

117TH CONGRESS
2D SESSION

S. 5137

To amend the Rural Electrification Act of 1936 to reauthorize and improve the ReConnect loan and grant program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 29, 2022

Mr. THUNE (for himself, Mr. LUJÁN, Ms. KLOBUCHAR, and Mrs. FISCHER) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Rural Electrification Act of 1936 to reauthorize and improve the ReConnect loan and grant program, 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 Internet Im-
5 provement Act of 2022”.

6 **SEC. 2. STREAMLINING BROADBAND AUTHORITIES.**

7 (a) IN GENERAL.—Section 601 of the Rural Elec-
8 trification Act of 1936 (7 U.S.C. 950bb) is amended—

(1) by striking the section heading and inserting “**RECONNECT PROGRAM**”;

(2) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

“(3) RECONNECT PROGRAM.—The term ‘Reconnect Program’ means the program established under this section.”;

(3) in subsection (c)—

(A) in paragraph (2)(A)—

(i) in clause (i)—

(I) in subclause (I), by striking

“10-Mbps” and inserting “25-Mbps”;

and

(II) in subclause (II), by striking

“1-Mbps” and inserting “3-Mbps”;

and

(ii) by striking clause (iv) and inserting

the following:

“(iv) give priority to applications from applicants that have demonstrated the technical and financial experience required

1 to construct and operate broadband net-
2 works.”; and

3 (B) by adding at the end the following:

4 “(5) APPLICATIONS.—The Secretary shall es-
5 tablish an application process for grants, loans, and
6 loan guarantees under this section that—

7 “(A) reduces the amount of data required
8 to apply by limiting the required data to only—

9 “(i) the entity applying, excluding any
10 parent or affiliate entity that is not a party
11 to the application, to the greatest extent
12 practicable; and

13 “(ii) the geographic area affected by
14 the application, if a parent or affiliate is
15 not a party to the application;

16 “(B) simplifies the data interfaces for sub-
17 mission to the greatest extent practicable; and

18 “(C) allows all applicants, regardless of
19 whether an applicant is publicly traded, to rely
20 on a bond rating of at least investment grade
21 (when bond ratings are available) in place of fi-
22 nancial documentation.”;

23 (4) in subsection (d)—

24 (A) in paragraph (1)—

1 (i) in subparagraph (B), by striking
2 “subsection (j)” and inserting “subsection
3 (l)”; and

4 (ii) by adding at the end the fol-
5 lowing:

6 “(C) GRANT REQUIREMENTS.—The Sec-
7 retary—

8 “(i) shall not restrict the eligibility of
9 an entity for a grant under this section
10 based on the legal structure of the entity;

11 “(ii) shall allow entities to apply for a
12 grant under this section without regard to,
13 or preference for, the legal structure of an
14 entity;

15 “(iii) in determining the financial abil-
16 ity of an entity to carry out a project using
17 a grant under this section, shall allow the
18 entity to demonstrate that financial ability
19 by methods that—

20 “(I) the Secretary determines to
21 be the least burdensome; and

22 “(II) subject to clause (v), are
23 not limited to providing the Federal
24 Government an exclusive first lien on

1 all grant-funded assets during the
2 service obligation of the grant;

3 “(iv) subject to clause (v), in deter-
4 mining the required collateral to secure
5 grant funds or to secure performance dur-
6 ing the service obligation of a grant, shall
7 allow an awardee to offer alternative secu-
8 rity, such as a letter of credit, in lieu of
9 providing the Federal Government an ex-
10 clusive first lien on all grant-funded assets;
11 and

12 “(v) if the Secretary reasonably deter-
13 mines that alternative methods or alter-
14 native security established under clause
15 (iii)(II) or (iv) are insufficient to secure
16 performance with respect to a project
17 under this section—

18 “(I) may require an entity to
19 provide the Federal Government an
20 exclusive first lien all grant-funded as-
21 sets during the service obligation of
22 the grant; and

23 “(II) shall release that lien after
24 the Secretary determines that the en-

1 tity is performing to the satisfaction
2 of the Secretary.”; and

3 (B) in paragraph (2)—

4 (i) in subparagraph (A)(i), by striking
5 “50” and inserting “90”; and

6 (ii) by adding at the end the fol-
7 lowing:

8 “(D) OBLIGATIONS TO PROVIDE
9 BROADBAND SERVICE IN THE SAME SERVICE
10 TERRITORY.—

11 “(i) DEFINITION OF BROADBAND IN-
12 FRASTRUCTURE.—In this subparagraph,
13 the term ‘broadband infrastructure’ means
14 any cables, fiber optics, wiring, or other
15 permanent infrastructure that is integral
16 to the structure, including fixed wireless
17 infrastructure, that—

18 “(I) is capable of providing ac-
19 cess to internet connections in indi-
20 vidual locations; and

21 “(II) offers an advanced tele-
22 communications capability (as defined
23 in section 706(d) of the Telecommuni-
24 cations Act of 1996 (47 U.S.C.
25 1302(d))).

1 “(ii) OTHER PROVIDERS.—The Sec-
2 retary shall consider a proposed service
3 territory with respect to which an eligible
4 entity submits an application to carry out
5 a project under this section to be served by
6 broadband service if a broadband service
7 provider other than that eligible entity is
8 subject to an obligation by a Federal,
9 State, or local government entity to build
10 broadband infrastructure and offer
11 broadband service in that service territory,
12 subject to conditions—

13 “(I) under a Federal, State, or
14 local funding award program; or

15 “(II) otherwise required by the
16 Federal, State, or local government
17 entity.

18 “(iii) OTHER FUNDING.—Subject to
19 clause (iv), the Secretary shall not be re-
20 quired to consider a proposed service terri-
21 tory with respect to which an eligible entity
22 submits an application to carry out a
23 project under this section to be served by
24 broadband service if that eligible entity has
25 accepted an obligation under a Federal,

1 State, or local funding award program to
2 build broadband infrastructure and offer
3 broadband service in that service territory,
4 if the proposed project under this sec-
5 tion—

6 “(I) would not be duplicative of
7 the obligation under the other award
8 program; and

9 “(II) would build broadband in-
10 frastructure that results in faster
11 speeds or expedited milestones of de-
12 ployment of broadband infrastructure
13 in that service territory, as compared
14 to the obligation under the other
15 award program.

16 “(iv) OTHER OBLIGATIONS FOR
17 LOWER TRANSMISSION CAPACITY.—The
18 Secretary shall consider a proposed service
19 territory with respect to which an eligible
20 entity submits an application to carry out
21 a project under this section to be unserved
22 by broadband service if an obligation under
23 another award program described in clause
24 (iii) would not provide broadband service of
25 at least—

1 “(I) a 25-Mbps downstream
2 transmission capacity; and

3 “(II) a 3-Mbps upstream trans-
4 mission capacity.

5 “(E) REQUIREMENTS FOR FUNDING.—

6 “(i) AFFILIATE OWNED AND OPER-
7 ATED NETWORKS.—A grant, loan, or loan
8 guarantee under this section may be used
9 to construct networks that will be owned
10 and operated by an affiliate of the eligible
11 entity receiving the grant, loan, or loan
12 guarantee, subject to the condition that the
13 eligible entity, the affiliate, or both, as the
14 Secretary determines to be necessary, shall
15 provide adequate security for the grant,
16 loan, or loan guarantee.

17 “(ii) NEGATIVE COVENANTS AND CON-
18 DITIONS.—To the greatest extent prac-
19 ticable, a project carried out using a grant,
20 loan, or loan guarantee under this section
21 shall not add any new negative covenants
22 or conditions to the grant, loan, or loan
23 guarantee agreement that were not pre-
24 viously disclosed to the eligible entity at

1 the time of application for the grant, loan,
2 or loan guarantee.

3 “(iii) OWNERSHIP OF SYSTEMS.—

4 “(I) IN GENERAL.—A network
5 constructed with a grant, loan, or loan
6 guarantee under this section may be
7 transferred to an unaffiliated provider
8 that agrees—

9 “(aa) to assume the service
10 obligation; and

11 “(bb) to provide appropriate
12 and sufficient security for that
13 network.

14 “(II) DETERMINATION.—The
15 Secretary shall not unreasonably with-
16 hold consent to enter into an appro-
17 priate agreement described in sub-
18 clause (I) with the transferee based on
19 an evaluation by the Secretary of the
20 ability of the transferee to assume the
21 agreement and provide security de-
22 scribed in item (bb) of that subclause.

23 “(iv) REPORTING AND AUDITING.—

24 The Secretary shall—

1 “(I) simplify, to the maximum
2 extent practicable, ongoing reporting
3 and auditing requirements for recipi-
4 ents of a grant, loan, or loan guar-
5 antee under this section; and

6 “(II) allow a recipient described
7 in subclause (I) whose financial infor-
8 mation is consolidated with the finan-
9 cial information of a parent entity to
10 rely on that consolidated financial in-
11 formation in complying with the re-
12 quirements described in that sub-
13 clause if the parent entity is providing
14 a guarantee on behalf of a subsidiary
15 of the parent entity with respect to
16 the grant, loan, or loan guarantee.

17 “(v) PROCUREMENT AND CON-
18 TRACTING.—The Secretary—

19 “(I) shall simplify, to the max-
20 imum extent practicable, requirements
21 for recipients of a grant, loan, or loan
22 guarantee under this section relating
23 to the procurement of materials and
24 retention of contractors; and

1 “(II) shall not unreasonably re-
 2 strict the ability of a recipient de-
 3 scribed in subclause (I) to obtain
 4 goods and services from affiliated en-
 5 tities.”;

6 (5) in subsection (e)(1)—

7 (A) in subparagraph (A), by striking “25-
 8 Mbps” and inserting “100-Mbps”; and

9 (B) in subparagraph (B), by striking “3-
 10 Mbps” and inserting “20-Mbps”;

11 (6) by redesignating subsections (j) and (k) as
 12 subsections (l) and (m), respectively;

13 (7) by inserting after subsection (i) the fol-
 14 lowing:

15 “(j) REGULATIONS.—The Secretary shall issue regu-
 16 lations to carry out this section in accordance with section
 17 553 of title 5, United States Code.

18 “(k) ANNUAL REPORTS.—Not later than 120 days
 19 after the date of enactment of the Rural Internet Improve-
 20 ment Act of 2022, and not less frequently than annually
 21 thereafter, the Secretary shall—

22 “(1) publish a report describing—

23 “(A) the distribution of amounts made
 24 available under the ReConnect Program for the
 25 preceding year;

1 “(B) the number of locations at which
2 broadband service was made available using
3 amounts under the ReConnect Program for the
4 preceding year;

5 “(C) the number of locations described in
6 subparagraph (B) at which broadband service
7 was used; and

8 “(D) the highest level of broadband service
9 made available at each location described in
10 subparagraph (B); and

11 “(2) submit the report described in paragraph
12 (1) to—

13 “(A) the Committee on Agriculture, Nutri-
14 tion, and Forestry of the Senate;

15 “(B) the Committee on Commerce,
16 Science, and Transportation of the Senate;

17 “(C) the Committee on Agriculture of the
18 House of Representatives; and

19 “(D) the Committee on Energy and Com-
20 merce of the House of Representatives.”; and

21 (8) in subsection (l) (as so redesignated), in
22 paragraph (1), by striking “\$350,000,000 for each
23 of fiscal years 2019 through 2023” and inserting
24 “such sums as are necessary for each fiscal year”.

1 (b) SUNSET.—Beginning on the date that is 120 days
2 after the date of enactment of this Act, section 779 of
3 division A of the Consolidated Appropriations Act, 2018
4 (Public Law 115–141; 132 Stat. 399), shall have no force
5 or effect.

6 (c) TRANSFER OF AMOUNTS.—The unobligated bal-
7 ance, as of the date that is 120 days after the date of
8 enactment of this Act, of any amounts made available to
9 carry out the pilot program described in section 779 of
10 division A of the Consolidated Appropriations Act, 2018
11 (Public Law 115–141; 132 Stat. 399)—

12 (1) is transferred to, and merged with, amounts
13 made available to carry out section 601 of the Rural
14 Electrification Act of 1936 (7 U.S.C. 950bb); and

15 (2) shall remain available, until expended, and
16 without further appropriation, to carry out the Re-
17 Connect Program established under that section.

18 (d) EFFECT.—Title VI of the Rural Electrification
19 Act of 1936 (7 U.S.C. 950bb et seq.) is amended by add-
20 ing at the end the following:

21 **“SEC. 607. EFFECT.**

22 **“Nothing in this title authorizes the Secretary to reg-**
23 **ulate rates charged for broadband service.”.**

1 (e) PUBLIC NOTICE, ASSESSMENTS, AND REPORTING
 2 REQUIREMENTS.—Section 701 of the Rural Electrifica-
 3 tion Act of 1936 (7 U.S.C. 950cc) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1)(A), by inserting “,
 6 including a complete shapefile map” after “ap-
 7 plicant”; and

8 (B) in paragraph (2)(D), by striking “(c)”
 9 and inserting “(d)”;

10 (2) by redesignating subsections (b) through (e)
 11 as subsections (c) through (f), respectively;

12 (3) by inserting after subsection (a) the fol-
 13 lowing:

14 “(b) CHALLENGE PROCESS.—

15 “(1) IN GENERAL.—The Secretary shall estab-
 16 lish a transparent, evidence based, and expeditious
 17 process for challenging, with respect to any area for
 18 which assistance is sought under an application de-
 19 scribed in subsection (a)(1), whether that area has
 20 access to broadband service.

21 “(2) NOTICE.—The Secretary shall make pub-
 22 licly available on the website of the Department of
 23 Agriculture a written notice describing—

24 “(A) the decision of the Secretary on each
 25 challenge submitted under paragraph (1); and

1 “(B) the reasons for each decision de-
 2 scribed in subparagraph (A).”; and

3 (4) by adding at the end the following:

4 “(g) PUBLIC NOTICE OF ELIGIBLE FUNDING
 5 AREAS.—Prior to making available to the public the data-
 6 base under subsection (a), the Secretary shall make avail-
 7 able to the public a fully searchable database on the
 8 website of the Rural Utilities Service that contains infor-
 9 mation on areas eligible for assistance under retail
 10 broadband projects that are administered by the Secretary
 11 in accordance with the maps created by the Federal Com-
 12 munications Commission under section 802(c)(1) of the
 13 Communications Act of 1934 (47 U.S.C. 642(c)(1)).”.

14 (f) FEDERAL BROADBAND PROGRAM COORDINA-
 15 TION.—Section 6212 of the Agriculture Improvement Act
 16 of 2018 (7 U.S.C. 950bb–6) is amended—

17 (1) by redesignating subsections (a), (b), (c),
 18 and (d) as subsections (b), (c), (e), and (a), respec-
 19 tively, and moving the subsections so as to appear
 20 in alphabetical order;

21 (2) in subsection (a) (as so redesignated), in
 22 paragraph (3), by striking “section 601(b)(3) of the
 23 Rural Electrification Act of 1936” and inserting
 24 “section 601(b) of the Rural Electrification Act of
 25 1936 (7 U.S.C. 950bb(b))”;

1 (3) in subsection (c) (as so redesignated), in
2 paragraph (1)—

3 (A) by striking “The Secretary” and in-
4 serting the following:

5 “(A) IN GENERAL.—The Secretary”; and

6 (B) by adding at the end the following:

7 “(B) RECONNECT PROGRAM.—On award-
8 ing a grant, loan, or loan guarantee under the
9 ReConnect Program established under section
10 601 of the Rural Electrification Act of 1936 (7
11 U.S.C. 950bb), the Secretary shall notify the
12 Commission of that award.”; and

13 (4) by inserting after subsection (c) (as so re-
14 designated) the following:

15 “(d) MEMORANDUM OF UNDERSTANDING RELATING
16 TO OUTREACH.—The Secretary shall enter into a memo-
17 randum of understanding with the Assistant Secretary
18 and the Commission to facilitate outreach to residents and
19 businesses in rural areas, including—

20 “(1) to evaluate the broadband service needs in
21 rural areas;

22 “(2) to inform residents and businesses in rural
23 areas of available Federal programs that promote
24 broadband access, broadband affordability, and
25 broadband inclusion; and

1 “(3) for such additional goals as the Secretary,
2 the Assistant Secretary, and the Commission deter-
3 mine to be appropriate.”.

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