds, in whole or in
15 part, from a grantee if the grantee defaults or
16 does not comply with the requirements under
17 this Act; and

18 (F) any additional methods or reporting
19 necessary to reduce waste, fraud, and abuse
20 within the grant program.

21 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated to the Com-
23 mission to carry out this Act for fiscal year 2021,
24 \$15,000,000,000, to remain available until expended.

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