

117TH CONGRESS
1ST SESSION

H. R. 1672

To amend the Communications Act of 1934 to provide for the establishment of a program to expand access to broadband service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2021

Mr. WELCH (for himself, Ms. BARRAGÁN, Mr. TONKO, Mr. MCNERNEY, Ms. LEGER FERNANDEZ, Mr. CÁRDENAS, and Ms. BLUNT ROCHESTER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to provide for the establishment of a program to expand access to broadband service, 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 “Connect America Act
5 of 2021”.

1 **SEC. 2. EXPANSION OF BROADBAND ACCESS IN UNSERVED**
 2 **AREAS AND AREAS WITH LOW-TIER OR MID-**
 3 **TIER SERVICE.**

4 (a) IN GENERAL.—Title VII of the Communications
 5 Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding
 6 at the end the following new section:

7 **“SEC. 723. EXPANSION OF BROADBAND ACCESS IN**
 8 **UNSERVED AREAS AND AREAS WITH LOW-**
 9 **TIER OR MID-TIER SERVICE.**

10 “(a) PROGRAM ESTABLISHED.—Not later than 180
 11 days after the date of the enactment of this section, the
 12 Commission, in consultation with the Assistant Secretary,
 13 shall establish a program to expand access to broadband
 14 service for unserved areas, areas with low-tier service,
 15 areas with mid-tier service, and unserved anchor institu-
 16 tions in accordance with the requirements of this section
 17 that—

18 “(1) is separate from any universal service pro-
 19 gram established pursuant to section 254; and

20 “(2) does not require funding recipients to be
 21 designated as eligible telecommunications carriers
 22 under section 214(e).

23 “(b) USE OF PROGRAM FUNDS.—

24 “(1) EXPANDING ACCESS TO BROADBAND SERV-
 25 ICE THROUGH NATIONAL SYSTEM OF COMPETITIVE
 26 BIDDING.—Not later than 18 months after the date

1 of the enactment of this section, the Commission
2 shall award 75 percent of the amounts appropriated
3 under subsection (g) through national systems of
4 competitive bidding to funding recipients only to ex-
5 pand access to broadband service in unserved areas
6 and areas with low-tier service.

7 “(2) EXPANDING ACCESS TO BROADBAND SERV-
8 ICE THROUGH STATES.—

9 “(A) DISTRIBUTION OF FUNDS TO
10 STATES.—Not later than 255 days after the
11 date of the enactment of this section, the Com-
12 mission shall distribute 25 percent of the
13 amounts appropriated under subsection (g)
14 among the States, as follows:

15 “(i) \$100,000,000 shall be distributed
16 to each of the 50 States, the District of
17 Columbia, and Puerto Rico.

18 “(ii) \$100,000,000 shall be allocated
19 equally among and distributed to the
20 United States Virgin Islands, Guam,
21 American Samoa, the Commonwealth of
22 the Northern Mariana Islands, the Repub-
23 lic of the Marshall Islands, the Federated
24 States of Micronesia, and the Republic of
25 Palau.

1 “(iii) The remainder shall be allocated
2 among and distributed to the entities de-
3 scribed in clause (i), in proportion to the
4 population of each such entity.

5 “(B) PUBLIC NOTICE.—Not later than 195
6 days after the date of the enactment of this sec-
7 tion, the Commission shall issue a public notice
8 informing each State and the public of the
9 amounts to be distributed under this para-
10 graph. The notice shall include—

11 “(i) the manner in which a State shall
12 inform the Commission of that State’s ac-
13 ceptance or acceptance in part of the
14 amounts to be distributed under this para-
15 graph;

16 “(ii) the date (which is 30 days after
17 the date on which the public notice is
18 issued) by which such acceptance or ac-
19 ceptance in part is due; and

20 “(iii) the requirements as set forth
21 under this section and as may be further
22 prescribed by the Commission.

23 “(C) ACCEPTANCE BY STATES.—Not later
24 than 30 days after the date on which a public
25 notice is issued under subparagraph (B), each

1 State accepting amounts to be distributed
2 under this paragraph shall inform the Commis-
3 sion of the acceptance or acceptance in part by
4 the State of the amounts to be distributed
5 under this paragraph in the manner described
6 by the Commission in the public notice.

7 “(D) REQUIREMENTS FOR STATE RECEIPT
8 OF AMOUNTS DISTRIBUTED.—Each State ac-
9 cepting amounts distributed under this para-
10 graph—

11 “(i) shall only award such amounts
12 through statewide systems of competitive
13 bidding, in the manner prescribed by the
14 State but subject to the requirements as
15 set forth under this section and as may be
16 further prescribed by the Commission;

17 “(ii) shall make such awards only—

18 “(I) to funding recipients to ex-
19 pand access to broadband service in
20 unserved areas and areas with low-tier
21 service;

22 “(II) to funding recipients to ex-
23 pand access to broadband service to
24 unserved anchor institutions; or

1 “(III) to funding recipients to ex-
2 pand access to broadband service in
3 areas with mid-tier service, but only if
4 a State does not have, or no longer
5 has, any unserved areas or areas with
6 low-tier service;

7 “(iii) shall conduct separate systems
8 of competitive bidding for awards made to
9 unserved anchor institutions under clause
10 (ii)(II), if a State awards any amounts dis-
11 tributed under this paragraph to unserved
12 anchor institutions;

13 “(iv) shall return any unused portion
14 of amounts distributed under this para-
15 graph to the Commission within 10 years
16 after the date of the enactment of this sec-
17 tion and shall submit a certification to the
18 Commission before receiving such amounts
19 that the State will return such amounts;
20 and

21 “(v) may not use more than 5 percent
22 of the amounts distributed under this
23 paragraph to administer a system or sys-
24 tems of competitive bidding authorized by
25 this paragraph.

1 “(3) FEDERAL AND STATE COORDINATION.—

2 The Commission, in consultation with the Office of
3 Internet Connectivity and Growth, shall establish
4 processes through the rulemaking under subsection
5 (e) to—

6 “(A) permit a State to elect for the Com-
7 mission to conduct statewide systems of com-
8 petitive bidding on behalf of such State as part
9 of, or in coordination with, national systems of
10 competitive bidding;

11 “(B) assist States in conducting statewide
12 systems of competitive bidding;

13 “(C) ensure that program funds awarded
14 by the Commission and program funds awarded
15 by the States are not used in the same areas;
16 and

17 “(D) ensure that program funds and funds
18 awarded through other Federal programs to ex-
19 pand broadband service with a download speed
20 of at least 100 megabits per second, an upload
21 speed of at least 100 megabits per second, and
22 latency that is sufficiently low to allow multiple,
23 simultaneous, real-time, interactive applications,
24 are not used in the same areas.

25 “(c) PROGRAM REQUIREMENTS.—

1 “(1) TECHNOLOGY NEUTRALITY REQUIRED.—

2 The entity administering a system of competitive
3 bidding (either a State or the Commission) in mak-
4 ing awards may not favor a project using any par-
5 ticular technology.

6 “(2) GIGABIT PERFORMANCE FUNDING.—The

7 Commission shall reserve 20 percent of the amounts
8 to be awarded by the Commission under subsection
9 (b)(1), and each State shall reserve 20 percent of
10 the amounts distributed to such State under sub-
11 section (b)(2), for bidders committing (with respect
12 to any particular project by such a bidder) to offer,
13 not later than the date that is 4 years after the date
14 on which funding is provided under this section for
15 such project—

16 “(A) broadband service with a download
17 speed of at least 1 gigabit per second, an
18 upload speed of at least 1 gigabit per second,
19 and latency that is sufficiently low to allow mul-
20 tiple, simultaneous, real-time, interactive appli-
21 cations; or

22 “(B) in the case of a project to provide
23 broadband service to an unserved anchor insti-
24 tution, broadband service with a download
25 speed of at least 10 gigabits per second per

1 1,000 users, an upload speed of at least 10 gig-
2 abits per second per 1,000 users, and latency
3 that is sufficiently low to allow multiple, simul-
4 taneous, real-time, interactive applications.

5 “(3) SYSTEM OF COMPETITIVE BIDDING PROC-
6 ESS.—The entity administering a system of competi-
7 tive bidding (either a State or the Commission) shall
8 structure the system of competitive bidding process
9 to—

10 “(A) first hold a system of competitive bid-
11 ding only for bidders committing (with respect
12 to any particular project by such a bidder) to
13 offer, not later than the date that is 4 years
14 after the date on which funding is provided
15 under this section for such project—

16 “(i) broadband service with a
17 download speed of at least 1 gigabit per
18 second, an upload speed of at least 1 gig-
19 abit per second, and latency that is suffi-
20 ciently low to allow multiple, simultaneous,
21 real-time, interactive applications; or

22 “(ii) in the case of a project to pro-
23 vide broadband service to an unserved an-
24 chor institution, broadband service with a
25 download speed of at least 10 gigabits per

1 second per 1,000 users, an upload speed of
2 at least 10 gigabits per second per 1,000
3 users, and latency that is sufficiently low
4 to allow multiple, simultaneous, real-time,
5 interactive applications; and

6 “(B) after holding the system of competi-
7 tive bidding required by subparagraph (A), hold
8 one or more systems of competitive bidding, in
9 areas not receiving awards under subparagraph
10 (A), to award funds for projects in areas that
11 are estimated to remain unserved areas, areas
12 with low-tier service, or (to the extent permitted
13 under this section) areas with mid-tier service,
14 or (to the extent permitted under this section)
15 for projects to offer broadband service to an-
16 chor institutions that are estimated to remain
17 unserved anchor institutions, after the comple-
18 tion of the projects for which funding is award-
19 ed under the system of competitive bidding re-
20 quired by subparagraph (A) or any previous
21 system of competitive bidding under this sub-
22 paragraph.

23 “(4) FUNDS PRIORITY PREFERENCE.—There
24 shall be a preference in a system of competitive bid-
25 ding for projects that would expand access to

1 broadband service in areas where at least 90 percent
2 of the population has no access to broadband service
3 or does not have access to broadband service offered
4 with a download speed of at least 25 megabits per
5 second, with an upload speed of at least 3 megabits
6 per second, and with latency that is sufficiently low
7 to allow multiple, simultaneous, real-time, interactive
8 applications. Such projects shall be given priority in
9 such system of competitive bidding over all other
10 projects, regardless of how many preferences under
11 paragraph (5) for which such other projects qualify.

12 “(5) FUNDS PREFERENCE.—There shall be a
13 preference in a system of competitive bidding, as de-
14 termined by the entity administering the system of
15 competitive bidding (either a State or the Commis-
16 sion), for any of the following projects:

17 “(A) Projects with at least 20 percent
18 matching funds from non-Federal sources.

19 “(B) Projects that would expand access to
20 broadband service on Tribal lands, as defined
21 by the Commission.

22 “(C) Projects that would provide
23 broadband service with higher speeds than
24 those specified in subsection (d)(2), except in

1 the case of funds awarded under subparagraph
2 (A) of paragraph (3).

3 “(D) Projects that would expand access to
4 broadband service in advance of the time speci-
5 fied in subsection (e)(5), except in the case of
6 funds awarded under subparagraph (A) of
7 paragraph (3).

8 “(E) Projects that would expand access to
9 broadband service to persistent poverty counties
10 or high-poverty areas at subsidized rates.

11 “(F) Projects that, at least until the date
12 that is 10 years after the date of the enactment
13 of this section, would provide broadband service
14 with comparable speeds to those provided in
15 areas that, on the day before such date of en-
16 actment, were not unserved areas, areas with
17 low-tier service, or areas with mid-tier service,
18 with minimal future investment.

19 “(G) Projects with support from the local
20 community, demonstrated by at least one letter
21 of support from local elected officials in the
22 community.

23 “(H) Projects that would provide for the
24 deployment of open-access broadband service
25 networks.

1 “(6) UNSERVED AREAS AND AREAS WITH LOW-
2 TIER OR MID-TIER SERVICE.—In determining wheth-
3 er an area is an unserved area, an area with low-
4 tier service, or an area with mid-tier service or
5 whether an anchor institution is an unserved anchor
6 institution for any system of competitive bidding au-
7 thorized under this section, the Commission shall
8 implement the following requirements through the
9 rulemaking described in subsection (e):

10 “(A) DATA FOR INITIAL DETERMINA-
11 TION.—To make an initial determination as to
12 whether an area is an unserved area, an area
13 with low-tier service, or an area with mid-tier
14 service or whether an anchor institution is an
15 unserved anchor institution, the Commission
16 shall—

17 “(i) use the most accurate and granu-
18 lar data on the map created by the Com-
19 mission under section 802(c)(1)(B);

20 “(ii) refine the data described in
21 clause (i) by using—

22 “(I) other data on access to
23 broadband service obtained or pur-
24 chased by the Commission;

1 “(II) other publicly available data
2 or information on access to broadband
3 service; and

4 “(III) other publicly available
5 data or information on State
6 broadband service deployment pro-
7 grams; and

8 “(iii) not determine an area is not an
9 unserved area, an area with low-tier serv-
10 ice, or an area with mid-tier service, on the
11 basis that one location within such area
12 does not meet the definition of an unserved
13 area, an area with low-tier service, or an
14 area with mid-tier service.

15 “(B) INITIAL DETERMINATION.—The
16 Commission shall make an initial determination
17 of the areas that are unserved areas, areas with
18 low-tier service, and areas with mid-tier service
19 and which anchor institutions are unserved an-
20 chor institutions not later than 270 days after
21 the date of the enactment of this section.

22 “(C) CHALLENGE OF DETERMINATION.—

23 “(i) IN GENERAL.—The Commission
24 shall provide for a process for challenging
25 any initial determination regarding wheth-

1 er an area is an unserved area, an area
2 with low-tier service, or an area with mid-
3 tier service or whether an anchor institu-
4 tion is an unserved anchor institution that,
5 at a minimum, provides not less than 45
6 days for a person to voluntarily submit in-
7 formation concerning—

8 “(I) the broadband service of-
9 fered in the area, or a commitment to
10 offer broadband service in the area
11 that is subject to legal sanction if not
12 performed; or

13 “(II) the broadband service of-
14 fered to the anchor institution.

15 “(ii) STREAMLINED PROCESS.—The
16 Commission shall ensure that such process
17 is sufficiently streamlined such that a rea-
18 sonably prudent person may easily partici-
19 pate to challenge such initial determination
20 with little burden on such person.

21 “(D) FINAL DETERMINATION.—The Com-
22 mission shall make a final determination of the
23 areas that are unserved areas, areas with low-
24 tier service, or areas with mid-tier service and
25 which anchor institutions are unserved anchor

1 institutions within 1 year after the date of the
2 enactment of this section.

3 “(7) NOTICE, TRANSPARENCY, ACCOUNT-
4 ABILITY, AND OVERSIGHT REQUIRED.—The program
5 shall contain sufficient notice, transparency, ac-
6 countability, and oversight measures to provide the
7 public with notice of the assistance provided under
8 this section, and to deter waste, fraud, and abuse of
9 program funds.

10 “(8) COMPETENCE.—

11 “(A) STANDARDS.—The Commission shall
12 establish, through the rulemaking described in
13 subsection (e), objective standards to determine
14 that each provider of broadband service seeking
15 to participate in a system of competitive bid-
16 ding—

17 “(i) is capable of carrying out the
18 project in a competent manner in compli-
19 ance with all applicable Federal, State, and
20 local laws;

21 “(ii) has the financial capacity to
22 meet the buildout obligations of the project
23 and requirements as set forth under this
24 section and as may be further prescribed
25 by the Commission; and

1 “(iii) has the technical and oper-
2 ational capability to provide broadband
3 services in the manner contemplated by the
4 provider’s bid in the system of competitive
5 bidding, including a detailed consideration
6 of the provider’s prior performance in de-
7 livering services as contemplated in the bid
8 and the capabilities of the provider’s pro-
9 posed network to deliver the contemplated
10 services in the area in question.

11 “(B) DETERMINATIONS REGARDING PRO-
12 VIDERS.—An entity administering a system of
13 competitive bidding (either a State or the Com-
14 mission) may not permit a provider of
15 broadband service to participate in the system
16 of competitive bidding unless the entity first de-
17 termines, after notice and an opportunity for
18 public comment, that the provider meets the
19 standards established under subparagraph (A).

20 “(9) CONTRACTING REQUIREMENTS.—All labor-
21 ers and mechanics employed by contractors or sub-
22 contractors in the performance of construction, al-
23 teration, or repair work carried out, in whole or in
24 part, with assistance made available under this sec-
25 tion shall be paid wages at rates not less than those

1 prevailing on projects of a similar character in the
2 locality as determined by the Secretary of Labor in
3 accordance with subchapter IV of chapter 31 of title
4 40, United States Code. With respect to the labor
5 standards in this paragraph, the Secretary of Labor
6 shall have the authority and functions set forth in
7 Reorganization Plan Numbered 14 of 1950 (64 Stat.
8 1267; 5 U.S.C. App.) and section 3145 of title 40,
9 United States Code.

10 “(10) RULE OF CONSTRUCTION REGARDING EN-
11 VIRONMENTAL LAWS.—Nothing in this section shall
12 be construed to affect—

13 “(A) the Clean Air Act (42 U.S.C. 7401 et
14 seq.);

15 “(B) the Federal Water Pollution Control
16 Act (33 U.S.C. 1251 et seq.; commonly referred
17 to as the ‘Clean Water Act’);

18 “(C) the National Environmental Policy
19 Act of 1969 (42 U.S.C. 4321 et seq.);

20 “(D) the Endangered Species Act of 1973
21 (16 U.S.C. 1531 et seq.);

22 “(E) the Solid Waste Disposal Act (42
23 U.S.C. 6901 et seq.; commonly referred to as
24 the ‘Resource Conservation and Recovery Act’);
25 or

1 “(F) any State or local law that is similar
2 to a law listed in subparagraphs (A) through
3 (E).

4 “(11) REFERRAL OF ALLEGED VIOLATIONS OF
5 APPLICABLE FEDERAL LABOR AND EMPLOYMENT
6 LAWS.—The Commission shall refer any alleged vio-
7 lation of an applicable labor and employment law to
8 the appropriate Federal agency for investigation and
9 enforcement, and any alleged violation of paragraph
10 (9) or (12) to the National Labor Relations Board
11 for investigation and enforcement, utilizing all ap-
12 propriate remedies up to and including debarment
13 from the program.

14 “(12) LABOR ORGANIZATION.—

15 “(A) IN GENERAL.—Notwithstanding the
16 National Labor Relations Act (29 U.S.C. 151
17 et seq.), subparagraphs (B) through (F) shall
18 apply with respect to any funding recipient who
19 is an employer and any labor organization who
20 represents employees of a funding recipient.

21 “(B) NEUTRALITY REQUIREMENT.—An
22 employer shall remain neutral with respect to
23 the exercise of employees and labor organiza-
24 tions of the right to organize and bargain under

1 the National Labor Relations Act (29 U.S.C.
2 151 et seq.).

3 “(C) COMMENCEMENT OF COLLECTIVE
4 BARGAINING.—Not later than 10 days after re-
5 ceiving a written request for collective bar-
6 gaining from a labor organization that has been
7 newly recognized or certified as a representative
8 under section 9(a) of the National Labor Rela-
9 tions Act (29 U.S.C. 159(a)), or within such
10 further period as the parties agree upon, the
11 parties shall meet and commence to bargain
12 collectively and shall make every reasonable ef-
13 fort to conclude and sign a collective bargaining
14 agreement.

15 “(D) MEDIATION AND CONCILIATION FOR
16 FAILURE TO REACH A COLLECTIVE BARGAINING
17 AGREEMENT.—

18 “(i) IN GENERAL.—If the parties have
19 failed to reach an agreement before the
20 date that is 90 days after the date on
21 which bargaining is commenced under sub-
22 paragraph (C), or any later date agreed
23 upon by both parties, either party may no-
24 tify the Federal Mediation and Conciliation

1 Service of the existence of a dispute and
2 request mediation.

3 “(ii) FEDERAL MEDIATION AND CON-
4 CILIATION SERVICE.—Whenever a request
5 is received under clause (i), the Director of
6 the Federal Mediation and Conciliation
7 Service shall promptly communicate with
8 the parties and use best efforts, by medi-
9 ation and conciliation, to bring them to
10 agreement.

11 “(E) TRIPARTITE ARBITRATION PANEL.—

12 “(i) IN GENERAL.—If the Federal Me-
13 diation and Conciliation Service is not able
14 to bring the parties to agreement by medi-
15 ation or conciliation before the date that is
16 30 days after the date on which such medi-
17 ation or conciliation is commenced, or any
18 later date agreed upon by both parties, the
19 Service shall refer the dispute to a tri-
20 partite arbitration panel established in ac-
21 cordance with such regulations as may be
22 prescribed by the Service, with one mem-
23 ber selected by the labor organization, one
24 member selected by the employer, and one

1 neutral member mutually agreed to by the
2 parties.

3 “(ii) DISPUTE SETTLEMENT.—A ma-
4 jority of the tripartite arbitration panel
5 shall render a decision settling the dispute
6 and such decision shall be binding upon
7 the parties for a period of two years, un-
8 less amended during such period by writ-
9 ten consent of the parties. Such decision
10 shall be based on—

11 “(I) the employer’s financial sta-
12 tus and prospects;

13 “(II) the size and type of the em-
14 ployer’s operations and business;

15 “(III) the employees’ cost of liv-
16 ing;

17 “(IV) the employees’ ability to
18 sustain themselves, their families, and
19 their dependents on the wages and
20 benefits they earn from the employer;
21 and

22 “(V) the wages and benefits that
23 other employers in the same business
24 provide their employees.

1 “(F) PROHIBITION ON SUBCONTRACTING
2 FOR CERTAIN PURPOSES.—A funding recipient
3 may not engage in subcontracting for the pur-
4 pose of circumventing the terms of a collective
5 bargaining agreement with respect to wages,
6 benefits, or working conditions.

7 “(G) PARTIES DEFINED.—In this para-
8 graph, the term ‘parties’ means a labor organi-
9 zation that is newly recognized or certified as a
10 representative under section 9(a) of the Na-
11 tional Labor Relations Act (29 U.S.C. 159(a))
12 and the employer of the employees represented
13 by such organization.

14 “(d) PROJECT REQUIREMENTS.—Any project funded
15 through the program shall meet the following require-
16 ments:

17 “(1) The project shall adhere to quality-of-serv-
18 ice standards as established by the Commission.

19 “(2) Except as provided in paragraphs (2) and
20 (3) of subsection (c), the project shall offer
21 broadband service with a download speed of at least
22 100 megabits per second, an upload speed of at least
23 100 megabits per second, and latency that is suffi-
24 ciently low to allow multiple, simultaneous, real-time,
25 interactive applications.

1 “(3) The project shall offer broadband service
2 at prices that are comparable to, or lower than, the
3 prices charged for comparable levels of service in
4 areas that were not unserved areas, areas with low-
5 tier service, or areas with mid-tier service on the day
6 before the date of the enactment of this section.

7 “(4) For any project that involves laying fiber-
8 optic cables along a roadway, the project shall in-
9 clude interspersed conduit access points at regular
10 and short intervals.

11 “(5) The project shall incorporate prudent cy-
12 bersecurity and supply chain risk management prac-
13 tices, as specified by the Commission through the
14 rulemaking described in subsection (e), in consulta-
15 tion with the Director of the National Institute of
16 Standards and Technology and the Assistant Sec-
17 retary.

18 “(6) The project shall incorporate best prac-
19 tices, as defined by the Commission, for ensuring re-
20 liability and resiliency of the network during disas-
21 ters.

22 “(7) Any funding recipient must agree to have
23 the project meet the requirements established under
24 section 224, as if the project were classified as a
25 ‘utility’ under such section. The preceding sentence

1 shall not apply to those entities or persons excluded
2 from the definition of the term ‘utility’ by the second
3 sentence of subsection (a)(1) of such section.

4 “(8) The project shall offer an affordable option
5 for a broadband service plan under which broadband
6 service is provided—

7 “(A) with a download speed of at least 50
8 megabits per second;

9 “(B) with an upload speed of at least 50
10 megabits per second; and

11 “(C) with latency that is sufficiently low to
12 allow multiple, simultaneous, real-time, inter-
13 active applications.

14 “(e) RULEMAKING AND DISTRIBUTION AND AWARD
15 OF FUNDS.—Not later than 180 days after the date of
16 the enactment of this section, the Commission, in con-
17 sultation with the Assistant Secretary, shall promulgate
18 rules—

19 “(1) that implement the requirements of this
20 section, as appropriate;

21 “(2) that establish the design of and rules for
22 the national systems of competitive bidding;

23 “(3) that establish notice requirements for all
24 systems of competitive bidding authorized under this

1 section that, at a minimum, provide the public with
2 notice of—

3 “(A) the initial determination of which
4 areas are unserved areas, areas with low-tier
5 service, or areas with mid-tier service;

6 “(B) the final determination of which
7 areas are unserved areas, areas with low-tier
8 service, or areas with mid-tier service after the
9 process for challenging the initial determination
10 has concluded;

11 “(C) which entities have applied to bid for
12 funding; and

13 “(D) the results of any system of competi-
14 tive bidding, including identifying the funding
15 recipients, which areas each project will serve,
16 the nature of the service that will be provided
17 by the project in each of those areas, and how
18 much funding the funding recipients will receive
19 in each of those areas;

20 “(4) that establish broadband service buildout
21 milestones and periodic certification by funding re-
22 cipients to ensure that the broadband service build-
23 out milestones for all systems of competitive bidding
24 authorized under this section will be met;

1 “(5) that, except as provided in paragraphs (2)
2 and (3) of subsection (c), establish a maximum
3 buildout timeframe of three years beginning on the
4 date on which funding is provided under this section
5 for a project;

6 “(6) that establish periodic reporting require-
7 ments for funding recipients and that identify, at a
8 minimum, the nature of the service provided in each
9 area for any system of competitive bidding author-
10 ized under this section;

11 “(7) that establish standard penalties for the
12 noncompliance of funding recipients or projects with
13 the requirements as set forth under this section and
14 as may be further prescribed by the Commission for
15 any system of competitive bidding authorized under
16 this section;

17 “(8) that establish procedures for recovery of
18 funds, in whole or in part, from funding recipients
19 in the event of the default or noncompliance of the
20 funding recipient or project with the requirements
21 established under this section for any system of com-
22 petitive bidding authorized under this section; and

23 “(9) that establish mechanisms to reduce waste,
24 fraud, and abuse within the program for any system
25 of competitive bidding authorized under this section.

1 “(f) REPORTS REQUIRED.—

2 “(1) INSPECTOR GENERAL AND COMPTROLLER
3 GENERAL REPORT.—Not later than June 30 and
4 December 31 of each year following the awarding of
5 the first funds under the program, the Inspector
6 General of the Commission and the Comptroller
7 General of the United States shall submit to the
8 Committees on Energy and Commerce of the House
9 of Representatives and Commerce, Science, and
10 Transportation of the Senate a report for the pre-
11 vious 6 months that reviews the program. Such re-
12 port shall include any recommendations to address
13 waste, fraud, and abuse.

14 “(2) STATE REPORTS.—Any State that receives
15 funds under the program shall submit an annual re-
16 port to the Commission on how such funds were
17 spent, along with a certification of compliance with
18 the requirements as set forth under this section and
19 as may be further prescribed by the Commission, in-
20 cluding a description of each service provided and
21 the number of individuals to whom the service was
22 provided.

23 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
24 is authorized to be appropriated to the Commission
25 \$79,500,000,000 for fiscal year 2022 to carry out the pro-

1 gram, and such amount is authorized to remain available
2 through fiscal year 2026.

3 “(h) DEFINITIONS.—In this section:

4 “(1) AFFORDABLE OPTION.—The term ‘afford-
5 able option’ means, with respect to a broadband
6 service plan, that broadband service is provided
7 under such plan at a rate that is determined by the
8 Commission, in coordination with the Office of
9 Internet Connectivity and Growth, to be affordable
10 for a household with an income of 136 percent of
11 the poverty threshold, as determined by using cri-
12 teria of poverty established by the Bureau of the
13 Census, for a four-person household that includes
14 two dependents under the age of 18.

15 “(2) ANCHOR INSTITUTION.—The term ‘anchor
16 institution’—

17 “(A) means a public or private school, a li-
18 brary, a medical or healthcare provider, a mu-
19 seum, a public safety entity, a public housing
20 agency (as defined in section 3(b) of the United
21 States Housing Act of 1937 (42 U.S.C.
22 1437a(b))), a community college, an institution
23 of higher education, a religious organization, or
24 any other community support organization or
25 agency; and

1 “(B) includes any entity described in sub-
2 paragraph (A) that serves an Indian Tribe,
3 tribally designated entity, or Native Hawaiian
4 organization.

5 “(3) AREA.—The term ‘area’ means the geo-
6 graphic unit of measurement with the greatest level
7 of granularity reasonably feasible for the Commis-
8 sion to use in making eligibility determinations
9 under this section and in meeting the requirements
10 and deadlines of this section.

11 “(4) AREA WITH LOW-TIER SERVICE.—The
12 term ‘area with low-tier service’ means an area
13 where at least 90 percent of the population has ac-
14 cess to broadband service offered—

15 “(A) with a download speed of at least 25
16 megabits per second but less than 100 megabits
17 per second;

18 “(B) with an upload speed of at least 25
19 megabits per second but less than 100 megabits
20 per second; and

21 “(C) with latency that is sufficiently low to
22 allow multiple, simultaneous, real-time, inter-
23 active applications.

24 “(5) AREA WITH MID-TIER SERVICE.—The term
25 ‘area with mid-tier service’ means an area where at

1 least 90 percent of the population has access to
2 broadband service offered—

3 “(A) with a download speed of at least 100
4 megabits per second but less than 1 gigabit per
5 second;

6 “(B) with an upload speed of at least 100
7 megabits per second but less than 1 gigabit per
8 second; and

9 “(C) with latency that is sufficiently low to
10 allow multiple, simultaneous, real-time, inter-
11 active applications.

12 “(6) ASSISTANT SECRETARY.—The term ‘As-
13 sistant Secretary’ means the Assistant Secretary of
14 Commerce for Communications and Information.

15 “(7) BROADBAND SERVICE.—The term
16 ‘broadband service’—

17 “(A) means broadband internet access
18 service that is a mass-market retail service, or
19 a service provided to an anchor institution, by
20 wire or radio that provides the capability to
21 transmit data to and receive data from all or
22 substantially all internet endpoints, including
23 any capabilities that are incidental to and en-
24 able the operation of the communications serv-
25 ice;

1 “(B) includes any service that is a func-
 2 tional equivalent of the service described in sub-
 3 paragraph (A); and

4 “(C) does not include dial-up internet ac-
 5 cess service.

6 “(8) COLLECTIVE BARGAINING.—The term ‘col-
 7 lective bargaining’ means performance of the mutual
 8 obligation described in section 8(d) of the National
 9 Labor Relations Act (29 U.S.C. 158(d)).

10 “(9) COLLECTIVE BARGAINING AGREEMENT.—
 11 The term ‘collective bargaining agreement’ means an
 12 agreement reached through collective bargaining.

13 “(10) FUNDING RECIPIENT.—The term ‘fund-
 14 ing recipient’ means an entity that receives funding
 15 for a project under this section, which may in-
 16 clude—

17 “(A) a private entity, a public-private part-
 18 nership, a cooperative, and a Tribal or munic-
 19 ipal broadband service provider; and

20 “(B) a consortium between any of the enti-
 21 ties described in subparagraph (A), including a
 22 consortium that includes an investor-owned util-
 23 ity.

24 “(11) HIGH-POVERTY AREA.—The term ‘high-
 25 poverty area’ means a census tract with a poverty

1 rate of at least 20 percent, as measured by the most
2 recent 5-year data series available from the Amer-
3 ican Community Survey of the Bureau of the Census
4 as of the year before the date of the enactment of
5 this section. In the case of a territory or possession
6 of the United States in which no such data is col-
7 lected from the American Community Survey of the
8 Bureau of the Census as of the year before the date
9 of the enactment of this section, such term includes
10 a census tract with a poverty rate of at least 20 per-
11 cent, as measured by the most recent Island Areas
12 decennial census of the Bureau of the Census for
13 which data is available as of the year before the date
14 of the enactment of this section.

15 “(12) INDIAN TRIBE.—The term ‘Indian Tribe’
16 has the meaning given such term in section 4(e) of
17 the Indian Self-Determination and Education Assist-
18 ance Act (25 U.S.C. 5304(e)).

19 “(13) INSTITUTION OF HIGHER EDUCATION.—
20 The term ‘institution of higher education’—

21 “(A) has the meaning given the term in
22 section 101 of the Higher Education Act of
23 1965 (20 U.S.C. 1001); and

24 “(B) includes a postsecondary vocational
25 institution.

1 “(14) LABOR ORGANIZATION.—The term ‘labor
2 organization’ has the meaning given the term in sec-
3 tion 2 of the National Labor Relations Act (29
4 U.S.C. 152).

5 “(15) NATIVE HAWAIIAN ORGANIZATION.—The
6 term ‘Native Hawaiian organization’ means any or-
7 ganization—

8 “(A) that serves the interests of Native
9 Hawaiians;

10 “(B) in which Native Hawaiians serve in
11 substantive and policymaking positions;

12 “(C) that has as a primary and stated pur-
13 pose the provision of services to Native Hawai-
14 ians; and

15 “(D) that is recognized for having exper-
16 tise in Native Hawaiian affairs, digital
17 connectivity, or access to broadband service.

18 “(16) PERSISTENT POVERTY COUNTY.—The
19 term ‘persistent poverty county’ means any county
20 with a poverty rate of at least 20 percent, as deter-
21 mined in each of the 1990 and 2000 decennial cen-
22 suses and in the Small Area Income and Poverty Es-
23 timates of the Bureau of the Census for the most re-
24 cent year for which the Estimates are available. In
25 the case of a territory or possession of the United

1 States, such term includes any county equivalent
2 area in Puerto Rico with a poverty rate of at least
3 20 percent, as determined in each of the 1990 and
4 2000 decennial censuses and in the most recent 5-
5 year data series available from the American Com-
6 munity Survey of the Bureau of the Census as of
7 the year before the date of the enactment of this
8 section, or any other territory or possession of the
9 United States with a poverty rate of at least 20 per-
10 cent, as determined in each of the 1990 and 2000
11 Island Areas decennial censuses of the Bureau of the
12 Census and in the most recent Island Areas decen-
13 nial census of the Bureau of the Census for which
14 data is available as of the year before the date of the
15 enactment of this section.

16 “(17) POSTSECONDARY VOCATIONAL INSTITU-
17 TION.—The term ‘postsecondary vocational institu-
18 tion’ has the meaning given the term in section
19 102(c) of the Higher Education Act of 1965 (20
20 U.S.C. 1002(c)).

21 “(18) PROGRAM.—Unless otherwise indicated,
22 the term ‘program’ means the program established
23 under subsection (a).

24 “(19) PROJECT.—The term ‘project’ means an
25 undertaking by a funding recipient under this sec-

tion to construct and deploy infrastructure for the provision of broadband service.

“(20) STATE.—The term ‘State’ has the meaning given such term in section 3, except that such term also includes the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(21) TRIBALLY DESIGNATED ENTITY.—The term ‘tribally designated entity’ means an entity designated by an Indian Tribe for purposes of paragraph (2)(B).

“(22) UNSERVED ANCHOR INSTITUTION.—The term ‘unserved anchor institution’ means an anchor institution that has no access to broadband service or does not have access to broadband service offered—

“(A) with a download speed of at least 1 gigabit per second per 1,000 users;

“(B) with an upload speed of at least 1 gigabit per second per 1,000 users; and

“(C) with latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications.

“(23) UNSERVED AREA.—The term ‘unserved area’ means an area where—

1 “(A) the Commission reasonably believes
 2 there are potential subscribers of broadband
 3 service; and

4 “(B) at least 90 percent of the population
 5 has no access to broadband service or does not
 6 have access to broadband service offered—

7 “(i) with a download speed of at least
 8 25 megabits per second;

9 “(ii) with an upload speed of at least
 10 25 megabits per second; and

11 “(iii) with latency that is sufficiently
 12 low to allow multiple, simultaneous, real-
 13 time, interactive applications.”.

14 (b) AUTHORIZATION OF APPROPRIATIONS FOR TRIB-
 15 AL BROADBAND CONNECTIVITY PROGRAM.—

16 (1) IN GENERAL.—Section 905(c) of division N
 17 of the Consolidated Appropriations Act, 2021 (Pub-
 18 lic Law 116–260) is amended by adding at the end
 19 the following:

20 “(9) AUTHORIZATION OF APPROPRIATIONS.—

21 There is authorized to be appropriated to the Assist-
 22 ant Secretary \$500,000,000 for fiscal year 2022 to
 23 carry out the grant program under this subsection,
 24 and such amount is authorized to remain available
 25 through fiscal year 2026.”.

1 (2) CONFORMING AMENDMENTS.—Section 905
2 of division N of the Consolidated Appropriations
3 Act, 2021 (Public Law 116–260) is amended—

4 (A) in subsection (c), by inserting “or
5 paragraph (9) of this subsection” after “sub-
6 section (b)(1)” each place it appears; and

7 (B) in subsection (e)—

8 (i) in paragraph (1)—

9 (I) in the matter preceding sub-
10 paragraph (A), by inserting after
11 “this Act” the following: “(and, in the
12 case of the grant program under sub-
13 section (c), not earlier than 30 days,
14 and not later than 60 days, after the
15 date of enactment of any other law
16 making available amounts to carry out
17 such program)”; and

18 (II) in subparagraph (A), by in-
19 serting after “eligible entities and cov-
20 ered partnerships” the following: “(or,
21 in the case of a notice issued by rea-
22 son of the enactment of a law, other
23 than this Act, making available
24 amounts to carry out the grant pro-

1 gram under subsection (c), eligible en-
2 tities)”; and

3 (ii) in paragraph (2)(A), by inserting
4 after “an eligible entity or covered partner-
5 ship” the following: “(or, in the case of a
6 notice issued by reason of the enactment of
7 a law, other than this Act, making avail-
8 able amounts to carry out the grant pro-
9 gram under subsection (c), an eligible enti-
10 ty)”.

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