

116TH CONGRESS
2D SESSION

S. 4113

To amend the Communications Act of 1934 to provide grants to States and Indian Tribes to deploy affordable, high-speed broadband to unserved and underserved areas.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 2020

Mr. BENNET 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 provide grants to States and Indian Tribes to deploy affordable, high-speed broadband to unserved and underserved areas.

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 “Broadband Reform
5 and Investment to Drive Growth in the Economy Act of
6 2020” or “BRIDGE Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) Access to affordable, reliable broadband is
 2 essential to full participation in modern life in the
 3 United States.

4 (2) The persistent “digital divide” in the
 5 United States is a barrier to the economic competi-
 6 tiveness of the United States and equitable distribu-
 7 tion of essential public services, including health care
 8 and education.

9 (3) In many communities across the country,
 10 increased competition among broadband providers
 11 has the potential to offer consumers more afford-
 12 able, high-quality options for broadband service.

13 (4) The digital divide disproportionately affects
 14 communities of color, lower-income areas, and rural
 15 areas.

16 **SEC. 3. GRANTS FOR STATE BROADBAND DEPLOYMENT.**

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

20 **“SEC. 14. GRANTS FOR STATE BROADBAND DEPLOYMENT.**

21 “(a) DEFINITIONS.—

22 “(1) AREAS LACKING BROADBAND ACCESS.—In
 23 this section—

24 “(A) the term ‘unserved area’ means an
 25 area—

1 “(i) in which broadband service at a
 2 speed of not less than 25 megabits per sec-
 3 ond for downloads and 3 megabits per sec-
 4 ond for uploads is not available; or

5 “(ii) that is served by only 1
 6 broadband service provider;

7 “(B) the term ‘underserved area’ means an
 8 area, other than an unserved area, in which
 9 broadband service at a speed of not less than
 10 100 megabits per second for downloads and
 11 100 megabits per second for uploads is not
 12 available;

13 “(C) the term ‘other qualifying area’
 14 means an area, other than an unserved area or
 15 underserved area, in which gigabit-level
 16 broadband service is not available; and

17 “(D) the term ‘eligible area’ means an
 18 unserved area, underserved area, or other quali-
 19 fying area.

20 “(2) OTHER DEFINITIONS.—In this section—

21 “(A) the term ‘community anchor institu-
 22 tion’ means an entity such as a school, library,
 23 hospital or other medical provider, public safety
 24 entity, institution of higher education, or com-
 25 munity support organization that facilitates

1 greater use of broadband service by vulnerable
 2 populations, including low-income individuals,
 3 unemployed individuals, and aged individuals;

4 “(B) the term ‘gigabit-level broadband
 5 service’ means broadband service with a speed
 6 of not less than 1 gigabit per second for
 7 downloads and 1 gigabit per second for uploads;
 8 and

9 “(C) the term ‘Indian Tribe’ has the mean-
 10 ing given the term ‘Indian tribe’ in section 4 of
 11 the Indian Self-Determination and Education
 12 Assistance Act (25 U.S.C. 5304).

13 “(b) GRANT AUTHORITY.—The Commission shall
 14 award grants to States and Indian Tribes for use in de-
 15 ploying broadband to certain areas in accordance with
 16 subsection (e).

17 “(c) FORMULA.—

18 “(1) IN GENERAL.—Of the amounts made
 19 available for grants under this section, the Commis-
 20 sion shall allocate—

21 “(A) \$30,000,000,000 to States, of
 22 which—

23 “(i) \$15,000,000,000 shall be allo-
 24 cated based on the proportion that the

1 population of each State bears to the popu-
2 lation of all States;

3 “(ii) \$7,500,000,000 shall be allocated
4 based on the proportion that the number
5 of individuals living in rural areas in each
6 State, as determined by the Bureau of the
7 Census, bears to the number of individuals
8 living in rural area in all States, as deter-
9 mined by the Bureau of the Census; and

10 “(iii) \$7,500,000,000 shall be allo-
11 cated based on the proportion that the
12 number of individuals with a household in-
13 come that is below 150 percent of the Fed-
14 eral poverty level in each State bears to
15 the number of individuals with a household
16 income that is below 150 percent of the
17 Federal poverty level in all States; and

18 “(B) \$1,000,000,000 to Indian Tribes
19 based on the proportion that the population of
20 each Indian Tribe bears to the population of all
21 Indian Tribes.

22 “(2) POPULATION DETERMINATION.—For pur-
23 poses of paragraph (1), the population of—

24 “(A) a State or a category of residents of
25 a State shall be determined based on the most

1 recent year for which data are available from
 2 the Bureau of the Census; and

3 “(B) an Indian Tribe shall be determined
 4 based on data certified by the Tribal govern-
 5 ment.

6 “(d) ADMINISTRATIVE EXPENSES.— A State or In-
 7 dian Tribe may use not more than 2 percent of grant
 8 amounts received under this section for expenses relating
 9 to administration of the grant or the use of a competitive
 10 bidding mechanism under subsection (g)(1).

11 “(e) USE OF FUNDS.—A State or Indian Tribe may
 12 use grant amounts received under this section to award
 13 subgrants for the deployment of broadband networks—

14 “(1) to unserved areas;

15 “(2) to underserved areas;

16 “(3) if the State or the territory under the ju-
 17 risdiction of the Indian Tribe, as applicable, does not
 18 contain any unserved areas or underserved areas, to
 19 other qualifying areas; or

20 “(4) to community anchor institutions that lack
 21 access to gigabit-level broadband service.

22 “(f) IDENTIFICATION OF ELIGIBLE AREAS.—

23 “(1) INITIAL IDENTIFICATION.—

24 “(A) IN GENERAL.—Before beginning a
 25 competitive bidding mechanism under sub-

section (g)(1), a State or Indian Tribe shall identify each area in the State or the territory under the jurisdiction of the Indian Tribe, as applicable, that is—

“(i) an unserved area;

“(ii) an underserved area; or

“(iii) an other qualifying area;

“(B) USE OF BROADBAND MAP.—

“(i) IN GENERAL.—Except as provided in clause (ii), a State or Indian Tribe shall carry out subparagraph (A) using the map created by the Commission under section 802(c)(1)(A).

“(ii) TRANSITION RULE.—During the period before the Commission creates the map under section 802(c)(1)(A), a State or Indian Tribe, for purposes of subparagraph (A)—

“(I) shall determine whether an area is an unserved area, underserved area, or other qualifying area in consultation with each community in the area; and

1 “(II) may use the broadband
2 map of the Commission that is then in
3 effect.

4 “(2) CHALLENGE PROCESS.—A State or Indian
5 Tribe shall—

6 “(A) provide public notice of the classifica-
7 tion of each area identified under paragraph
8 (1)(A);

9 “(B) provide local governments and other
10 broadband service providers the opportunity to
11 challenge—

12 “(i) the classification of an area iden-
13 tified under paragraph (1)(A); or

14 “(ii) the failure of the State or Indian
15 Tribe to classify a particular area as an el-
16 igible area under paragraph (1)(A); and

17 “(C) not later than 90 days after a chal-
18 lenge is made under subparagraph (B), conduct
19 a transparent and evidence-based process to re-
20 solve the challenge.

21 “(3) FINAL IDENTIFICATION; NOTIFICATION OF
22 FUNDING ELIGIBILITY.—After resolving each chal-
23 lenge under paragraph (2), and not later than 30
24 days before beginning the competitive bidding mech-

1 anism under subsection (g)(1), a State or Indian
2 Tribe shall—

3 “(A) provide public notice of the final clas-
4 sification of each eligible area in the State or
5 the territory under the jurisdiction of the In-
6 dian Tribe, as applicable; and

7 “(B) make a good faith effort to notify
8 each community within, and each relevant pri-
9 vate entity for, each eligible area in the State
10 or the territory under the jurisdiction of the In-
11 dian Tribe, as applicable, about the opportunity
12 to compete for funding through the competitive
13 bidding mechanism.

14 “(g) SUBGRANTS.—

15 “(1) COMPETITIVE BIDDING.—A State or In-
16 dian Tribe, in awarding subgrants for the deploy-
17 ment of a broadband network using grant amounts
18 received under this section, as authorized under sub-
19 section (e)—

20 “(A) shall use a competitive bidding mech-
21 anism that—

22 “(i) does not exclude cooperatives,
23 nonprofit organizations, public-private
24 partnerships, tribally owned entities, or
25 local governments; and

1 “(ii) consists of up to 3 rounds of bid-
2 ding, under which—

3 “(I) the first round shall provide
4 funds for broadband deployment to
5 unserved areas;

6 “(II) the second round shall pro-
7 vide funds (if still available) for
8 broadband deployment to underserved
9 areas;

10 “(III) the third round shall pro-
11 vide funds (if still available) for
12 broadband deployment to other quali-
13 fying areas; and

14 “(IV) each round shall consist of
15 2 stages—

16 “(aa) the first of which shall
17 be open only to broadband serv-
18 ice providers committing to offer
19 at least gigabit-level broadband
20 service; and

21 “(bb) the second of which
22 shall be open to any broadband
23 service provider that did not re-
24 ceive funding during the first
25 stage;

1 “(B) during each stage of the competitive
2 bidding mechanism under subparagraph (A),
3 shall give priority to an entity that—

4 “(i) will provide not less than 1 tier of
5 broadband service at a faster speed than
6 the minimum speed required for that
7 stage;

8 “(ii) will—

9 “(I) begin construction of the
10 broadband network not later than 180
11 days after being awarded the
12 subgrant; and

13 “(II) deploy the broadband net-
14 work and begin providing broadband
15 service to each customer that desires
16 broadband service by a date that is
17 earlier than the deadline under para-
18 graph (2)(B); or

19 “(iii) in the case of a subgrant award-
20 ed by a State, has a letter of endorsement
21 for the project from the local government
22 for each community that the project will
23 serve; and

24 “(C) during the first stage of any round of
25 the competitive bidding mechanism under sub-

paragraph (A), may award a subgrant to an entity to deploy a broadband network to a community anchor institution located in the type of area that is eligible for funding in that round.

“(2) DEPLOYMENT AND PROVISION OF SERVICE REQUIREMENTS.—An entity that deploys a broadband network using a subgrant awarded under paragraph (1), as authorized under subsection (e), shall—

“(A) in providing broadband service using the network—

“(i) provide broadband service—

“(I) at a speed of not less than—

“(aa) except as provided in item (bb), 100 megabits per second for downloads and 100 megabits per second for uploads; or

“(bb) 1 gigabit per second for downloads and 1 gigabit per second for uploads in the case of a subgrant awarded during the first stage of any round of competitive bidding under paragraph (1), including such a subgrant

1 awarded for the deployment of a
2 broadband network to a commu-
3 nity anchor institution; and

4 “(II) with a latency that is suffi-
5 ciently low to allow real-time, inter-
6 active applications;

7 “(ii) provide access to broadband serv-
8 ice to each customer, in the area to which
9 the subgrant applies, that—

10 “(I) lacks broadband service with
11 a speed of—

12 “(aa) not less than 25
13 megabits per second for
14 downloads and 3 megabits per
15 second for uploads, in the case of
16 an unserved area;

17 “(bb) not less than 100
18 megabits per second for
19 downloads and 100 megabits per
20 second for uploads, in the case of
21 an underserved area; or

22 “(cc) not less than 1 gigabit
23 per second for downloads and 1
24 gigabit per second for uploads, in

1 the case of an other qualifying
2 area; and

3 “(II) desires broadband service;
4 and

5 “(iii) to an eligible area, offer not less
6 than 1 discount subscription option for
7 customers whose family is in poverty (as
8 determined by the Bureau of the Census)
9 that—

10 “(I) consists of—

11 “(aa) prepaid service; or

12 “(bb) service at a monthly
13 rate that, when calculated for a
14 year, is not more than 1.5 per-
15 cent of the lesser of—

16 “(AA) the annual me-
17 dian household income for
18 the county in which the cus-
19 tomer is located (as deter-
20 mined by the Bureau of the
21 Census); or

22 “(BB) the annual me-
23 dian household income for
24 the United States (as deter-

1 mined by the Bureau of the
2 Census); and

3 “(II) does not include data caps;

4 “(B) deploy the broadband network and
5 begin providing broadband service to each cus-
6 tomer that desires broadband service—

7 “(i) except as provided in clause (ii),
8 not later than 2 years after the date on
9 which the entity receives the subgrant; or

10 “(ii) in the case of—

11 “(I) a subgrant awarded by an
12 Indian Tribe, if exigencies require ad-
13 ditional time, by a date specified by
14 the Indian Tribe that is later than the
15 date required under clause (i), which
16 may not be later than 5 years after
17 the date on which the entity receives
18 the subgrant; or

19 “(II) a subgrant awarded by a
20 State, if a delay in receiving a Fed-
21 eral, State, or local permit that is out-
22 side the control of the entity makes
23 compliance with the deadline under
24 clause (i) impossible, by a date speci-
25 fied by the State that is later than the

1 date required under clause (i), which
2 may not be later than 4 years after
3 the date on which the entity receives
4 the subgrant;

5 “(C) if laying fiber along a roadway, in-
6 clude interspersed conduit access points at reg-
7 ular intervals; and

8 “(D) if the entity is no longer able to pro-
9 vide broadband service to the area covered by
10 the subgrant at any time, sell the network ca-
11 pacity at a reasonable, wholesale rate to 1 or
12 more broadband service providers or public sec-
13 tor entities.

14 “(3) REPORTING MECHANISM.—A State or In-
15 dian Tribe that awards a subgrant for the deploy-
16 ment of a broadband network under paragraph (1)
17 shall establish and publicize a mechanism through
18 which a resident of an area in which a broadband
19 network was deployed using the subgrant may report
20 that the resident does not have access to broadband
21 service from the broadband network.

22 “(4) RETURN OF FUNDS.—An entity that re-
23 ceives a subgrant from a State or Indian Tribe
24 under paragraph (1) and fails to comply with any
25 requirement under this subsection shall return the

1 entire amount of the subgrant to the State or Indian
2 Tribe.

3 “(5) REASONABLE PERMITTING FEES.—If an
4 entity that receives a subgrant under paragraph (1)
5 requires access to a right-of-way from a State or
6 local government in order to deploy the broadband
7 network, the State or local government may only
8 charge the entity a reasonable fee in an amount that
9 is consistent with the amount of the fee that the
10 State or local government charges for utility per-
11 mits.

12 “(6) ADDITIONAL STATE OR TRIBAL REQUIRE-
13 MENTS.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), nothing in this subsection shall be
16 construed to prohibit a State or Indian Tribe
17 from imposing additional requirements relating
18 to the use of a subgrant awarded under para-
19 graph (1), including by increasing the minimum
20 speed of broadband service that must be pro-
21 vided, if the requirements or conditions do not
22 conflict with this subsection.

23 “(B) LIMITATION ON MATCHING REQUIRE-
24 MENTS.—A State or Indian Tribe may not re-
25 quire a community in which a broadband net-

1 work is deployed using a subgrant awarded
 2 under paragraph (1) to provide matching funds
 3 if the median household income of the commu-
 4 nity is not more than 75 percent of the median
 5 household income of the State or Indian Tribe,
 6 as applicable.

7 “(h) RELATION TO OTHER PUBLIC FUNDING FOR
 8 BROADBAND DEPLOYMENT.—Notwithstanding any other
 9 provision of law—

10 “(1) an entity that has received amounts from
 11 the Federal Government or a State or local govern-
 12 ment for the deployment of a broadband network in
 13 an unserved area may receive a subgrant under sub-
 14 section (g)(1) to deploy a broadband network in that
 15 unserved area in accordance with this section; and

16 “(2) the receipt of a subgrant under subsection
 17 (g)(1) by an entity described in paragraph (1) of
 18 this subsection shall not affect the eligibility of the
 19 entity to receive the amounts from the Federal Gov-
 20 ernment or a State or local government described in
 21 such paragraph (1).

22 “(i) SUPPLEMENT NOT SUPPLANT.—Grant amounts
 23 awarded to a State or Indian Tribe under this section shall
 24 be used to supplement, and not supplant, the amounts
 25 that the State or Indian Tribe would otherwise make avail-

1 able for the purposes for which the grant amounts may
2 be used.

3 “(j) SENSE OF CONGRESS REGARDING FEDERAL
4 AGENCY COORDINATION.—It is the sense of Congress that
5 Federal agencies responsible for supporting broadband de-
6 ployment, including the Commission, the Department of
7 Commerce, and the Department of Agriculture, to the ex-
8 tent possible, should align the goals, application and re-
9 porting processes, and project requirements with respect
10 to broadband deployment supported by those agencies.

11 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Commission to
13 carry out this section \$31,000,000,000 for fiscal year
14 2020, to remain available through fiscal year 2029.

15 **“SEC. 15. PREEMPTION OF STATE AND LOCAL RESTRIC-**
16 **TIONS ON MUNICIPAL BROADBAND.**

17 “(a) DEFINITIONS.—In this section—

18 “(1) the term ‘advanced telecommunications ca-
19 pability’ has the meaning given the term in section
20 706(d) of the Telecommunications Act of 1996 (47
21 U.S.C. 1302(d));

22 “(2) the term ‘advanced telecommunications ca-
23 pability or services’ means—

24 “(A) advanced telecommunications capa-
25 bility; or

1 “(B) services using advanced telecommuni-
 2 cations capability;

3 “(3) the term ‘Indian Tribe’ has the meaning
 4 given the term ‘Indian tribe’ in section 4 of the In-
 5 dian Self-Determination and Education Assistance
 6 Act (25 U.S.C. 5304);

7 “(4) the term ‘public provider’ means—

8 “(A) a State or political subdivision there-
 9 of;

10 “(B) any agency, authority, or instrumen-
 11 tality of a State or political subdivision thereof,
 12 including an intergovernmental agency, author-
 13 ity, or instrumentality;

14 “(C) an Indian Tribe; or

15 “(D) any entity that is owned by, con-
 16 trolled by, or otherwise affiliated with—

17 “(i) a State or political subdivision
 18 thereof;

19 “(ii) an agency, authority, or instru-
 20 mentality of a State or political subdivision
 21 thereof, including an intergovernmental
 22 agency, authority, or instrumentality; or

23 “(iii) an Indian Tribe.

24 “(b) PREEMPTION.—No statute, regulation, or other
 25 legal requirement of a State or political subdivision thereof

1 may prohibit, or have the effect of prohibiting or substan-
 2 tially inhibiting, any public provider from—

3 “(1) providing telecommunications services or
 4 advanced telecommunications capability or services
 5 to any person or any public or private entity; or

6 “(2) deploying a network and infrastructure
 7 used to provide services, or capability and services,
 8 described in paragraph (1).”.

9 **SEC. 4. IMPLEMENTATION OF BROADBAND DATA ACT.**

10 (a) FUNDING.—

11 (1) IN GENERAL.—There is appropriated, out
 12 of amounts in the Treasury not otherwise appro-
 13 priated, to the Federal Communications Commission
 14 \$24,000,000, to remain available until September
 15 30, 2021, for implementing title VIII of the Commu-
 16 nications Act of 1934 (47 U.S.C. 641 et seq.), as
 17 added by the Broadband DATA Act (Public Law
 18 116–130).

19 (2) EMERGENCY DESIGNATION.—

20 (A) IN GENERAL.—The amounts provided
 21 by this subsection are designated as an emer-
 22 gency requirement pursuant to section 4(g) of
 23 the Statutory Pay-As-You-Go Act of 2010 (2
 24 U.S.C. 933(g)).

1 (B) DESIGNATION IN SENATE.—In the
2 Senate, this section is designated as an emer-
3 gency requirement pursuant to section 4112(a)
4 of H. Con. Res. 71 (115th Congress), the con-
5 current resolution on the budget for fiscal year
6 2018.

7 (b) DEADLINE FOR CREATION OF MAPS.—Section
8 802(c)(1) of the Communications Act of 1934 (47 U.S.C.
9 642(c)(1)) is amended by striking “create” and inserting
10 “create, not later than 1 year after the date of enactment
11 of the Broadband Reform and Investment to Drive
12 Growth in the Economy Act of 2020,”.

○