

116TH CONGRESS
2D SESSION

S. 4411

To amend the Communications Act of 1934 to establish in the Federal Communications Commission the Broadband Development Grant Program.

IN THE SENATE OF THE UNITED STATES

AUGUST 4, 2020

Mr. GRAHAM (for himself, Mr. WARNER, and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to establish in the Federal Communications Commission the Broadband Development Grant Program.

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 “Governors’ Broadband
5 Development Fund Act of 2020”.

6 **SEC. 2. GOVERNORS’ BROADBAND DEVELOPMENT FUND.**

7 Title I of the Communications Act of 1934 (47
8 U.S.C. 151 et seq.) is amended by adding at the end the
9 following:

1 **“SEC. 14. BROADBAND DEVELOPMENT GRANT PROGRAM.**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘anchor institution’ means—

4 “(A) a public or private elementary school
5 or secondary school, as those terms are defined
6 in section 8101 of the Elementary and Sec-
7 ondary Education Act of 1965 (20 U.S.C.
8 7801);

9 “(B) a library;

10 “(C) a medical or healthcare provider;

11 “(D) a museum;

12 “(E) a public safety entity;

13 “(F) public housing;

14 “(G) an institution of higher education, as
15 that term is defined in section 101 of the High-
16 er Education Act of 1965 (20 U.S.C. 1001), in-
17 cluding a community college; or

18 “(H) any other community support organi-
19 zation or agency;

20 “(2) the term ‘broadband’ has the meaning
21 given the term ‘broadband internet access service’ in
22 section 8.1(b) of title 47, Code of Federal Regula-
23 tions, or any successor regulation;

24 “(3) the term ‘covered entity’—

25 “(A) means an entity that—

1 “(i) is owned by, controlled by, affili-
2 ated with, or acting at the direction of an
3 entity that is organized under the laws of,
4 or otherwise subject to the jurisdiction of,
5 a country, the government of which is on
6 the priority watch list established by the
7 United States Trade Representative pursu-
8 ant to section 182(a) of the Trade Act of
9 1974 (19 U.S.C. 2242(a)); and

10 “(ii) has engaged in an action that is
11 prohibited under—

12 “(I) section 1(a) of Executive
13 Order 13873 (84 Fed. Reg. 22689;
14 relating to securing the information
15 and communications technology and
16 services supply chain); or

17 “(II) any regulations issued in
18 response to the Executive order de-
19 scribed in subclause (I); and

20 “(B) includes any subsidiary, affiliate, em-
21 ployee, or representative of, and any related
22 party with respect to, an entity described in
23 subparagraph (A), without regard to the loca-
24 tion or jurisdiction of incorporation of that sub-

1 subsidiary, affiliate, employee, representative, or
2 party, as applicable;

3 “(4) the term ‘Program’ means the Broadband
4 Development Grant Program established under this
5 section;

6 “(5) the term ‘public housing’—

7 “(A) has the meaning given the term in
8 section 3(b) of the United States Housing Act
9 of 1937 (42 U.S.C. 1437a(b)); and

10 “(B) includes housing receiving tenant-
11 based rental assistance provided under section
12 8(o) of the United States Housing Act of 1937
13 (42 U.S.C. 1437f(o));

14 “(6) the term ‘qualified opportunity zone’ has
15 the meaning given the term in section 1400Z-1(a)
16 of the Internal Revenue Code of 1986; and

17 “(7) the term ‘unserved anchor institution’
18 means an anchor institution that does not have ac-
19 cess to broadband offered with—

20 “(A) a download speed of at least 100
21 megabits per second; and

22 “(B) an upload speed of at least 10 mega-
23 bits per second.

24 “(b) PROGRAM.—

1 “(1) ESTABLISHMENT OF PROGRAM.—There is
2 established in the Commission the Broadband Devel-
3 opment Grant Program.

4 “(2) GRANTS.—From the amounts made avail-
5 able to carry out this section, the Commission shall
6 make grants under the Program to each State that
7 has submitted an application for such a grant that
8 the Commission has approved.

9 “(c) APPLICATIONS.—

10 “(1) IN GENERAL.—The Commission shall—

11 “(A) not later than 90 days after the date
12 of enactment of this section, issue a notice in-
13 viting States to submit applications with respect
14 to the Program, which shall contain the amount
15 available to each State; and

16 “(B) not later than 60 days after the date
17 on which the Commission receives an applica-
18 tion described in subparagraph (A), approve or
19 deny the application.

20 “(2) RULES FOR STATES.—

21 “(A) LIMITATION.—A State may submit
22 only 1 application under this section with re-
23 spect to the State, which may contain a com-
24 prehensive overview of multiple project pro-
25 posals, each of which shall satisfy the require-

1 ments of this section and any rules issued
2 under this section.

3 “(B) TIMELINE.—A State shall submit to
4 the Commission an application under paragraph
5 (1) not later than 90 days after the date on
6 which the Commission issues the notice under
7 that paragraph.

8 “(d) AMOUNT OF GRANT.—The amount of a grant
9 that a State receives under this section shall be deter-
10 mined as follows, subject to the availability of appropria-
11 tions:

12 “(1) Each State receiving a grant under this
13 section shall receive a grant in an amount that is
14 not less than \$75,000,000.

15 “(2) Of the amounts remaining to carry out
16 this section after carrying out paragraph (1), the
17 Commission shall use the following calculation with
18 respect to the State:

19 “(A) Divide the number of individuals liv-
20 ing in the State by the total number of individ-
21 uals living in the United States.

22 “(B) Multiply the total amount made avail-
23 able to carry out this section after carrying out
24 paragraph (1) by the quotient obtained under
25 subparagraph (A).

1 “(e) USES OF FUNDS.—

2 “(1) IN GENERAL.—A State that receives a
3 grant under the Program—

4 “(A) shall—

5 “(i) expend not less than 30 percent
6 of the grant funds in qualified opportunity
7 zones within the State;

8 “(ii) prioritize expending grant funds
9 in areas or locations that are not served by
10 existing broadband networks;

11 “(iii) expend not less than 5 percent
12 of the grant funds in a technologically neu-
13 tral manner to support the adoption of
14 broadband by populations within the State
15 that are identified as facing barriers to
16 digital equity; and

17 “(iv) prioritize project proposals
18 that—

19 “(I) would provide broadband not
20 later than 60 days after the date on
21 which the project is initiated; and

22 “(II) rely on advanced broadband
23 capabilities and technologies;

1 “(B) may expend any of the grant funds,
2 including in a manner described in subpara-
3 graph (A), to—

4 “(i) construct, acquire, or lease facili-
5 ties, spectrum, land, or buildings to deploy
6 broadband for—

7 “(I) residential and business cus-
8 tomers; or

9 “(II) unserved anchor institu-
10 tions, which, in the case of an
11 unserved anchor institution that is a
12 medical or healthcare provider, may
13 use the deployed broadband for tele-
14 health purposes;

15 “(ii) provide broadband service free of
16 charge, or with reduced charges, to
17 unserved anchor institutions for a period of
18 2 years; or

19 “(iii) expand, construct, acquire, or
20 make improvements to a community center
21 that provides internet access to the public;
22 and

23 “(C) may not expend—

1 “(i) any of the grant funds to pur-
2 chase products, materials, or services from
3 a covered entity; or

4 “(ii) more than 5 percent of the grant
5 funds for administrative purposes.

6 “(2) SENSE OF CONGRESS.—It is the sense of
7 Congress that a State that receives a grant under
8 the Program should partner with private entities to
9 engage in the uses required and permitted under
10 paragraph (1).

11 “(f) REALLOCATION.—If, as of the date that is 5
12 years after the date on which a State receives grant funds
13 under the Program, a State has not allocated any portion
14 of those funds—

15 “(1) the State shall return those remaining
16 funds to the Commission; and

17 “(2) the Commission shall, in accordance with
18 subsection (d)(2), reallocate the funds received
19 under paragraph (1) to the remaining States for
20 which the Commission has approved applications.

21 “(g) DIRECT PROVISION OF BROADBAND.—

22 “(1) IN GENERAL.—The Program shall contain
23 sufficient measures to ensure that a State that uses
24 grant funds received under the Program to directly
25 provide broadband to consumers applies and en-

1 forces, without discrimination, with respect to the
2 State and any other provider of broadband within
3 the jurisdiction of the State, all applicable laws, reg-
4 ulations, and other requirements, including laws,
5 regulations, and requirements relating to—

6 “(A) taxation;

7 “(B) zoning;

8 “(C) land use;

9 “(D) the building of facilities or other obli-
10 gations to serve;

11 “(E) the imposition of regulatory fees;

12 “(F) customer service;

13 “(G) public, educational, and governmental
14 access channel mandates; and

15 “(H) technical quality of service.

16 “(2) RATES.—If a State directly provides
17 broadband to consumers using grant funds received
18 under the Program, the State may not charge a rate
19 for the service in an amount that is less than or
20 equal to the cost of providing the service.

21 “(h) IMPACT OF OTHER FEDERAL GRANT PRO-
22 GRAMS.—Participation by a State in the Program shall
23 not impact the eligibility of, or otherwise disadvantage, the
24 State with respect to participation in any other Federal
25 broadband program.

1 “(i) REPORTS.—A State that, in a year, receives
2 grant funds under the Program shall submit to the Com-
3 mission—

4 “(1) a report for the applicable year regarding
5 how the State expended the funds; and

6 “(2) a certification that the State, for that
7 year, has complied with the requirements of this sec-
8 tion and with any additional requirements prescribed
9 by the Commission, including a description of each
10 service provided with the grant funds and the num-
11 ber of locations in which service was provided using
12 the grant funds.

13 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
14 is authorized to be appropriated to the Commission
15 \$10,000,000,000 for fiscal year 2020 to carry out the Pro-
16 gram, which shall remain available through fiscal year
17 2026.”.

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