

117TH CONGRESS
1ST SESSION

S. 745

To make high-speed broadband internet service accessible and affordable
to all Americans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2021

Ms. KLOBUCHAR (for herself, Mr. LUJÁN, Mr. SCHATZ, Mr. MARKEY, Ms. ROSEN, Mr. BLUMENTHAL, Mr. WARNOCK, Mr. DURBIN, Mr. WARNER, Mr. BOOKER, Ms. WARREN, Ms. CORTEZ MASTO, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To make high-speed broadband internet service accessible
and affordable to all Americans, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Accessible, Affordable Internet for All Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Sense of Congress.
- Sec. 4. Severability.

TITLE I—DIGITAL EQUITY

Sec. 1000. Definitions.

Subtitle A—Office of Internet Connectivity and Growth

Sec. 1101. Annual report of Office.

Sec. 1102. Study and report on affordability of adoption of broadband service.

Sec. 1103. Authorization of appropriations.

Sec. 1104. Study and recommendations to connect socially disadvantaged individuals.

Subtitle B—Digital Equity Programs

Sec. 1201. State Digital Equity Capacity Grant Program.

Sec. 1202. Digital Equity Competitive Grant Program.

Sec. 1203. Policy research, data collection, analysis and modeling, evaluation, and dissemination.

Sec. 1204. General provisions.

TITLE II—BROADBAND AFFORDABILITY AND PRICING
TRANSPARENCY

Subtitle A—Broadband Affordability

Sec. 2101. Authorization for additional funds for the Emergency Broadband Connectivity Fund.

Sec. 2102. Grants to States to strengthen National Lifeline Eligibility Verifier.

Sec. 2103. Federal coordination between National Eligibility Verifier and National Accuracy Clearinghouse.

Sec. 2104. Federal coordination between Lifeline and SNAP verification.

Sec. 2105. Definitions.

Subtitle B—Additional Authorization for Emergency Connectivity Fund

Sec. 2201. Additional authorization for Emergency Connectivity Fund.

Subtitle C—Additional Authorization for Connecting Minority Communities
Fund.

Sec. 2301. Additional authorization for Connecting Minority Communities Fund.

Subtitle D—Pricing Transparency

Sec. 2401. Definitions.

Sec. 2402. Broadband transparency.

Sec. 2403. Distribution of data.

Sec. 2404. Coordination with certain other Federal agencies.

Sec. 2405. Adoption of consumer broadband labels.

Sec. 2406. GAO report.

TITLE III—BROADBAND ACCESS

Subtitle A—Expansion of Broadband Access

Sec. 3101. Expansion of broadband access in unserved areas and areas with low-tier or mid-tier service.

Sec. 3102. Tribal internet expansion.

Subtitle B—Broadband Infrastructure Finance and Innovation

- Sec. 3201. Short title.
- Sec. 3202. Definitions.
- Sec. 3203. Determination of eligibility and project selection.
- Sec. 3204. Secured loans.
- Sec. 3205. Lines of credit.
- Sec. 3206. Alternative prudential lending standards for small projects.
- Sec. 3207. Program administration.
- Sec. 3208. State and local permits.
- Sec. 3209. Regulations.
- Sec. 3210. Funding.
- Sec. 3211. Reports to Congress.

Subtitle C—Wi-Fi on School Buses

- Sec. 3301. E-rate support for school bus Wi-Fi.

Subtitle D—Healthcare Broadband Expansion.

- Sec. 3401. Definitions.
- Sec. 3402. Expansion of Rural Health Care Program.

Subtitle E—Internet Exchange and Submarine Cable Grants.

- Sec. 3501. Definitions.
- Sec. 3502. Internet exchange facility grants.
- Sec. 3503. Submarine cable landing station grants.
- Sec. 3504. Report.
- Sec. 3505. Authorization of appropriations.
- Sec. 3506. Return of certain grant amounts.

TITLE IV—COMMUNITY BROADBAND

- Sec. 4001. State, local, public-private partnership, and co-op broadband services.

TITLE V—BROADBAND INFRASTRUCTURE DEPLOYMENT

- Sec. 5001. Broadband infrastructure deployment.

1 SEC. 2. DEFINITIONS.

2 In this Act:

- 3 (1) AGING INDIVIDUAL.—The term “aging indi-
- 4 vidual” has the meaning given the term “older indi-
- 5 vidual” in section 102 of the Older Americans Act
- 6 of 1965 (42 U.S.C. 3002).

1 (2) APPROPRIATE COMMITTEES OF CON-
2 GRESS.—The term “appropriate committees of Con-
3 gress” means—

4 (A) the Committee on Appropriations of
5 the Senate;

6 (B) the Committee on Commerce, Science,
7 and Transportation of the Senate;

8 (C) the Committee on Appropriations of
9 the House of Representatives; and

10 (D) the Committee on Energy and Com-
11 merce of the House of Representatives.

12 (3) ASSISTANT SECRETARY.—The term “Assist-
13 ant Secretary” means the Assistant Secretary of
14 Commerce for Communications and Information.

15 (4) COMMISSION.—The term “Commission”
16 means the Federal Communications Commission.

17 (5) COVERED HOUSEHOLD.—The term “covered
18 household” means a household the income of which
19 does not exceed 150 percent of the poverty thresh-
20 old, as determined by using criteria of poverty estab-
21 lished by the Bureau of the Census, for a household
22 of the size involved.

23 (6) COVERED POPULATIONS.—The term “cov-
24 ered populations” means—

1 (A) individuals who are members of cov-
2 ered households;

3 (B) aging individuals;

4 (C) incarcerated individuals, other than in-
5 dividuals who are incarcerated in a Federal cor-
6 rectional facility (including a private facility op-
7 erated under contract with the Federal Govern-
8 ment);

9 (D) veterans;

10 (E) individuals with disabilities;

11 (F) individuals with a language barrier, in-
12 cluding individuals who—

13 (i) are English learners; or

14 (ii) have low levels of literacy;

15 (G) individuals who are members of a ra-
16 cial or ethnic minority group; and

17 (H) individuals who primarily reside in a
18 rural area.

19 (7) DIGITAL LITERACY.—The term “digital lit-
20 eracy” means the skills associated with using tech-
21 nology to enable users to find, evaluate, organize,
22 create, and communicate information.

23 (8) DISABILITY.—The term “disability” has the
24 meaning given the term in section 3 of the Ameri-

1 cans with Disabilities Act of 1990 (42 U.S.C.
2 12102).

3 (9) FEDERAL AGENCY.—The term “Federal
4 agency” has the meaning given the term “agency”
5 in section 551 of title 5, United States Code.

6 (10) INDIAN TRIBE.—The term “Indian Tribe”
7 has the meaning given such term in section 4(e) of
8 the Indian Self-Determination and Education Assist-
9 ance Act (25 U.S.C. 5304(e)).

10 (11) INSTITUTION OF HIGHER EDUCATION.—
11 The term “institution of higher education”—

12 (A) has the meaning given the term in sec-
13 tion 101 of the Higher Education Act of 1965
14 (20 U.S.C. 1001); and

15 (B) includes a postsecondary vocational in-
16 stitution.

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

22 (13) RURAL AREA.—The term “rural area” has
23 the meaning given the term in section 13 of the
24 Rural Electrification Act of 1936 (7 U.S.C. 913).

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

4 (15) VETERAN.—The term “veteran” has the
 5 meaning given the term in section 101 of title 38,
 6 United States Code.

7 **SEC. 3. SENSE OF CONGRESS.**

8 (a) IN GENERAL.—It is the sense of Congress that—

9 (1) a broadband service connection and digital
 10 literacy are increasingly critical to how individuals—

11 (A) participate in the society, economy,
 12 and civic institutions of the United States; and

13 (B) access health care and essential serv-
 14 ices, obtain education, and build careers;

15 (2) digital exclusion—

16 (A) carries a high societal and economic
 17 cost;

18 (B) materially harms the opportunity of an
 19 individual with respect to the economic success,
 20 educational achievement, positive health out-
 21 comes, social inclusion, and civic engagement of
 22 that individual;

23 (C) materially harms the opportunity of
 24 areas where it is especially widespread with re-
 25 spect to economic success, educational achieve-

1 ment, positive health outcomes, social cohesion,
2 and civic institutions; and

3 (D) exacerbates existing wealth and income
4 gaps, especially those experienced by covered
5 populations and between regions;

6 (3) achieving accessible and affordable access to
7 broadband service, as well as digital literacy, for all
8 people of the United States requires additional and
9 sustained research efforts and investment;

10 (4) the Federal Government, as well as State,
11 Tribal, and local governments, have made social,
12 legal, and economic obligations that necessarily ex-
13 tend to how the citizens and residents of those gov-
14 ernments access and use the internet; and

15 (5) achieving accessible and affordable access to
16 broadband service is a matter of social and economic
17 justice and is worth pursuing.

18 (b) **BROADBAND SERVICE DEFINED.**—In this sec-
19 tion, the term “broadband service” has the meaning given
20 the term “broadband internet access service” in section
21 8.1(b) of title 47, Code of Federal Regulations, or any
22 successor regulation.

23 **SEC. 4. SEVERABILITY.**

24 If any provision of this Act, an amendment made by
25 this Act, or the application of such provision or amend-

1 ment to any person or circumstance is held to be invalid,
 2 the remainder of this Act and the amendments made by
 3 this Act, and the application of such provision or amend-
 4 ment to any other person or circumstance, shall not be
 5 affected thereby.

6 **TITLE I—DIGITAL EQUITY**

7 **SEC. 1000. DEFINITIONS.**

8 In this title:

9 (1) **ADOPTION OF BROADBAND SERVICE.**—The
 10 term “adoption of broadband service” means the
 11 process by which an individual obtains daily access
 12 to broadband service—

13 (A) with a download speed of at least 25
 14 megabits per second, an upload speed of at
 15 least 3 megabits per second, and a latency that
 16 is sufficiently low to allow real-time, interactive
 17 applications;

18 (B) with the digital skills that are nec-
 19 essary for the individual to participate online;
 20 and

21 (C) on a—

22 (i) personal device; and

23 (ii) secure and convenient network.

24 (2) **ANCHOR INSTITUTION.**—The term “anchor
 25 institution” means a public or private school, a li-

1 brary, a medical or healthcare provider, a museum,
2 a public safety entity, a public housing agency, a
3 community college, an institution of higher edu-
4 cation, a religious organization, or any other com-
5 munity support organization or agency.

6 (3) ASSISTANT SECRETARY.—The term “Assist-
7 ant Secretary” means the Assistant Secretary, act-
8 ing through the Office.

9 (4) BROADBAND SERVICE.—The term
10 “broadband service” has the meaning given the term
11 “broadband internet access service” in section 8.1(b)
12 of title 47, Code of Federal Regulations, or any suc-
13 cessor regulation.

14 (5) COVERED PROGRAMS.—The term “covered
15 programs” means the State Digital Equity Capacity
16 Grant Program established under section 1201 and
17 the Digital Equity Competitive Grant Program es-
18 tablished under section 1202.

19 (6) DIGITAL EQUITY.—The term “digital eq-
20 uity” means the condition in which individuals and
21 communities have the information technology capac-
22 ity that is needed for full participation in the society
23 and economy of the United States.

24 (7) DIGITAL INCLUSION ACTIVITIES.—The term
25 “digital inclusion activities”—

1 (A) means the activities that are necessary
2 to ensure that all individuals in the United
3 States have access to, and the use of, affordable
4 information and communication technologies,
5 such as—

6 (i) reliable broadband service;

7 (ii) internet-enabled devices that meet
8 the needs of the user; and

9 (iii) applications and online content
10 designed to enable and encourage self-suf-
11 ficiency, participation, and collaboration;
12 and

13 (B) includes—

14 (i) the provision of digital literacy
15 training;

16 (ii) the provision of quality technical
17 support; and

18 (iii) promoting basic awareness of
19 measures to ensure online privacy and cy-
20 bersecurity.

21 (8) ELIGIBLE STATE.—The term “eligible
22 State” means—

23 (A) with respect to planning grants made
24 available under section 1201(c)(3), a State with
25 respect to which the Assistant Secretary has

1 approved an application submitted to the As-
2 sistant Secretary under subparagraph (C) of
3 such section; and

4 (B) with respect to capacity grants award-
5 ed under section 1201(d), a State with respect
6 to which the Assistant Secretary has approved
7 an application submitted to the Assistant Sec-
8 retary under paragraph (2) of such section.

9 (9) FEDERAL BROADBAND SUPPORT PRO-
10 GRAM.—The term “Federal broadband support pro-
11 gram” has the meaning given such term in section
12 903 of division FF of the Consolidated Appropria-
13 tions Act, 2021 (Public Law 116–260).

14 (10) GENDER IDENTITY.—The term “gender
15 identity” has the meaning given the term in section
16 249(c) of title 18, United States Code.

17 (11) LOCAL EDUCATIONAL AGENCY.—The term
18 “local educational agency” has the meaning given
19 the term in section 8101(30) of the Elementary and
20 Secondary Education Act of 1965 (20 U.S.C.
21 7801(30)).

22 (12) MEDICAID ENROLLEE.—The term “Med-
23 icaid enrollee” means, with respect to a State, an in-
24 dividual enrolled in the State plan under title XIX

1 of the Social Security Act (42 U.S.C. 1396 et seq.)
2 or a waiver of that plan.

3 (13) NATIONAL LIFELINE ELIGIBILITY
4 VERIFIER.—The term “National Lifeline Eligibility
5 Verifier” has the meaning given such term in section
6 54.400 of title 47, Code of Federal Regulations (or
7 any successor regulation).

8 (14) NATIVE HAWAIIAN ORGANIZATION.—The
9 term “Native Hawaiian organization” means any or-
10 ganization—

11 (A) that serves the interests of Native Ha-
12 waiians;

13 (B) in which Native Hawaiians serve in
14 substantive and policymaking positions;

15 (C) that has as a primary and stated pur-
16 pose the provision of services to Native Hawai-
17 ians; and

18 (D) that is recognized for having expertise
19 in Native Hawaiian affairs, digital connectivity,
20 or access to broadband service.

21 (15) OFFICE.—The term “Office” means the
22 Office of Internet Connectivity and Growth within
23 the National Telecommunications and Information
24 Administration.

1 (16) PUBLIC HOUSING AGENCY.—The term
2 “public housing agency” has the meaning given the
3 term in section 3(b) of the United States Housing
4 Act of 1937 (42 U.S.C. 1437a(b)).

5 (17) SNAP PARTICIPANT.—The term “SNAP
6 participant” means an individual who is a member
7 of a household that participates in the supplemental
8 nutrition assistance program under the Food and
9 Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

10 (18) SOCIALLY AND ECONOMICALLY DISADVAN-
11 TAGED SMALL BUSINESS CONCERN.—The term “so-
12 cially and economically disadvantaged small business
13 concern” has the meaning given the term in section
14 8(a)(4) of the Small Business Act (15 U.S.C.
15 637(a)(4)).

16 (19) TRIBALLY DESIGNATED ENTITY.—The
17 term “tribally designated entity” means an entity
18 designated by an Indian Tribe to carry out activities
19 under this title.

20 (20) UNIVERSAL SERVICE FUND PROGRAM.—
21 The term “Universal Service Fund Program” has
22 the meaning given such term in section 903 of divi-
23 sion FF of the Consolidated Appropriations Act,
24 2021 (Public Law 116–260).

1 (21) WORKFORCE DEVELOPMENT PROGRAM.—
2 The term “workforce development program” has the
3 meaning given the term in section 3 of the Work-
4 force Innovation and Opportunity Act (29 U.S.C.
5 3102).

6 **Subtitle A—Office of Internet**
7 **Connectivity and Growth**

8 **SEC. 1101. ANNUAL REPORT OF OFFICE.**

9 Section 903(c)(2)(C) of division FF of the Consoli-
10 dated Appropriations Act, 2021 (Public Law 116–260) is
11 amended by adding at the end the following:

12 “(iv) A description of any non-eco-
13 nomic benefits of such broadband deploy-
14 ment efforts, including any effect on civic
15 engagement.

16 “(v) The extent to which residents of
17 the United States that received broadband
18 as a result of Federal broadband support
19 programs and the Universal Service Fund
20 Programs received broadband at the
21 download and upload speeds required by
22 such programs.”.

1 **SEC. 1102. STUDY AND REPORT ON AFFORDABILITY OF**
2 **ADOPTION OF BROADBAND SERVICE.**

3 Section 903 of division FF of the Consolidated Ap-
4 propriations Act, 2021 (Public Law 116–260) is amend-
5 ed—

6 (1) by redesignating subsections (g) and (h) as
7 subsections (i) and (j), respectively; and

8 (2) by inserting after subsection (f) the fol-
9 lowing:

10 “(g) **STUDY AND REPORT ON AFFORDABILITY OF**
11 **ADOPTION OF BROADBAND SERVICE.—**

12 “(1) **STUDY.—**The Office, in consultation with
13 the Commission, the Department of Agriculture, the
14 Department of the Treasury, and such other Federal
15 agencies as the Office considers appropriate, shall,
16 not later than 1 year after the date of the enactment
17 of this subsection, and biennially thereafter, conduct
18 a study that examines the following:

19 “(A) The number of households for which
20 cost is a barrier to the adoption of broadband
21 service, the financial circumstances of such
22 households, and whether such households are
23 eligible for the emergency broadband benefit
24 under section 904 of division N.

25 “(B) The extent to which the cost of adop-
26 tion of broadband service is a financial burden

1 to households that have adopted broadband
2 service, the financial circumstances of such fi-
3 nancially burdened households, and whether
4 such households are receiving the emergency
5 broadband benefit under section 904 of division
6 N.

7 “(C) The appropriate standard to deter-
8 mine whether adoption of broadband service is
9 affordable for households, given the financial
10 circumstances of such households.

11 “(D) The feasibility of providing additional
12 Federal subsidies, including expanding the eligi-
13 bility for or increasing the amount of the emer-
14 gency broadband benefit under section 904 of
15 division N, to households to cover the difference
16 between the cost of adoption of broadband serv-
17 ice (determined before applying such additional
18 Federal subsidies) and the price at which adop-
19 tion of broadband service would be affordable.

20 “(E) How a program to provide additional
21 Federal subsidies as described in subparagraph
22 (D) should be administered to most effectively
23 facilitate adoption of broadband service at the
24 lowest overall expense to the Federal Govern-
25 ment, including measures that would ensure

1 that the availability of the subsidies does not
2 result in providers raising the price of
3 broadband service for households receiving sub-
4 sidies.

5 “(F) How participation in the Lifeline pro-
6 gram of the Commission has changed in the 5
7 years prior to the date of the enactment of this
8 Act, including—

9 “(i) geographic information at the
10 census-block level depicting the scale of
11 change in participation in each area; and

12 “(ii) information on changes in par-
13 ticipation by specific types of Lifeline-sup-
14 ported services, including fixed voice te-
15 lephony service, mobile voice telephony
16 service, fixed broadband service, and mo-
17 bile broadband service and, in the case of
18 any Lifeline-supported services provided as
19 part of a bundle of services to which a
20 Lifeline discount is applied, which Lifeline-
21 supported services are part of such bundle
22 and whether or not each Lifeline-supported
23 service in such bundle meets Lifeline min-
24 imum service standards.

1 “(G) How competition impacts the price of
2 broadband service, including the impact of mo-
3 nopolistic business practices by broadband serv-
4 ice providers.

5 “(H) The extent to which, if at all, the
6 Universal Service Fund high-cost programs
7 have enabled access to reasonably comparable
8 telephony and broadband services at reasonably
9 comparable rates in high-cost rural areas as re-
10 quired by the Communications Act of 1934 (47
11 U.S.C. 151 et seq.), including a comparison of
12 the rates charged by recipients of support under
13 such programs in rural areas and rates charged
14 in urban areas, as determined by the Commis-
15 sion’s annual survey.

16 “(2) REPORT.—Not later than 1 year after the
17 date of the enactment of this subsection, and bienni-
18 ally thereafter, the Office shall submit to Congress
19 a report on the results of the study conducted under
20 paragraph (1).

21 “(3) DEFINITIONS.—In this subsection:

22 “(A) COST.—The term ‘cost’ means, with
23 respect to adoption of broadband service, the
24 cost of adoption of broadband service to a

1 household after applying any subsidies that re-
 2 duce such cost.

3 “(B) OTHER DEFINITIONS.—The terms
 4 ‘adoption of broadband service’ and ‘broadband
 5 service’ have the meanings given such terms in
 6 section 1000 of the Accessible, Affordable Inter-
 7 net for All Act.”.

8 **SEC. 1103. AUTHORIZATION OF APPROPRIATIONS.**

9 There is authorized to be appropriated to the Assist-
 10 ant Secretary \$26,000,000 for each of the fiscal years
 11 2022 through 2026 for the operations of the Office.

12 **SEC. 1104. STUDY AND RECOMMENDATIONS TO CONNECT**
 13 **SOCIALLY DISADVANTAGED INDIVIDUALS.**

14 Section 903 of division FF of the Consolidated Ap-
 15 propriations Act, 2021 (Public Law 116–260), as amend-
 16 ed by section 1102, is further amended by inserting before
 17 subsection (i) (as redesignated by such section) the fol-
 18 lowing:

19 “(h) STUDY AND RECOMMENDATIONS TO CONNECT
 20 SOCIALLY DISADVANTAGED INDIVIDUALS.—

21 “(1) IN GENERAL.—Not later than 12 months
 22 after the date of the enactment of this subsection,
 23 the Office, in consultation with the Commission and
 24 the Rural Utilities Service of the Department of Ag-
 25 riculture, shall, after public notice and an oppor-

1 tunity for comment, conduct a study to assess the
2 extent to which Federal funds for broadband service,
3 including the Universal Service Fund Programs and
4 other Federal broadband support programs, have ex-
5 panded access to and adoption of broadband service
6 by socially disadvantaged individuals as compared to
7 individuals who are not socially disadvantaged indi-
8 viduals.

9 “(2) REPORT AND PUBLICATION.—

10 “(A) SUBMISSION.—Not later than 18
11 months after the date of the enactment of this
12 subsection, the Office shall submit a report on
13 the results of the study under paragraph (1)
14 to—

15 “(i) the Committee on Energy and
16 Commerce of the House of Representa-
17 tives;

18 “(ii) the Committee on Commerce,
19 Science, and Transportation of the Senate;
20 and

21 “(iii) each agency administering a
22 program evaluated by such report.

23 “(B) PUBLIC PUBLICATION.—Contempora-
24 neously with submitting the report required by
25 subparagraph (A), the Office shall publish such

1 report on the public-facing website of the Of-
2 fice.

3 “(C) RECOMMENDATIONS.—The report re-
4 quired by subparagraph (A) shall include rec-
5 ommendations with regard to how Federal
6 funds for the Universal Service Fund Programs
7 and Federal broadband support programs may
8 be dispersed in an a manner that better ex-
9 pands access to and adoption of broadband
10 service by socially disadvantaged individuals as
11 compared to individuals who are not socially
12 disadvantaged individuals.

13 “(3) DEFINITIONS.—In this subsection:

14 “(A) SOCIALLY DISADVANTAGED INDI-
15 VIDUAL.—The term ‘socially disadvantaged in-
16 dividual’ has the meaning given that term in
17 section 8 of the Small Business Act (15 U.S.C.
18 637).

19 “(B) OTHER DEFINITIONS.—The terms
20 ‘adoption of broadband service’ and ‘broadband
21 service’ have the meanings given such terms in
22 section 1000 of the Accessible, Affordable Inter-
23 net for All Act.”.

1 **Subtitle B—Digital Equity**
2 **Programs**

3 **SEC. 1201. STATE DIGITAL EQUITY CAPACITY GRANT PRO-**
4 **GRAM.**

5 (a) ESTABLISHMENT; PURPOSE.—

6 (1) IN GENERAL.—The Assistant Secretary
7 shall establish in the Office the State Digital Equity
8 Capacity Grant Program (referred to in this section
9 as the “Program”)—

10 (A) the purpose of which is to promote the
11 achievement of digital equity, support digital in-
12 clusion activities, and build capacity for efforts
13 by States relating to the adoption of broadband
14 service by residents of those States;

15 (B) through which the Assistant Secretary
16 shall make grants to States in accordance with
17 the requirements of this section; and

18 (C) which shall ensure that States have the
19 capacity to promote the achievement of digital
20 equity and support digital inclusion activities.

21 (2) CONSULTATION WITH OTHER FEDERAL
22 AGENCIES; NO CONFLICT.—In establishing the Pro-
23 gram under paragraph (1), the Assistant Secretary
24 shall—

25 (A) consult with—

- 1 (i) the Secretary of Agriculture;
- 2 (ii) the Secretary of Housing and
3 Urban Development;
- 4 (iii) the Secretary of Education;
- 5 (iv) the Secretary of Labor;
- 6 (v) the Secretary of Health and
7 Human Services;
- 8 (vi) the Secretary of Veterans Affairs;
- 9 (vii) the Secretary of the Interior;
- 10 (viii) the Assistant Secretary for In-
11 dian Affairs of the Department of the Inte-
12 rior;
- 13 (ix) the Commission;
- 14 (x) the Federal Trade Commission;
- 15 (xi) the Director of the Institute of
16 Museum and Library Services;
- 17 (xii) the Administrator of the Small
18 Business Administration;
- 19 (xiii) the Federal Cochairman of the
20 Appalachian Regional Commission; and
- 21 (xiv) the head of any other Federal
22 agency that the Assistant Secretary deter-
23 mines to be appropriate; and
- 24 (B) ensure that the Program complements
25 and enhances, and does not conflict with, other

1 Federal broadband support programs and Uni-
2 versal Service Fund Programs.

3 (3) TRIBAL AND NATIVE HAWAIIAN CONSULTA-
4 TION AND ENGAGEMENT.—In establishing the Pro-
5 gram under paragraph (1), the Assistant Secretary
6 shall conduct robust, interactive, pre-decisional,
7 transparent consultation with Indian Tribes and Na-
8 tive Hawaiian organizations.

9 (b) ADMINISTERING ENTITY.—

10 (1) SELECTION; FUNCTION.—The governor (or
11 equivalent official) of a State that wishes to be
12 awarded a grant under this section shall, from
13 among entities that are eligible under paragraph (2),
14 select an administering entity for that State, which
15 shall—

16 (A) serve as the recipient of, and admin-
17 istering agent for, any grant awarded to the
18 State under this section;

19 (B) develop, implement, and oversee the
20 State Digital Equity Plan for the State de-
21 scribed in subsection (c);

22 (C) make subgrants to any of the entities
23 described in clauses (i) through (xi) of sub-
24 section (c)(1)(D) that is located in the State in
25 support of—

1 (i) the State Digital Equity Plan for
2 the State; and

3 (ii) digital inclusion activities in the
4 State generally; and

5 (D) serve as—

6 (i) an advocate for digital equity poli-
7 cies and digital inclusion activities; and

8 (ii) a repository of best practice mate-
9 rials regarding the policies and activities
10 described in clause (i).

11 (2) ELIGIBLE ENTITIES.—Any of the following
12 entities may serve as the administering entity for a
13 State for the purposes of this section if the entity
14 has demonstrated a capacity to administer the Pro-
15 gram on a statewide level:

16 (A) The State.

17 (B) A political subdivision, agency, or in-
18 strumentality of the State.

19 (C) An Indian Tribe located in the State,
20 a tribally designated entity located in the State,
21 or a Native Hawaiian organization located in
22 the State.

23 (c) STATE DIGITAL EQUITY PLAN.—

24 (1) DEVELOPMENT; CONTENTS.—A State that
25 wishes to be awarded a grant under subsection (d)

1 shall develop a State Digital Equity Plan for the
2 State, which shall include—

3 (A) an identification of the barriers to dig-
4 ital equity faced by covered populations in the
5 State;

6 (B) measurable objectives for documenting
7 and promoting, among each group described in
8 subparagraphs (A) through (H) of section 2(6)
9 located in that State—

10 (i) the availability of, and affordability
11 of access to, broadband service and tech-
12 nology needed for the use of broadband
13 service;

14 (ii) public awareness of such avail-
15 ability and affordability and of subsidies
16 available to increase such affordability (in-
17 cluding subsidies available through the
18 Lifeline program of the Commission), in-
19 cluding objectives to—

20 (I) inform Medicaid enrollees and
21 SNAP participants, and organizations
22 that serve Medicaid enrollees and
23 SNAP participants, of potential eligi-
24 bility for the Lifeline program; and

- 1 (II) provide Medicaid enrollees
2 and SNAP participants with informa-
3 tion about the Lifeline program, in-
4 cluding—
- 5 (aa) how to apply for the
6 Lifeline program; and
- 7 (bb) a description of the
8 prohibition on more than one
9 subscriber in each household re-
10 ceiving a service provided under
11 the Lifeline program;
- 12 (iii) the online accessibility and
13 inclusivity of public resources and services;
- 14 (iv) digital literacy;
- 15 (v) awareness of, and the use of,
16 measures to secure the online privacy of,
17 and cybersecurity with respect to, an indi-
18 vidual; and
- 19 (vi) the availability and affordability
20 of consumer devices and technical support
21 for those devices;
- 22 (C) an assessment of how the objectives
23 described in subparagraph (B) will impact and
24 interact with the State’s—

- 1 (i) economic and workforce develop-
2 ment goals, plans, and outcomes;
- 3 (ii) educational outcomes;
- 4 (iii) health outcomes;
- 5 (iv) civic and social engagement; and
- 6 (v) delivery of other essential services;
- 7 (D) in order to achieve the objectives de-
8 scribed in subparagraph (B), a description of
9 how the State plans to collaborate with key
10 stakeholders in the State, which may include—
- 11 (i) anchor institutions;
- 12 (ii) county and municipal govern-
13 ments;
- 14 (iii) local educational agencies;
- 15 (iv) where applicable, Indian Tribes,
16 tribally designated entities, or Native Ha-
17 waiian organizations;
- 18 (v) nonprofit organizations;
- 19 (vi) organizations that represent—
- 20 (I) individuals with disabilities,
21 including organizations that represent
22 children with disabilities;
- 23 (II) aging individuals;
- 24 (III) individuals with a language
25 barrier, including individuals who—

- 1 (aa) are English learners; or
2 (bb) have low levels of lit-
3 eracy;
4 (IV) veterans;
5 (V) individuals residing in rural
6 areas; and
7 (VI) incarcerated individuals in
8 that State, other than individuals who
9 are incarcerated in a Federal correc-
10 tional facility (including a private fa-
11 cility operated under contract with the
12 Federal Government);
13 (vii) civil rights organizations;
14 (viii) entities that carry out workforce
15 development programs;
16 (ix) agencies of the State that are re-
17 sponsible for administering or supervising
18 adult education and literacy activities in
19 the State;
20 (x) public housing agencies whose ju-
21 risdictions are located in the State; and
22 (xi) a consortium of any of the enti-
23 ties described in clauses (i) through (x);
24 and

1 (E) a list of organizations with which the
2 administering entity for the State collaborated
3 in developing and implementing the Plan.

4 (2) PUBLIC AVAILABILITY.—

5 (A) IN GENERAL.—The administering enti-
6 ty for a State shall make the State Digital Eq-
7 uity Plan of the State available for public com-
8 ment for a period of not less than 30 days be-
9 fore the date on which the State submits an ap-
10 plication to the Assistant Secretary under sub-
11 section (d)(2).

12 (B) CONSIDERATION OF COMMENTS RE-
13 CEIVED.—The administering entity for a State
14 shall, with respect to an application submitted
15 to the Assistant Secretary under subsection
16 (d)(2)—

17 (i) before submitting the application—

18 (I) consider all comments re-
19 ceived during the comment period de-
20 scribed in subparagraph (A) with re-
21 spect to the application (referred to in
22 this subparagraph as the “comment
23 period”); and

1 (II) make any changes to the
2 plan that the administering entity de-
3 termines to be appropriate; and

4 (ii) when submitting the application—

5 (I) describe any changes pursued
6 by the administering entity in re-
7 sponse to comments received during
8 the comment period; and

9 (II) include a written response to
10 each comment received during the
11 comment period.

12 (3) PLANNING GRANTS.—

13 (A) IN GENERAL.—Beginning in the first
14 fiscal year that begins after the date of the en-
15 actment of this Act, the Assistant Secretary
16 shall, in accordance with the requirements of
17 this paragraph, award planning grants to
18 States for the purpose of developing the State
19 Digital Equity Plans of those States under this
20 subsection.

21 (B) ELIGIBILITY.—In order to be awarded
22 a planning grant under this paragraph, a
23 State—

1 (i) shall submit to the Assistant Sec-
2 retary an application under subparagraph
3 (C); and

4 (ii) may not have been awarded, at
5 any time, a planning grant under this
6 paragraph.

7 (C) APPLICATION.—A State that wishes to
8 be awarded a planning grant under this para-
9 graph shall, not later than 60 days after the
10 date on which the notice of funding availability
11 with respect to the grant is released, submit to
12 the Assistant Secretary an application, in a for-
13 mat to be determined by the Assistant Sec-
14 retary, that contains the following materials:

15 (i) A description of the entity selected
16 to serve as the administering entity for the
17 State, as described in subsection (b).

18 (ii) A certification from the State
19 that, not later than 1 year after the date
20 on which the Assistant Secretary awards
21 the planning grant to the State, the ad-
22 ministering entity for that State will sub-
23 mit to the Assistant Secretary a State Dig-
24 ital Equity Plan developed under this sub-
25 section, which will comply with the require-

1 ments of this subsection, including the re-
2 quirements of paragraph (2).

3 (iii) The assurances required under
4 subsection (e).

5 (D) AWARDS.—

6 (i) AMOUNT OF GRANT.—The amount
7 of a planning grant awarded to an eligible
8 State under this paragraph shall be deter-
9 mined according to the formula under sub-
10 section (d)(3)(A)(i).

11 (ii) DURATION.—

12 (I) IN GENERAL.—Except as pro-
13 vided in subclause (II), with respect to
14 a planning grant awarded to an eligi-
15 ble State under this paragraph, the
16 State shall expend the grant funds
17 during the 1-year period beginning on
18 the date on which the State is award-
19 ed the grant funds.

20 (II) EXCEPTION.—The Assistant
21 Secretary may grant an extension of
22 not longer than 180 days with respect
23 to the requirement under subclause
24 (I).

1 (iii) CHALLENGE MECHANISM.—The
2 Assistant Secretary shall ensure that any
3 eligible State to which a planning grant is
4 awarded under this paragraph may appeal
5 or otherwise challenge in a timely fashion
6 the amount of the grant awarded to the
7 State, as determined under clause (i).

8 (E) USE OF FUNDS.—An eligible State to
9 which a planning grant is awarded under this
10 paragraph shall, through the administering en-
11 tity for that State, use the grant funds only for
12 the following purposes:

13 (i) To develop the State Digital Eq-
14 uity Plan of the State under this sub-
15 section.

16 (ii)(I) Subject to subclause (II), to
17 make subgrants to any of the entities de-
18 scribed in clauses (i) through (xi) of para-
19 graph (1)(D) to assist in the development
20 of the State Digital Equity Plan of the
21 State under this subsection.

22 (II) If the administering entity for a
23 State makes a subgrant described in sub-
24 clause (I), the administering entity shall,
25 with respect to the subgrant, provide to the

1 State the assurances required under sub-
2 section (e).

3 (d) STATE CAPACITY GRANTS.—

4 (1) IN GENERAL.—Beginning not later than 2
5 years after the date on which the Assistant Sec-
6 retary begins awarding planning grants under sub-
7 section (c)(3), the Assistant Secretary shall each
8 year award grants to eligible States to support—

9 (A) the implementation of the State Dig-
10 ital Equity Plans of those States; and

11 (B) digital inclusion activities in those
12 States.

13 (2) APPLICATION.—A State that wishes to be
14 awarded a grant under this subsection shall, not
15 later than 60 days after the date on which the notice
16 of funding availability with respect to the grant is
17 released, submit to the Assistant Secretary an appli-
18 cation, in a format to be determined by the Assist-
19 ant Secretary, that contains the following materials:

20 (A) A description of the entity selected to
21 serve as the administering entity for the State,
22 as described in subsection (b).

23 (B) The State Digital Equity Plan of that
24 State, as described in subsection (c).

1 (C) A certification that the State, acting
2 through the administering entity for the State,
3 shall—

4 (i) implement the State Digital Equity
5 Plan of the State; and

6 (ii) make grants in a manner that is
7 consistent with the aims of the Plan de-
8 scribed in clause (i).

9 (D) The assurances required under sub-
10 section (e).

11 (E) In the case of a State to which the As-
12 sistant Secretary has previously awarded a
13 grant under this subsection, any amendments
14 to the State Digital Equity Plan of that State,
15 as compared with the State Digital Equity Plan
16 of the State previously submitted.

17 (3) AWARDS.—

18 (A) AMOUNT OF GRANT.—

19 (i) FORMULA.—Subject to clauses (ii),
20 (iii), and (iv), the Assistant Secretary shall
21 calculate the amount of a grant awarded to
22 an eligible State under this subsection in
23 accordance with the following criteria,
24 using the best available data for all States

1 for the fiscal year in which the grant is
2 awarded:

3 (I) 50 percent of the total grant
4 amount shall be based on the popu-
5 lation of the eligible State in propor-
6 tion to the total population of all eligi-
7 ble States.

8 (II) 25 percent of the total grant
9 amount shall be based on the number
10 of individuals in the eligible State who
11 are members of covered populations in
12 proportion to the total number of indi-
13 viduals in all eligible States who are
14 members of covered populations.

15 (III) 25 percent of the total
16 grant amount shall be based on the
17 lack of availability of broadband serv-
18 ice and lack of adoption of broadband
19 service in the eligible State in propor-
20 tion to the lack of availability of
21 broadband service and lack of adop-
22 tion of broadband service in all eligi-
23 ble States, which shall be determined
24 according to data collected—

1 (aa) from the annual inquiry
2 of the Commission conducted
3 under section 706(b) of the Tele-
4 communications Act of 1996 (47
5 U.S.C. 1302(b));

6 (bb) from the American
7 Community Survey or, if nec-
8 essary, other data collected by
9 the Bureau of the Census;

10 (cc) from the Internet and
11 Computer Use Supplement to the
12 Current Population Survey of the
13 Bureau of the Census;

14 (dd) by the Commission pur-
15 suant to the rules issued under
16 section 802 of the Communica-
17 tions Act of 1934 (47 U.S.C.
18 642); and

19 (ee) from any other source
20 that the Assistant Secretary,
21 after appropriate notice and op-
22 portunity for public comment, de-
23 termines to be appropriate.

24 (ii) MINIMUM AWARD.—The amount
25 of a grant awarded to an eligible State

1 under this subsection in a fiscal year shall
2 be not less than 0.5 percent of the total
3 amount made available to award grants to
4 eligible States for that fiscal year.

5 (iii) ADDITIONAL AMOUNTS.—If, after
6 awarding planning grants to States under
7 subsection (c)(3) and capacity grants to el-
8 igible States under this subsection in a fis-
9 cal year, there are amounts remaining to
10 carry out this section, the Assistant Sec-
11 retary shall distribute those amounts—

12 (I) to eligible States to which the
13 Assistant Secretary has awarded
14 grants under this subsection for that
15 fiscal year; and

16 (II) in accordance with the for-
17 mula described in clause (i).

18 (iv) DATA UNAVAILABLE.—If, in a fis-
19 cal year, the Commonwealth of Puerto
20 Rico (referred to in this clause as “Puerto
21 Rico”) is an eligible State and specific data
22 for Puerto Rico is unavailable for a factor
23 described in subclause (I), (II), or (III) of
24 clause (i), the Assistant Secretary shall use
25 the median data point with respect to that

1 factor among all eligible States and assign
2 it to Puerto Rico for the purposes of mak-
3 ing any calculation under that clause for
4 that fiscal year.

5 (B) DURATION.—With respect to a grant
6 awarded to an eligible State under this sub-
7 section, the eligible State shall expend the grant
8 funds during the 5-year period beginning on the
9 date on which the eligible State is awarded the
10 grant funds.

11 (C) CHALLENGE MECHANISM.—The As-
12 sistant Secretary shall ensure that any eligible
13 State to which a grant is awarded under this
14 subsection may appeal or otherwise challenge in
15 a timely fashion the amount of the grant
16 awarded to the State, as determined under sub-
17 paragraph (A).

18 (D) USE OF FUNDS.—The administering
19 entity for an eligible State to which a grant is
20 awarded under this subsection shall use the
21 grant amounts for the following purposes:

22 (i)(I) Subject to subclause (II), to up-
23 date or maintain the State Digital Equity
24 Plan of the State.

1 (II) An administering entity for an el-
2 igible State to which a grant is awarded
3 under this subsection may use not more
4 than 20 percent of the amount of the
5 grant for the purpose described in sub-
6 clause (I).

7 (ii) To implement the State Digital
8 Equity Plan of the State.

9 (iii)(I) Subject to subclause (II), to
10 award a grant to any entity that is de-
11 scribed in section 1202(b) and is located in
12 the eligible State in order to—

13 (aa) assist in the implementation
14 of the State Digital Equity Plan of
15 the State;

16 (bb) pursue digital inclusion ac-
17 tivities in the State consistent with
18 the State Digital Equity Plan of the
19 State; and

20 (cc) report to the State regarding
21 the digital inclusion activities of the
22 entity.

23 (II) Before an administering entity
24 for an eligible State may award a grant
25 under subclause (I), the administering en-

1 tity shall require the entity to which the
2 grant is awarded to certify that—

3 (aa) the entity shall carry out the
4 activities required under items (aa),
5 (bb), and (cc) of that subclause;

6 (bb) the receipt of the grant shall
7 not result in unjust enrichment of the
8 entity; and

9 (cc) the entity shall cooperate
10 with any evaluation—

11 (AA) of any program that
12 relates to a grant awarded to the
13 entity; and

14 (BB) that is carried out by
15 or for the administering entity,
16 the Assistant Secretary, or an-
17 other Federal official.

18 (iv)(I) Subject to subclause (II), to
19 evaluate the efficacy of the efforts funded
20 by grants made under clause (iii).

21 (II) An administering entity for an el-
22 igible State to which a grant is awarded
23 under this subsection may use not more
24 than 5 percent of the amount of the grant
25 for a purpose described in subclause (I).

1 (v)(I) Subject to subclause (II), for
2 the administrative costs incurred in car-
3 rying out the activities described in clauses
4 (i) through (iv).

5 (II) An administering entity for an el-
6 igible State to which a grant is awarded
7 under this subsection may use not more
8 than 3 percent of the amount of the grant
9 for the purpose described in subclause (I).

10 (e) ASSURANCES.—When applying for a grant under
11 this section, a State shall include in the application for
12 that grant assurances that—

13 (1) if any of the entities described in clauses (i)
14 through (xi) of subsection (c)(1)(D) or section
15 1202(b) is awarded grant funds under this section
16 (referred to in this subsection as a “covered recipi-
17 ent”), provide that—

18 (A) the covered recipient shall use the
19 grant funds in accordance with any applicable
20 statute, regulation, or application procedure;

21 (B) the administering entity for that State
22 shall adopt and use proper methods of admin-
23 istering any grant that the covered recipient is
24 awarded, including by—

1 (i) enforcing any obligation imposed
2 under law on any agency, institution, orga-
3 nization, or other entity that is responsible
4 for carrying out the program to which the
5 grant relates;

6 (ii) correcting any deficiency in the
7 operation of a program to which the grant
8 relates, as identified through an audit or
9 another monitoring or evaluation proce-
10 dure; and

11 (iii) adopting written procedures for
12 the receipt and resolution of complaints al-
13 leging a violation of law with respect to a
14 program to which the grant relates; and

15 (C) the administering entity for that State
16 shall cooperate in carrying out any evaluation—

17 (i) of any program that relates to a
18 grant awarded to the covered recipient;
19 and

20 (ii) that is carried out by or for the
21 Assistant Secretary or another Federal of-
22 ficial;

23 (2) the administering entity for that State
24 shall—

1 (A) use fiscal control and fund accounting
2 procedures that ensure the proper disbursement
3 of, and accounting for, any Federal funds that
4 the State is awarded under this section;

5 (B) submit to the Assistant Secretary any
6 reports that may be necessary to enable the As-
7 sistant Secretary to perform the duties of the
8 Assistant Secretary under this section;

9 (C) maintain any records and provide any
10 information to the Assistant Secretary, includ-
11 ing those records, that the Assistant Secretary
12 determines is necessary to enable the Assistant
13 Secretary to perform the duties of the Assistant
14 Secretary under this section; and

15 (D) with respect to any significant pro-
16 posed change or amendment to the State Dig-
17 ital Equity Plan for the State, make the change
18 or amendment available for public comment in
19 accordance with subsection (c)(2); and

20 (3) the State, before submitting to the Assist-
21 ant Secretary the State Digital Equity Plan of the
22 State, has complied with the requirements of sub-
23 section (c)(2).

24 (f) TERMINATION OF GRANT.—

1 (1) IN GENERAL.—In addition to other author-
2 ity under applicable law, the Assistant Secretary
3 shall terminate a grant awarded to an eligible State
4 under this section if, after notice to the State and
5 opportunity for a hearing, the Assistant Secretary
6 determines, and presents to the State a rationale
7 and supporting information that clearly dem-
8 onstrates, that—

9 (A) the grant funds are not contributing to
10 the development or implementation of the State
11 Digital Equity Plan of the State, as applicable;

12 (B) the State is not upholding assurances
13 made by the State to the Assistant Secretary
14 under subsection (e); or

15 (C) the grant is no longer necessary to
16 achieve the original purpose for which the As-
17 sistant Secretary awarded the grant.

18 (2) REDISTRIBUTION.—If the Assistant Sec-
19 retary, in a fiscal year, terminates a grant under
20 paragraph (1) or under other authority under appli-
21 cable law, the Assistant Secretary shall redistribute
22 the unspent grant amounts—

23 (A) to eligible States to which the Assist-
24 ant Secretary has awarded grants under sub-
25 section (d) for that fiscal year; and

1 (B) in accordance with the formula de-
 2 scribed in subsection (d)(3)(A)(i).

3 (g) REPORTING AND INFORMATION REQUIREMENTS;
 4 INTERNET DISCLOSURE.—The Assistant Secretary—

5 (1) shall—

6 (A) require any entity to which a grant, in-
 7 cluding a subgrant, is awarded under this sec-
 8 tion to publicly report, for each year during the
 9 period described in subsection (c)(3)(D)(ii) or
 10 (d)(3)(B), as applicable, with respect to the
 11 grant, and in a format specified by the Assist-
 12 ant Secretary, on—

13 (i) the use of that grant by the entity;

14 (ii) the progress of the entity towards
 15 fulfilling the objectives for which the grant
 16 was awarded; and

17 (iii) the implementation of the State
 18 Digital Equity Plan of the State;

19 (B) establish appropriate mechanisms to
 20 ensure that any entity to which a grant, includ-
 21 ing a subgrant, is awarded under this section—

22 (i) uses the grant amounts in an ap-
 23 propriate manner; and

24 (ii) complies with all terms with re-
 25 spect to the use of the grant amounts; and

1 (C) create and maintain a fully searchable
2 database, which shall be accessible on the inter-
3 net at no cost to the public, that contains, at
4 a minimum—

5 (i) the application of each State that
6 has applied for a grant under this section;

7 (ii) the status of each application de-
8 scribed in clause (i);

9 (iii) each report submitted by an enti-
10 ty under subparagraph (A);

11 (iv) a record of public comments re-
12 ceived during the comment period de-
13 scribed in subsection (c)(2)(A) regarding
14 the State Digital Equity Plan of a State,
15 as well as any written responses to or ac-
16 tions taken as a result of those comments;
17 and

18 (v) any other information that the As-
19 sistant Secretary considers appropriate to
20 ensure that the public has sufficient infor-
21 mation to understand and monitor grants
22 awarded under this section; and

23 (2) may establish additional reporting and in-
24 formation requirements for any recipient of a grant
25 under this section.

1 (h) SUPPLEMENT NOT SUPPLANT.—A grant or
2 subgrant awarded under this section shall supplement, not
3 supplant, other Federal or State funds that have been
4 made available to carry out activities described in this sec-
5 tion.

6 (i) SET ASIDES.—From amounts made available in
7 a fiscal year to carry out the Program, the Assistant Sec-
8 retary shall reserve—

9 (1) not more than 5 percent for the implemen-
10 tation and administration of the Program, which
11 shall include—

12 (A) providing technical support and assist-
13 ance, including ensuring consistency in data re-
14 porting;

15 (B) providing assistance to—

16 (i) States, or administering entities
17 for States, to prepare the applications of
18 those States; and

19 (ii) administering entities with respect
20 to grants awarded under this section;

21 (C) developing the report required under
22 section 1203(a); and

23 (D) providing assistance specific to Indian
24 Tribes, tribally designated entities, and Native
25 Hawaiian organizations, including—

1 (i) conducting annual outreach to In-
2 dian Tribes and Native Hawaiian organiza-
3 tions on the availability of technical assist-
4 ance for applying for or otherwise partici-
5 pating in the Program;

6 (ii) providing technical assistance at
7 the request of any Indian Tribe, tribally
8 designated entity, or Native Hawaiian or-
9 ganization that is applying for or partici-
10 pating in the Program in order to facilitate
11 the fulfillment of any applicable require-
12 ments in subsections (c) and (d); and

13 (iii) providing additional technical as-
14 sistance at the request of any Indian
15 Tribe, tribally designated entity, or Native
16 Hawaiian organization that is applying for
17 or participating in the Program to improve
18 the development or implementation of a
19 Digital Equity plan, such as—

20 (I) assessing all Federal pro-
21 grams that are available to assist the
22 Indian Tribe, tribally designated enti-
23 ty, or Native Hawaiian organization
24 in meeting the goals of a Digital Eq-
25 uity plan;

1 (II) identifying all applicable
2 Federal, State, and Tribal statutory
3 provisions, regulations, policies, and
4 procedures that the Assistant Sec-
5 retary determines are necessary to ad-
6 here to for the deployment of
7 broadband service;

8 (III) identifying obstacles to the
9 deployment of broadband service
10 under a Digital Equity plan, as well
11 as potential solutions; or

12 (IV) identifying activities that
13 may be necessary to the success of a
14 Digital Equity plan, including digital
15 literacy training, technical support,
16 privacy and cybersecurity expertise,
17 and other end-user technology needs;
18 and

19 (2) not less than 5 percent to award grants di-
20 rectly to Indian Tribes, tribally designated entities,
21 and Native Hawaiian organizations to allow those
22 Tribes, entities, and organizations to carry out the
23 activities described in this section.

24 (j) RULES.—The Assistant Secretary may prescribe
25 such rules as may be necessary to carry out this section.

1 (k) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Assistant Sec-
3 retary—

4 (1) for the award of grants under subsection
5 (c)(3), \$60,000,000 for fiscal year 2022, and such
6 amount is authorized to remain available through
7 fiscal year 2026; and

8 (2) for the award of grants under subsection
9 (d), \$625,000,000 for fiscal year 2022, and such
10 amount is authorized to remain available through
11 fiscal year 2026.

12 **SEC. 1202. DIGITAL EQUITY COMPETITIVE GRANT PRO-**
13 **GRAM.**

14 (a) ESTABLISHMENT.—

15 (1) IN GENERAL.—Not later than 30 days after
16 the date on which the Assistant Secretary begins
17 awarding grants under section 1201(d), and not be-
18 fore that date, the Assistant Secretary shall estab-
19 lish in the Office the Digital Equity Competitive
20 Grant Program (referred to in this section as the
21 “Program”), the purpose of which is to award
22 grants to support efforts to achieve digital equity,
23 promote digital inclusion activities, and spur greater
24 adoption of broadband service among covered popu-
25 lations.

1 (2) CONSULTATION; NO CONFLICT.—In estab-
2 lishing the Program under paragraph (1), the As-
3 sistant Secretary—

4 (A) may consult a State with respect to—

5 (i) the identification of groups de-
6 scribed in subparagraphs (A) through (H)
7 of section 2(6) located in that State; and

8 (ii) the allocation of grant funds with-
9 in that State for projects in or affecting
10 the State; and

11 (B) shall—

12 (i) consult with—

13 (I) the Secretary of Agriculture;

14 (II) the Secretary of Housing
15 and Urban Development;

16 (III) the Secretary of Education;

17 (IV) the Secretary of Labor;

18 (V) the Secretary of Health and
19 Human Services;

20 (VI) the Secretary of Veterans
21 Affairs;

22 (VII) the Secretary of the Inte-
23 rior;

1 (VIII) the Assistant Secretary for
2 Indian Affairs of the Department of
3 the Interior;

4 (IX) the Commission;

5 (X) the Federal Trade Commis-
6 sion;

7 (XI) the Director of the Institute
8 of Museum and Library Services;

9 (XII) the Administrator of the
10 Small Business Administration;

11 (XIII) the Federal Cochairman
12 of the Appalachian Regional Commis-
13 sion; and

14 (XIV) the head of any other Fed-
15 eral agency that the Assistant Sec-
16 retary determines to be appropriate;
17 and

18 (ii) ensure that the Program com-
19 plements and enhances, and does not con-
20 flict with, other Federal broadband support
21 programs and Universal Service Fund Pro-
22 grams.

23 (b) ELIGIBILITY.—The Assistant Secretary may
24 award a grant under the Program to any of the following
25 entities if the entity is not serving, and has not served,

1 as the administering entity for a State under section
2 1201(b):

3 (1) A political subdivision, agency, or instru-
4 mentality of a State, including an agency of a State
5 that is responsible for administering or supervising
6 adult education and literacy activities in the State.

7 (2) An Indian Tribe, a tribally designated enti-
8 ty, or a Native Hawaiian organization.

9 (3) An entity that is—

10 (A) a not-for-profit entity; and

11 (B) not a school.

12 (4) An anchor institution.

13 (5) A local educational agency.

14 (6) An entity that carries out a workforce devel-
15 opment program.

16 (7) A consortium of any of the entities de-
17 scribed in paragraphs (1) through (6).

18 (8) A consortium of—

19 (A) an entity described in any of para-
20 graphs (1) through (6); and

21 (B) an entity that—

22 (i) the Assistant Secretary, by rule,
23 determines to be in the public interest; and

24 (ii) is not a school.

1 (c) APPLICATION.—An entity that wishes to be
2 awarded a grant under the Program shall submit to the
3 Assistant Secretary an application—

4 (1) at such time, in such form, and containing
5 such information as the Assistant Secretary may re-
6 quire; and

7 (2) that—

8 (A) provides a detailed explanation of how
9 the entity will use any grant amounts awarded
10 under the Program to carry out the purposes of
11 the Program in an efficient and expeditious
12 manner;

13 (B) identifies the period in which the ap-
14 plicant will expend the grant funds awarded
15 under the Program;

16 (C) includes—

17 (i) a justification for the amount of
18 the grant that the applicant is requesting;
19 and

20 (ii) for each fiscal year in which the
21 applicant will expend the grant funds, a
22 budget for the activities that the grant
23 funds will support;

24 (D) demonstrates to the satisfaction of the
25 Assistant Secretary that the entity—

1 (i) is capable of carrying out the
2 project or function to which the application
3 relates and the activities described in sub-
4 section (h)—

5 (I) in a competent manner; and

6 (II) in compliance with all appli-
7 cable Federal, State, and local laws;
8 and

9 (ii) if the applicant is an entity de-
10 scribed in subsection (b)(1), will appro-
11 priate or otherwise unconditionally obligate
12 from non-Federal sources funds that are
13 necessary to meet the requirements of sub-
14 section (e);

15 (E) discloses to the Assistant Secretary the
16 source and amount of other Federal, State, or
17 outside funding sources from which the entity
18 receives, or has applied for, funding for activi-
19 ties or projects to which the application relates;
20 and

21 (F) provides—

22 (i) the assurances that are required
23 under subsection (f); and

24 (ii) an assurance that the entity shall
25 follow such additional procedures as the

1 Assistant Secretary may require to ensure
2 that grant funds are used and accounted
3 for in an appropriate manner.

4 (d) AWARD OF GRANTS.—

5 (1) FACTORS CONSIDERED IN AWARD OF
6 GRANTS.—In deciding whether to award a grant
7 under the Program, the Assistant Secretary shall, to
8 the extent practicable, consider—

9 (A) whether—

10 (i) an application will, if approved—

11 (I) increase access to broadband
12 service and the adoption of broadband
13 service among covered populations to
14 be served by the applicant; and

15 (II) not result in unjust enrich-
16 ment; and

17 (ii) the applicant is, or plans to sub-
18 contract with, a socially and economically
19 disadvantaged small business concern;

20 (B) the comparative geographic diversity of
21 the application in relation to other eligible ap-
22 plications; and

23 (C) the extent to which an application may
24 duplicate or conflict with another program.

25 (2) USE OF FUNDS.—

1 (A) IN GENERAL.—In addition to the ac-
2 tivities required under subparagraph (B), an
3 entity to which the Assistant Secretary awards
4 a grant under the Program shall use the grant
5 amounts to support not less than one of the fol-
6 lowing activities:

7 (i) To develop and implement digital
8 inclusion activities that benefit covered
9 populations.

10 (ii) To facilitate the adoption of
11 broadband service by covered populations,
12 including by raising awareness of subsidies
13 available to increase affordability of such
14 service (including subsidies available
15 through the Commission), in order to pro-
16 vide educational and employment opportu-
17 nities to those populations.

18 (iii) To implement, consistent with the
19 purposes of this subtitle—

20 (I) training programs for covered
21 populations that cover basic, ad-
22 vanced, and applied skills; or

23 (II) other workforce development
24 programs.

1 (iv) To make available equipment, in-
2 strumentation, networking capability, hard-
3 ware and software, or digital network tech-
4 nology for broadband service to covered
5 populations at low or no cost.

6 (v) To construct, upgrade, expend, or
7 operate new or existing public access com-
8 puting centers for covered populations
9 through anchor institutions.

10 (vi) To undertake any other project or
11 activity that the Assistant Secretary finds
12 to be consistent with the purposes for
13 which the Program is established.

14 (B) EVALUATION.—

15 (i) IN GENERAL.—An entity to which
16 the Assistant Secretary awards a grant
17 under the Program shall use not more
18 than 10 percent of the grant amounts to
19 measure and evaluate the activities sup-
20 ported with the grant amounts.

21 (ii) SUBMISSION TO ASSISTANT SEC-
22 RETARY.—An entity to which the Assistant
23 Secretary awards a grant under the Pro-
24 gram shall submit to the Assistant Sec-

1 retary each measurement and evaluation
2 performed under clause (i)—

3 (I) in a manner specified by the
4 Assistant Secretary;

5 (II) not later than 15 months
6 after the date on which the entity is
7 awarded the grant amounts; and

8 (III) annually after the submis-
9 sion described in subclause (II) for
10 any year in which the entity expends
11 grant amounts.

12 (C) ADMINISTRATIVE COSTS.—An entity to
13 which the Assistant Secretary awards a grant
14 under the Program may use not more than 10
15 percent of the amount of the grant for adminis-
16 trative costs in carrying out any of the activities
17 described in subparagraph (A).

18 (D) TIME LIMITATIONS.—With respect to
19 a grant awarded to an entity under the Pro-
20 gram, the entity—

21 (i) except as provided in clause (ii),
22 shall expend the grant amounts during the
23 4-year period beginning on the date on
24 which the entity is awarded the grant
25 amounts; and

1 (ii) during the 1-year period beginning
2 on the date that is 4 years after the date
3 on which the entity is awarded the grant
4 amounts, may continue to measure and
5 evaluate the activities supported with the
6 grant amounts, as required under subpara-
7 graph (B).

8 (E) CONTRACTING REQUIREMENTS.—All
9 laborers and mechanics employed by contractors
10 or subcontractors in the performance of con-
11 struction, alteration, or repair work carried out,
12 in whole or in part, with a grant under the Pro-
13 gram shall be paid wages at rates not less than
14 those prevailing on projects of a similar char-
15 acter in the locality as determined by the Sec-
16 retary of Labor in accordance with subchapter
17 IV of chapter 31 of title 40, United States
18 Code. With respect to the labor standards in
19 this subparagraph, the Secretary of Labor shall
20 have the authority and functions set forth in
21 Reorganization Plan Numbered 14 of 1950 (64
22 Stat. 1267; 5 U.S.C. App.) and section 3145 of
23 title 40, United States Code.

24 (F) NEUTRALITY REQUIREMENT.—An em-
25 ployer to which the Assistant Secretary awards

1 a grant under the Program shall remain neutral
2 with respect to the exercise of employees and
3 labor organizations of the right to organize and
4 bargain under the National Labor Relations Act
5 (29 U.S.C. 151 et seq.).

6 (G) REFERRAL OF ALLEGED VIOLATIONS
7 OF APPLICABLE FEDERAL LABOR AND EMPLOY-
8 MENT LAWS.—The Assistant Secretary shall
9 refer any alleged violation of an applicable labor
10 and employment law to the appropriate Federal
11 agency for investigation and enforcement, any
12 alleged violation of subparagraph (E) or (F) to
13 the National Labor Relations Board for inves-
14 tigation and enforcement, utilizing all appro-
15 priate remedies up to and including debarment
16 from the Program.

17 (e) FEDERAL SHARE.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), the Federal share of any project for
20 which the Assistant Secretary awards a grant under
21 the Program may not exceed 90 percent.

22 (2) EXCEPTION.—The Assistant Secretary may
23 grant a waiver with respect to the limitation on the
24 Federal share of a project described in paragraph
25 (1) if—

1 (A) the applicant with respect to the
2 project petitions the Assistant Secretary for the
3 waiver; and

4 (B) the Assistant Secretary determines
5 that the petition described in subparagraph (A)
6 demonstrates financial need.

7 (f) ASSURANCES.—When applying for a grant under
8 this section, an entity shall include in the application for
9 that grant assurances that the entity will—

10 (1) use any grant funds that the entity is
11 awarded in accordance with any applicable statute,
12 regulation, or application procedure;

13 (2) adopt and use proper methods of admin-
14 istering any grant that the entity is awarded, includ-
15 ing by—

16 (A) enforcing any obligation imposed under
17 law on any agency, institution, organization, or
18 other entity that is responsible for carrying out
19 a program to which the grant relates;

20 (B) correcting any deficiency in the oper-
21 ation of a program to which the grant relates,
22 as identified through an audit or another moni-
23 toring or evaluation procedure; and

24 (C) adopting written procedures for the re-
25 ceipt and resolution of complaints alleging a

1 violation of law with respect to a program to
2 which the grant relates;

3 (3) cooperate with respect to any evaluation—

4 (A) of any program that relates to a grant
5 awarded to the entity; and

6 (B) that is carried out by or for the Assist-
7 ant Secretary or another Federal official;

8 (4) use fiscal control and fund accounting pro-
9 cedures that ensure the proper disbursement of, and
10 accounting for, any Federal funds that the entity is
11 awarded under the Program;

12 (5) submit to the Assistant Secretary any re-
13 ports that may be necessary to enable the Assistant
14 Secretary to perform the duties of the Assistant Sec-
15 retary under the Program; and

16 (6) maintain any records and provide any infor-
17 mation to the Assistant Secretary, including those
18 records, that the Assistant Secretary determines is
19 necessary to enable the Assistant Secretary to per-
20 form the duties of the Assistant Secretary under the
21 Program.

22 (g) TERMINATION OF GRANT.—In addition to other
23 authority under applicable law, the Assistant Secretary
24 shall—

1 (1) terminate a grant awarded to an entity
2 under this section if, after notice to the entity and
3 opportunity for a hearing, the Assistant Secretary
4 determines, and presents to the entity a rationale
5 and supporting information that clearly dem-
6 onstrates, that—

7 (A) the grant funds are not being used in
8 a manner that is consistent with the application
9 with respect to the grant submitted by the enti-
10 ty under subsection (c);

11 (B) the entity is not upholding assurances
12 made by the entity to the Assistant Secretary
13 under subsection (f); or

14 (C) the grant is no longer necessary to
15 achieve the original purpose for which the As-
16 sistant Secretary awarded the grant; and

17 (2) with respect to any grant funds that the As-
18 sistant Secretary terminates under paragraph (1) or
19 under other authority under applicable law, competi-
20 tively award the grant funds to another applicant (if
21 such an applicant exists), consistent with the re-
22 quirements of this section.

23 (h) REPORTING AND INFORMATION REQUIREMENTS;

24 INTERNET DISCLOSURE.—The Assistant Secretary—

25 (1) shall—

1 (A) require any entity to which the Assist-
2 ant Secretary awards a grant under the Pro-
3 gram to, for each year during the period de-
4 scribed in clause (i) of subsection (d)(2)(D)
5 with respect to the grant and during the period
6 described in clause (ii) of such subsection with
7 respect to the grant if the entity continues to
8 measure and evaluate the activities supported
9 with the grant amounts during such period,
10 submit to the Assistant Secretary a report, in
11 a format specified by the Assistant Secretary,
12 regarding—

13 (i) the use by the entity of the grant
14 amounts; and

15 (ii) the progress of the entity towards
16 fulfilling the objectives for which the grant
17 was awarded;

18 (B) establish mechanisms to ensure appro-
19 priate use of, and compliance with respect to all
20 terms regarding, grant funds awarded under
21 the Program;

22 (C) create and maintain a fully searchable
23 database, which shall be accessible on the inter-
24 net at no cost to the public, that contains, at
25 a minimum—

- 1 (i) a list of each entity that has ap-
2 plied for a grant under the Program;
- 3 (ii) a description of each application
4 described in clause (i), including the pro-
5 posed purpose of each grant described in
6 that clause;
- 7 (iii) the status of each application de-
8 scribed in clause (i), including whether the
9 Assistant Secretary has awarded a grant
10 with respect to the application and, if so,
11 the amount of the grant;
- 12 (iv) each report submitted by an enti-
13 ty under subparagraph (A); and
- 14 (v) any other information that the As-
15 sistant Secretary considers appropriate to
16 ensure that the public has sufficient infor-
17 mation to understand and monitor grants
18 awarded under the Program; and
- 19 (D) ensure that any entity with respect to
20 which an award is terminated under subsection
21 (g) may, in a timely manner, appeal or other-
22 wise challenge that termination; and
- 23 (2) may establish additional reporting and in-
24 formation requirements for any recipient of a grant
25 under the Program.

1 (i) SUPPLEMENT NOT SUPPLANT.—A grant awarded
2 to an entity under the Program shall supplement, not sup-
3 plant, other Federal or State funds that have been made
4 available to the entity to carry out activities described in
5 this section.

6 (j) SET ASIDES.—From amounts made available in
7 a fiscal year to carry out the Program, the Assistant Sec-
8 retary shall reserve—

9 (1) not more than 5 percent for the implemen-
10 tation and administration of the Program, which
11 shall include—

12 (A) providing technical support and assist-
13 ance, including ensuring consistency in data re-
14 porting;

15 (B) providing assistance to entities to pre-
16 pare the applications of those entities with re-
17 spect to grants awarded under this section;

18 (C) developing the report required under
19 section 1203(a); and

20 (D) conducting outreach to entities that
21 may be eligible to be awarded a grant under the
22 Program regarding opportunities to apply for
23 such a grant; and

24 (2) not less than 5 percent to award grants di-
25 rectly to Indian Tribes, tribally designated entities,

1 and Native Hawaiian organizations to allow those
2 Tribes, entities, and organizations to carry out the
3 activities described in this section.

4 (k) RULES.—The Assistant Secretary may prescribe
5 such rules as may be necessary to carry out this section.

6 (l) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Assistant Sec-
8 retary \$625,000,000 to carry out this section for fiscal
9 year 2022, and such amount is authorized to remain avail-
10 able through fiscal year 2026.

11 **SEC. 1203. POLICY RESEARCH, DATA COLLECTION, ANAL-**
12 **YSIS AND MODELING, EVALUATION, AND DIS-**
13 **SEMINATION.**

14 (a) REPORTING REQUIREMENTS.—

15 (1) IN GENERAL.—Not later than 1 year after
16 the date on which the Assistant Secretary begins
17 awarding grants under section 1201(d), and annu-
18 ally thereafter, the Assistant Secretary shall—

19 (A) submit to the appropriate committees
20 of Congress a report that documents, for the
21 year covered by the report—

22 (i) the findings of each evaluation
23 conducted under subparagraph (B);

- 1 (ii) a list of each grant awarded under
2 each covered program, which shall in-
3 clude—
- 4 (I) the amount of each such
5 grant;
- 6 (II) the recipient of each such
7 grant; and
- 8 (III) the purpose for which each
9 such grant was awarded;
- 10 (iii) any termination or modification
11 of a grant awarded under the covered pro-
12 grams, which shall include a description of
13 the subsequent usage of any funds to
14 which such an action applies; and
- 15 (iv) each challenge made by an appli-
16 cant for, or a recipient of, a grant under
17 the covered programs and the outcome of
18 each such challenge; and
- 19 (B) conduct evaluations of the activities
20 carried out under the covered programs, which
21 shall include an evaluation of—
- 22 (i) whether eligible States to which
23 grants are awarded under the program es-
24 tablished under section 1201 are—

1 (I) abiding by the assurances
2 made by those States under sub-
3 section (e) of that section;

4 (II) meeting, or have met, the
5 stated goals of the State Digital Eq-
6 uity Plans developed by the States
7 under subsection (c) of that section;

8 (III) satisfying the requirements
9 imposed by the Assistant Secretary on
10 those States under subsection (g) of
11 that section; and

12 (IV) in compliance with any
13 other rules, requirements, or regula-
14 tions promulgated by the Assistant
15 Secretary in implementing that pro-
16 gram; and

17 (ii) whether entities to which grants
18 are awarded under the program established
19 under section 1202 are—

20 (I) abiding by the assurances
21 made by those entities under sub-
22 section (f) of that section;

23 (II) meeting, or have met, the
24 stated goals of those entities with re-
25 spect to the use of the grant amounts;

1 (III) satisfying the requirements
2 imposed by the Assistant Secretary on
3 those entities under subsection (h) of
4 that section; and

5 (IV) in compliance with any
6 other rules, requirements, or regula-
7 tions promulgated by the Assistant
8 Secretary in implementing that pro-
9 gram.

10 (2) PUBLIC AVAILABILITY.—The Assistant Sec-
11 retary shall make each report submitted under para-
12 graph (1)(A) publicly available in an online format
13 that—

14 (A) facilitates access and ease of use;

15 (B) is searchable; and

16 (C) is accessible—

17 (i) to individuals with disabilities; and

18 (ii) in languages other than English.

19 (b) AUTHORITY TO CONTRACT AND ENTER INTO
20 OTHER ARRANGEMENTS.—The Assistant Secretary may
21 award grants and enter into contracts, cooperative agree-
22 ments, and other arrangements with Federal agencies,
23 public and private organizations, and other entities with
24 expertise that the Assistant Secretary determines appro-
25 priate in order to—

1 (1) evaluate the impact and efficacy of activities
2 supported by grants awarded under the covered pro-
3 grams; and

4 (2) develop, catalog, disseminate, and promote
5 the exchange of best practices, both with respect to
6 and independent of the covered programs, in order
7 to achieve digital equity.

8 (c) CONSULTATION AND PUBLIC ENGAGEMENT.—In
9 carrying out subsection (a), and to further the objectives
10 described in paragraphs (1) and (2) of subsection (b), the
11 Assistant Secretary shall conduct ongoing collaboration
12 and consult with—

13 (1) the Secretary of Agriculture;

14 (2) the Secretary of Housing and Urban Devel-
15 opment;

16 (3) the Secretary of Education;

17 (4) the Secretary of Labor;

18 (5) the Secretary of Health and Human Serv-
19 ices;

20 (6) the Secretary of Veterans Affairs;

21 (7) the Secretary of the Interior;

22 (8) the Assistant Secretary for Indian Affairs of
23 the Department of the Interior;

24 (9) the Commission;

25 (10) the Federal Trade Commission;

1 (11) the Director of the Institute of Museum
2 and Library Services;

3 (12) the Administrator of the Small Business
4 Administration;

5 (13) the Federal Cochairman of the Appa-
6 lachian Regional Commission;

7 (14) State agencies and governors of States (or
8 equivalent officials);

9 (15) entities serving as administering entities
10 for States under section 1201(b);

11 (16) national, State, Tribal, and local organiza-
12 tions that conduct digital inclusion activities, pro-
13 mote digital equity, or provide digital literacy serv-
14 ices;

15 (17) researchers, academics, and philanthropic
16 organizations; and

17 (18) other agencies, organizations (including
18 international organizations), entities (including enti-
19 ties with expertise in the fields of data collection,
20 analysis and modeling, and evaluation), and commu-
21 nity stakeholders, as determined appropriate by the
22 Assistant Secretary.

23 (d) TECHNICAL SUPPORT AND ASSISTANCE.—The
24 Assistant Secretary shall provide technical support and as-
25 sistance to potential applicants for the covered programs

1 and entities awarded grants under the covered programs,
2 to ensure consistency in data reporting and to meet the
3 objectives of this section.

4 **SEC. 1204. GENERAL PROVISIONS.**

5 (a) NONDISCRIMINATION.—

6 (1) IN GENERAL.—No individual in the United
7 States may, on the basis of actual or perceived race,
8 color, religion, national origin, sex, gender identity,
9 sexual orientation, age, or disability, be excluded
10 from participation in, be denied the benefits of, or
11 be subjected to discrimination under any program or
12 activity that is funded in whole or in part with funds
13 made available under this subtitle.

14 (2) ENFORCEMENT.—The Assistant Secretary
15 shall effectuate paragraph (1) with respect to any
16 program or activity described in that paragraph by
17 issuing regulations and taking actions consistent
18 with section 602 of the Civil Rights Act of 1964 (42
19 U.S.C. 2000d–1).

20 (3) JUDICIAL REVIEW.—Judicial review of an
21 action taken by the Assistant Secretary under para-
22 graph (2) shall be available to the extent provided in
23 section 603 of the Civil Rights Act of 1964 (42
24 U.S.C. 2000d–2).

1 (b) TECHNOLOGICAL NEUTRALITY.—The Assistant
 2 Secretary shall, to the extent practicable, carry out this
 3 subtitle in a technologically neutral manner.

4 (c) AUDIT AND OVERSIGHT.—There are authorized
 5 to be appropriated to the Office of Inspector General of
 6 the Department of Commerce for audits and oversight of
 7 funds made available to carry out this subtitle, \$1,000,000
 8 for fiscal year 2022, and such amount is authorized to
 9 remain available through fiscal year 2026.

10 **TITLE II—BROADBAND AFFORD-**
 11 **ABILITY AND PRICING TRANS-**
 12 **PARENCY**

13 **Subtitle A—Broadband**
 14 **Affordability**

15 **SEC. 2101. AUTHORIZATION FOR ADDITIONAL FUNDS FOR**
 16 **THE EMERGENCY BROADBAND**
 17 **CONNECTIVITY FUND.**

18 There are authorized to be appropriated to the Emer-
 19 gency Broadband Connectivity Fund established under
 20 subsection (i) of section 904 of title IX of division N of
 21 the Consolidated Appropriations Act, 2021 (Public Law
 22 116–260) \$6,000,000,000 for fiscal year 2022 for the pur-
 23 poses described in paragraph (3) of such subsection, and
 24 such amount is authorized to remain available through fis-
 25 cal year 2026.

1 **SEC. 2102. GRANTS TO STATES TO STRENGTHEN NATIONAL**
2 **LIFELINE ELIGIBILITY VERIFIER.**

3 (a) IN GENERAL.—Not later than 45 days after the
4 date of the enactment of this Act, the Commission shall
5 establish a program to provide a grant, from amounts ap-
6 propriated under subsection (d), to each eligible entity for
7 the purpose described under subsection (b).

8 (b) PURPOSE.—The Commission shall make a grant
9 to each eligible entity for the purpose of establishing or
10 amending a connection between the databases of such en-
11 tity that contain information concerning the receipt by a
12 household, or a member of a household, of benefits under
13 a program administered by such entity (including any ben-
14 efit provided under the supplemental nutrition assistance
15 program under the Food and Nutrition Act of 2008 (7
16 U.S.C. 2011 et seq.)) and the National Lifeline Eligibility
17 Verifier so that the receipt by a household, or a member
18 of a household, of benefits under such benefits program—

19 (1) is reflected in the National Lifeline Eligi-
20 bility Verifier; and

21 (2) can be used to verify eligibility for—

22 (A) the Lifeline program established under
23 subpart E, part 54, of title 47, Code of Federal
24 Regulations (or any successor regulation); and

25 (B) the Emergency Broadband Benefit
26 Program established under section 904(b) of

1 title IX of division N of the Consolidated Ap-
2 propriations Act, 2021 (Public Law 116–260).

3 (c) DISBURSEMENT OF GRANT FUNDS.—Not later
4 than 60 days after the program established under sub-
5 section (a) is established, funds provided under each grant
6 made under such subsection shall be disbursed to the enti-
7 ty receiving such grant.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated \$200,000,000 for fiscal
10 year 2022 for the purposes of carrying out this section,
11 and such amount is authorized to remain available
12 through fiscal year 2026.

13 (e) ELIGIBLE ENTITIES.—In this section, the term
14 “eligible entity” means an entity that—

15 (1) is a State or Tribal entity; and

16 (2) not later than 30 days after the date of the
17 enactment of this Act, submits to the Commission
18 an application containing such information as the
19 Commission may require.

20 **SEC. 2103. FEDERAL COORDINATION BETWEEN NATIONAL**
21 **ELIGIBILITY VERIFIER AND NATIONAL ACCU-**
22 **RACY CLEARINGHOUSE.**

23 Notwithstanding section 11(x)(2)(C)(i) of the Food
24 and Nutrition Act of 2008 (7 U.S.C. 2020(x)(2)(C)(i)),
25 not later than 180 days after the date of the enactment

1 of this Act, the Commission shall, in coordination with the
2 Secretary of Agriculture, establish an automated connec-
3 tion, to the maximum extent practicable, between the Na-
4 tional Lifeline Eligibility Verifier and the National Accu-
5 racy Clearinghouse established under section 11(x) of the
6 Food and Nutrition Act of 2008 (7 U.S.C. 2020(x)) for
7 the supplemental nutrition assistance program.

8 **SEC. 2104. FEDERAL COORDINATION BETWEEN LIFELINE**
9 **AND SNAP VERIFICATION.**

10 (a) IN GENERAL.—Notwithstanding section
11 11(x)(2)(c)(i) of the Food and Nutrition Act of 2008 (7
12 U.S.C. 2020(x)(2)(C)(i)), not later than 180 days after
13 the date of enactment of this Act, the Commission shall,
14 in coordination with the Secretary of Agriculture, establish
15 an automated connection, to the maximum extent prac-
16 ticable, between the National Lifeline Eligibility Verifier
17 and the National Accuracy Clearinghouse established
18 under section 11(x) of the Food and Nutrition Act of 2008
19 (7 U.S.C. 2020(x)) for the Supplemental Nutrition Assist-
20 ance Program.

21 (b) ANNUAL REPORT.—Not later than 1 year after
22 the date of enactment of this Act, and each year there-
23 after, the Secretary of Agriculture, in consultation with
24 the Commission, shall produce a report on enrollment in
25 the Lifeline program by individuals participating in the

1 supplemental nutrition assistance program established
2 under the Food and Nutrition Act of 2008 (7 U.S.C.
3 20112 et seq.).

4 (c) STUDY.—Not later than 1 year after the date of
5 enactment of this Act, the Commission shall conduct a
6 study and submit a report to the Congress on—

7 (1) the projected number of new broadband
8 service consumers who adopted broadband service
9 through a Federal assistance program; and

10 (2) data that illustrates the efficacy of various
11 advertising efforts on eligibility for the Lifeline pro-
12 gram.

13 **SEC. 2105. DEFINITIONS.**

14 In this subtitle:

15 (1) AUTOMATED CONNECTION.—The term
16 “automated connection” means a connection be-
17 tween two or more information systems where the
18 manual input of information in one system leads to
19 the automatic input of the same information into
20 any other connected system.

21 (2) NATIONAL LIFELINE ELIGIBILITY
22 VERIFIER.—The term “National Lifeline Eligibility
23 Verifier” has the meaning given such term in section
24 54.400 of title 47, Code of Federal Regulations (or
25 any successor regulation).

1 (3) TRIBAL ENTITY.—The term “Tribal entity”
2 means any of the following:

3 (A) The governing body of any Indian or
4 Alaska Native Tribe, band, nation, pueblo, vil-
5 lage, community, component band, or compo-
6 nent reservation, individually recognized (in-
7 cluding parenthetically) in the list published
8 most recently as of the date of enactment of
9 this Act pursuant to section 104 of the Feder-
10 ally Recognized Indian Tribe List Act of 1994
11 (25 U.S.C. 5131).

12 (B) The Department of Hawaiian Home
13 Lands.

14 **Subtitle B—Additional Authoriza-**
15 **tion for Emergency**
16 **Connectivity Fund**

17 **SEC. 2201. ADDITIONAL AUTHORIZATION FOR EMERGENCY**
18 **CONNECTIVITY FUND.**

19 There is authorized to be appropriated to the Emer-
20 gency Connectivity Fund established under section
21 7402(c) of the American Rescue Plan Act of 2021
22 \$2,000,000,000 for fiscal year 2022 for the purposes de-
23 scribed in such section, and such amount is authorized to
24 remain available through fiscal year 2026.

1 **Subtitle C—Additional Authoriza-**
 2 **tion for Connecting Minority**
 3 **Communities Fund.**

4 **SEC. 2301. ADDITIONAL AUTHORIZATION FOR CONNECTING**
 5 **MINORITY COMMUNITIES FUND.**

6 There are authorized to be appropriated to the Con-
 7 necting Minority Communities Fund established under
 8 section 902(c)(2) of title IX of division N of the Consoli-
 9 dated Appropriations Act, 2021 (Public Law 116–260)
 10 \$1,000,000,000 for fiscal year 2022 for the purposes de-
 11 scribed in subparagraph (B) of such section, and such
 12 amount is authorized to remain available through fiscal
 13 year 2026.

14 **Subtitle D—Pricing Transparency**

15 **SEC. 2401. DEFINITIONS.**

16 In this subtitle:

17 (1) BROADBAND INTERNET ACCESS SERVICE.—

18 The term “broadband internet access service” has
 19 the meaning given the term in section 8.1(b) of title
 20 47, Code of Federal Regulations, or any successor
 21 regulation.

22 (2) FIXED WIRELESS BROADBAND.—The term

23 “fixed wireless broadband” means broadband inter-
 24 net access service that serves end users primarily at
 25 fixed endpoints through stationary equipment con-

1 nected by the use of radio, such as by the use of un-
2 licensed spectrum.

3 (3) MOBILE BROADBAND.—The term “mobile
4 broadband”—

5 (A) means broadband internet access serv-
6 ice that serves end users primarily using mobile
7 stations;

8 (B) includes services that use smartphones
9 or mobile network-enabled tablets as the pri-
10 mary endpoints for connection to the internet;
11 and

12 (C) includes mobile satellite broadband
13 internet access services.

14 (4) PROVIDER.—The term “provider” means a
15 provider of fixed or mobile broadband internet access
16 service.

17 (5) SATELLITE BROADBAND.—The term “sat-
18 ellite broadband” means broadband internet access
19 service that serves end users primarily at fixed
20 endpoints through stationary equipment connected
21 by the use of orbital satellites.

22 (6) TERRESTRIAL FIXED BROADBAND.—The
23 term “terrestrial fixed broadband” means broadband
24 internet access service that serves end users pri-
25 marily at fixed endpoints through stationary equip-

1 ment connected by wired technology such as cable,
2 DSL, and fiber.

3 **SEC. 2402. BROADBAND TRANSPARENCY.**

4 (a) RULES.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the date of the enactment of this Act, the Commis-
7 sion shall issue final rules that include a require-
8 ment for the annual collection by the Commission of
9 data relating to the price and subscription rates of
10 terrestrial fixed broadband, fixed wireless
11 broadband, satellite broadband, and mobile
12 broadband.

13 (2) UPDATES.—Not later than 90 days after
14 the date on which rules are issued under paragraph
15 (1), and when determined to be necessary by the
16 Commission thereafter, the Commission shall revise
17 such rules to verify the accuracy of data submitted
18 pursuant to such rules.

19 (3) REDUNDANCY AVOIDANCE.—Nothing in this
20 section shall be construed to require the Commis-
21 sion, in order to meet a requirement of this section,
22 to duplicate an activity that the Commission is un-
23 dertaking as of the date of the enactment of this
24 Act, if the Commission refers to such activity in the
25 rules issued under paragraph (1), such activity

1 meets the requirements of this section, and the Com-
2 mission discloses such activity to the public.

3 (b) CONTENT OF RULES.—The rules issued by the
4 Commission under subsection (a)(1) shall require the
5 Commission to collect from each provider of terrestrial
6 fixed broadband, fixed wireless broadband, mobile
7 broadband, or satellite broadband, data that includes—

8 (1) either the weighted average of the monthly
9 prices charged to subscribed households within each
10 census block for each distinct broadband internet ac-
11 cess service plan or tier of standalone broadband
12 internet access service, including mandatory equip-
13 ment charges, usage-based fees, and fees for early
14 termination of required contracts, or the monthly
15 price charged to each subscribed household, includ-
16 ing such charges and fees;

17 (2) either the mean monthly price within the
18 duration of subscription contracts offered within
19 each census block for each distinct broadband inter-
20 net access service plan or tier of standalone
21 broadband internet access service, including manda-
22 tory equipment charges, usage-based fees, and fees
23 for early termination of required contracts, or the
24 mean monthly price within the duration of subscrip-

1 tion contracts offered to each household, including
2 such charges and fees;

3 (3) either the subscription rate within each cen-
4 sus block for each distinct broadband internet access
5 service plan or tier of standalone broadband internet
6 access service, or information regarding the sub-
7 scription status of each household to which a sub-
8 scription is offered;

9 (4) data necessary to demonstrate the actual
10 price paid by subscribers of broadband internet ac-
11 cess service at each tier for such service in a manner
12 that—

13 (A) takes into account any discounts (or
14 similar price concessions); and

15 (B) identifies any additional taxes and fees
16 (including for the use of equipment related to
17 the use of a subscription for such service), any
18 monthly data usage limitation at the stated
19 price, and the extent to which the price of the
20 service reflects inclusion within a product bun-
21 dle; and

22 (5) data necessary to assess the resiliency of
23 the broadband internet access service network in the
24 event of a natural disaster or emergency.

1 (c) **TECHNICAL ASSISTANCE.**—The Commission shall
2 provide technical assistance to small providers (as defined
3 by the Commission) of broadband internet access service,
4 to ensure such providers can fulfill the requirements of
5 this section.

6 **SEC. 2403. DISTRIBUTION OF DATA.**

7 (a) **AVAILABILITY OF DATA.**—Subject to subsection
8 (b), the Commission shall make all data relating to
9 broadband internet access service collected under rules re-
10 quired by this subtitle available in a commonly used elec-
11 tronic format to—

12 (1) other Federal agencies, including the Na-
13 tional Telecommunications and Information Admin-
14 istration, to assist that agency in conducting the
15 study required by subsection (g) of section 903 of di-
16 vision FF of the Consolidated Appropriations Act,
17 2021 (Public Law 116–260), as added by this Act;

18 (2) a broadband office, public utility commis-
19 sion, broadband mapping program, or other
20 broadband program of a State, in the case of data
21 pertaining to the needs of that State;

22 (3) a unit of local government, in the case of
23 data pertaining to the needs of that locality; and

1 (4) an individual or organization conducting re-
2 search for noncommercial purposes or public interest
3 purposes.

4 (b) PROTECTION OF DATA.—

5 (1) IN GENERAL.—The Commission may not
6 share any data described in subsection (a) with an
7 entity or individual described in that subsection un-
8 less the Commission has determined that the receiv-
9 ing entity or individual has the capability and intent
10 to protect any personally identifiable information
11 contained in the data.

12 (2) DETERMINATION OF PERSONALLY IDENTIFI-
13 FIABLE INFORMATION.—The Commission—

14 (A) shall define the term “personally iden-
15 tifiable information”, for purposes of paragraph
16 (1), through notice and comment rulemaking;
17 and

18 (B) may not share any data under sub-
19 section (a) before completing the rulemaking
20 under subparagraph (A).

21 (c) BALANCING ACCESS AND PROTECTION.—If the
22 Commission is unable to determine under subsection
23 (b)(1) that an entity or individual requesting access to
24 data under subsection (a) has the capability to protect per-
25 sonally identifiable information contained in the data, the

1 Commission shall make as much of the data available as
2 possible in a format that does not compromise personally
3 identifiable information, through methods such as
4 anonymization.

5 **SEC. 2404. COORDINATION WITH CERTAIN OTHER FEDERAL**
6 **AGENCIES.**

7 Section 804(b)(2) of the Communications Act of
8 1934 (47 U.S.C. 644(b)(2)), as added by the Broadband
9 DATA Act (Public Law 116–130), is amended—

10 (1) in subparagraph (A)(ii), by striking the
11 semicolon at the end and inserting “; and”;

12 (2) by amending subparagraph (B) to read as
13 follows:

14 “(B) coordinate with the Postmaster Gen-
15 eral, the heads of other Federal agencies that
16 operate delivery fleet vehicles, and the Director
17 of the Bureau of the Census for assistance with
18 data collection whenever coordination could fea-
19 sibly yield more specific geographic data.”; and

20 (3) by striking subparagraph (C).

21 **SEC. 2405. ADOPTION OF CONSUMER BROADBAND LABELS.**

22 (a) FINAL RULE.—Not later than 1 year after the
23 date of the enactment of this Act, the Commission shall
24 promulgate regulations to promote and incentivize the
25 widespread adoption of broadband consumer labels, as de-

1 scribed in the Public Notice of the Commission issued on
2 April 4, 2016 (DA 16–357), to disclose to consumers in-
3 formation regarding broadband internet access service
4 plans.

5 (b) HEARINGS.—In issuing the final rule under sub-
6 section (a), the Commission shall conduct a series of pub-
7 lic hearings to assess, at the time of the proceeding—

8 (1) how consumers evaluate broadband internet
9 access service plans; and

10 (2) whether disclosures to consumers of infor-
11 mation regarding broadband internet access service
12 plans, including those required under section 8.1 of
13 title 47, Code of Federal Regulations, are available,
14 effective, and sufficient.

15 **SEC. 2406. GAO REPORT.**

16 Not later than one year after the date of the enact-
17 ment of this Act, the Comptroller General of the United
18 States shall submit to the Committee on Energy and Com-
19 merce of the House of Representatives, the Committee on
20 Agriculture of the House of Representatives, the Com-
21 mittee on Transportation and Infrastructure of the House
22 of the Representatives, the Committee on Commerce,
23 Science, and Transportation of the Senate, the Committee
24 on Environment and Public Works of the Senate, and the
25 Committee on Agriculture, Nutrition, and Forestry of the

1 Senate, a report that evaluates the process used by the
2 Commission for establishing, reviewing, and updating the
3 upload and download broadband internet access service
4 speed thresholds, including—

5 (1) how the Commission reviews and updates
6 broadband internet access speed thresholds;

7 (2) whether the Commission considers future
8 broadband internet access service speed needs when
9 establishing broadband internet access service speed
10 thresholds, including whether the Commission con-
11 sider the need, or the anticipated need, for higher
12 upload or download broadband internet access serv-
13 ice speeds in the five-year period and the ten-year
14 period after the date on which a broadband internet
15 access service speed threshold is to be established;
16 and

17 (3) how the Commission considers the impacts
18 of changing uses of the internet in establishing, re-
19 viewing, or updating broadband internet access serv-
20 ice speed thresholds, including—

21 (A) the proliferation of internet-based busi-
22 ness;

23 (B) working remotely and running a busi-
24 ness from home;

25 (C) video conferencing;

- 1 (D) distance learning;
 2 (E) in-house web hosting; and
 3 (F) cloud data storage.

4 **TITLE III—BROADBAND ACCESS**
 5 **Subtitle A—Expansion of**
 6 **Broadband Access**

7 **SEC. 3101. EXPANSION OF BROADBAND ACCESS IN**
 8 **UNSERVED AREAS AND AREAS WITH LOW-**
 9 **TIER OR MID-TIER SERVICE.**

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

13 **“SEC. 723. EXPANSION OF BROADBAND ACCESS IN**
 14 **UNSERVED AREAS AND AREAS WITH LOW-**
 15 **TIER OR MID-TIER SERVICE.**

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

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

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

4 “(b) USE OF PROGRAM FUNDS.—

5 “(1) EXPANDING ACCESS TO BROADBAND SERV-
6 ICE THROUGH NATIONAL SYSTEM OF COMPETITIVE
7 BIDDING.—Not later than 18 months after the date
8 of the enactment of this section, the Commission
9 shall award 75 percent of the amounts appropriated
10 under subsection (g) through national systems of
11 competitive bidding to funding recipients only to ex-
12 pand access to broadband service in unserved areas
13 and areas with low-tier service.

14 “(2) EXPANDING ACCESS TO BROADBAND SERV-
15 ICE THROUGH STATES.—

16 “(A) DISTRIBUTION OF FUNDS TO
17 STATES.—Not later than 255 days after the
18 date of the enactment of this section, the Com-
19 mission shall distribute 25 percent of the
20 amounts appropriated under subsection (g)
21 among the States, as follows:

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

1 “(ii) \$100,000,000 shall be allocated
2 equally among and distributed to the
3 United States Virgin Islands, Guam,
4 American Samoa, the Commonwealth of
5 the Northern Mariana Islands, the Repub-
6 lic of the Marshall Islands, the Federated
7 States of Micronesia, and the Republic of
8 Palau.

9 “(iii) The remainder shall be allocated
10 among and distributed to the entities de-
11 scribed in clause (i), in proportion to the
12 population of each such entity.

13 “(B) PUBLIC NOTICE.—Not later than 195
14 days after the date of the enactment of this sec-
15 tion, the Commission shall issue a public notice
16 informing each State and the public of the
17 amounts to be distributed under this para-
18 graph. The notice shall include—

19 “(i) the manner in which a State shall
20 inform the Commission of that State’s ac-
21 ceptance or acceptance in part of the
22 amounts to be distributed under this para-
23 graph;

24 “(ii) the date (which is 30 days after
25 the date on which the public notice is

1 issued) by which such acceptance or ac-
2 ceptance in part is due; and

3 “(iii) the requirements as set forth
4 under this section and as may be further
5 prescribed by the Commission.

6 “(C) ACCEPTANCE BY STATES.—Not later
7 than 30 days after the date on which a public
8 notice is issued under subparagraph (B), each
9 State accepting amounts to be distributed
10 under this paragraph shall inform the Commis-
11 sion of the acceptance or acceptance in part by
12 the State of the amounts to be distributed
13 under this paragraph in the manner described
14 by the Commission in the public notice.

15 “(D) REQUIREMENTS FOR STATE RECEIPT
16 OF AMOUNTS DISTRIBUTED.—Each State ac-
17 cepting amounts distributed under this para-
18 graph—

19 “(i) shall only award such amounts
20 through statewide systems of competitive
21 bidding, in the manner prescribed by the
22 State but subject to the requirements as
23 set forth under this section and as may be
24 further prescribed by the Commission;

25 “(ii) shall make such awards only—

1 “(I) to funding recipients to ex-
2 pand access to broadband service in
3 unserved areas and areas with low-tier
4 service;

5 “(II) to funding recipients to ex-
6 pand access to broadband service to
7 unserved anchor institutions; or

8 “(III) to funding recipients to ex-
9 pand access to broadband service in
10 areas with mid-tier service, but only if
11 a State does not have, or no longer
12 has, any unserved areas or areas with
13 low-tier service;

14 “(iii) shall conduct separate systems
15 of competitive bidding for awards made to
16 unserved anchor institutions under clause
17 (ii)(II), if a State awards any amounts dis-
18 tributed under this paragraph to unserved
19 anchor institutions;

20 “(iv) shall return any unused portion
21 of amounts distributed under this para-
22 graph to the Commission within 10 years
23 after the date of the enactment of this sec-
24 tion and shall submit a certification to the
25 Commission before receiving such amounts

1 that the State will return such amounts;
2 and

3 “(v) may not use more than 5 percent
4 of the amounts distributed under this
5 paragraph to administer a system or sys-
6 tems of competitive bidding authorized by
7 this paragraph.

8 “(3) FEDERAL AND STATE COORDINATION.—
9 The Commission, in consultation with the Office of
10 Internet Connectivity and Growth, shall establish
11 processes through the rulemaking under subsection
12 (e) to—

13 “(A) permit a State to elect for the Com-
14 mission to conduct statewide systems of com-
15 petitive bidding on behalf of such State as part
16 of, or in coordination with, national systems of
17 competitive bidding;

18 “(B) assist States in conducting statewide
19 systems of competitive bidding;

20 “(C) ensure that program funds awarded
21 by the Commission and program funds awarded
22 by the States are not used in the same areas;
23 and

24 “(D) ensure that program funds and funds
25 awarded through other Federal programs to ex-

1 pand broadband service with a download speed
2 of at least 100 megabits per second, an upload
3 speed of at least 100 megabits per second, and
4 latency that is sufficiently low to allow multiple,
5 simultaneous, real-time, interactive applications,
6 are not used in the same areas.

7 “(c) PROGRAM REQUIREMENTS.—

8 “(1) TECHNOLOGY NEUTRALITY REQUIRED.—

9 The entity administering a system of competitive
10 bidding (either a State or the Commission) in mak-
11 ing awards may not favor a project using any par-
12 ticular technology.

13 “(2) GIGABIT PERFORMANCE FUNDING.—The
14 Commission shall reserve 20 percent of the amounts
15 to be awarded by the Commission under subsection
16 (b)(1), and each State shall reserve 20 percent of
17 the amounts distributed to such State under sub-
18 section (b)(2), for bidders committing (with respect
19 to any particular project by such a bidder) to offer,
20 not later than the date that is 4 years after the date
21 on which funding is provided under this section for
22 such project—

23 “(A) broadband service with a download
24 speed of at least 1 gigabit per second, an
25 upload speed of at least 1 gigabit per second,

1 and latency that is sufficiently low to allow mul-
2 tiple, simultaneous, real-time, interactive appli-
3 cations; or

4 “(B) in the case of a project to provide
5 broadband service to an unserved anchor insti-
6 tution, broadband service with a download
7 speed of at least 10 gigabits per second per
8 1,000 users, an upload speed of at least 10 gig-
9 abits per second per 1,000 users, and latency
10 that is sufficiently low to allow multiple, simul-
11 taneous, real-time, interactive applications.

12 “(3) SYSTEM OF COMPETITIVE BIDDING PROC-
13 ESS.—The entity administering a system of competi-
14 tive bidding (either a State or the Commission) shall
15 structure the system of competitive bidding process
16 to—

17 “(A) first hold a system of competitive bid-
18 ding only for bidders committing (with respect
19 to any particular project by such a bidder) to
20 offer, not later than the date that is 4 years
21 after the date on which funding is provided
22 under this section for such project—

23 “(i) broadband service with a
24 download speed of at least 1 gigabit per
25 second, an upload speed of at least 1 gig-

1 abit per second, and latency that is suffi-
2 ciently low to allow multiple, simultaneous,
3 real-time, interactive applications; or

4 “(ii) in the case of a project to pro-
5 vide broadband service to an unserved an-
6 chor institution, broadband service with a
7 download speed of at least 10 gigabits per
8 second per 1,000 users, an upload speed of
9 at least 10 gigabits per second per 1,000
10 users, and latency that is sufficiently low
11 to allow multiple, simultaneous, real-time,
12 interactive applications; and

13 “(B) after holding the system of competi-
14 tive bidding required by subparagraph (A), hold
15 one or more systems of competitive bidding, in
16 areas not receiving awards under subparagraph
17 (A), to award funds for projects in areas that
18 are estimated to remain unserved areas, areas
19 with low-tier service, or (to the extent permitted
20 under this section) areas with mid-tier service,
21 or (to the extent permitted under this section)
22 for projects to offer broadband service to an-
23 chor institutions that are estimated to remain
24 unserved anchor institutions, after the comple-
25 tion of the projects for which funding is award-

1 ed under the system of competitive bidding re-
2 quired by subparagraph (A) or any previous
3 system of competitive bidding under this sub-
4 paragraph.

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

19 “(5) FUNDS PREFERENCE.—There shall be a
20 preference in a system of competitive bidding, as de-
21 termined by the entity administering the system of
22 competitive bidding (either a State or the Commis-
23 sion), for any of the following projects:

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

1 “(B) Projects that would expand access to
2 broadband service on Tribal lands, as defined
3 by the Commission.

4 “(C) Projects that would provide
5 broadband service with higher speeds than
6 those specified in subsection (d)(2), except in
7 the case of funds awarded under subparagraph
8 (A) of paragraph (3).

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

14 “(E) Projects that would expand access to
15 broadband service to persistent poverty counties
16 or high-poverty areas at subsidized rates.

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

1 “(G) Projects with support from the local
2 community, demonstrated by at least one letter
3 of support from local elected officials in the
4 community.

5 “(H) Projects that would provide for the
6 deployment of open-access broadband service
7 networks.

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

17 “(A) DATA FOR INITIAL DETERMINA-
18 TION.—To make an initial determination as to
19 whether an area is an unserved area, an area
20 with low-tier service, or an area with mid-tier
21 service or whether an anchor institution is an
22 unserved anchor institution, the Commission
23 shall—

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

4 “(ii) refine the data described in
5 clause (i) by using—

6 “(I) other data on access to
7 broadband service obtained or pur-
8 chased by the Commission;

9 “(II) other publicly available data
10 or information on access to broadband
11 service; and

12 “(III) other publicly available
13 data or information on State
14 broadband service deployment pro-
15 grams; and

16 “(iii) not determine an area is not an
17 unserved area, an area with low-tier serv-
18 ice, or an area with mid-tier service, on the
19 basis that one location within such area
20 does not meet the definition of an unserved
21 area, an area with low-tier service, or an
22 area with mid-tier service.

23 “(B) INITIAL DETERMINATION.—The
24 Commission shall make an initial determination
25 of the areas that are unserved areas, areas with

1 low-tier service, and areas with mid-tier service
2 and which anchor institutions are unserved an-
3 chor institutions not later than 270 days after
4 the date of the enactment of this section.

5 “(C) CHALLENGE OF DETERMINATION.—

6 “(i) IN GENERAL.—The Commission
7 shall provide for a process for challenging
8 any initial determination regarding wheth-
9 er an area is an unserved area, an area
10 with low-tier service, or an area with mid-
11 tier service or whether an anchor institu-
12 tion is an unserved anchor institution that,
13 at a minimum, provides not less than 45
14 days for a person to voluntarily submit in-
15 formation concerning—

16 “(I) the broadband service of-
17 fered in the area, or a commitment to
18 offer broadband service in the area
19 that is subject to legal sanction if not
20 performed; or

21 “(II) the broadband service of-
22 fered to the anchor institution.

23 “(ii) STREAMLINED PROCESS.—The
24 Commission shall ensure that such process
25 is sufficiently streamlined such that a rea-

1 sonably prudent person may easily partici-
2 pate to challenge such initial determination
3 with little burden on such person.

4 “(D) FINAL DETERMINATION.—The Com-
5 mission shall make a final determination of the
6 areas that are unserved areas, areas with low-
7 tier service, or areas with mid-tier service and
8 which anchor institutions are unserved anchor
9 institutions within 1 year after the date of the
10 enactment of this section.

11 “(7) NOTICE, TRANSPARENCY, ACCOUNT-
12 ABILITY, AND OVERSIGHT REQUIRED.—The program
13 shall contain sufficient notice, transparency, ac-
14 countability, and oversight measures to provide the
15 public with notice of the assistance provided under
16 this section, and to deter waste, fraud, and abuse of
17 program funds.

18 “(8) COMPETENCE.—

19 “(A) STANDARDS.—The Commission shall
20 establish, through the rulemaking described in
21 subsection (e), objective standards to determine
22 that each provider of broadband service seeking
23 to participate in a system of competitive bid-
24 ding—

1 “(i) is capable of carrying out the
2 project in a competent manner in compli-
3 ance with all applicable Federal, State, and
4 local laws;

5 “(ii) has the financial capacity to
6 meet the buildout obligations of the project
7 and requirements as set forth under this
8 section and as may be further prescribed
9 by the Commission; and

10 “(iii) has the technical and oper-
11 ational capability to provide broadband
12 services in the manner contemplated by the
13 provider’s bid in the system of competitive
14 bidding, including a detailed consideration
15 of the provider’s prior performance in de-
16 livering services as contemplated in the bid
17 and the capabilities of the provider’s pro-
18 posed network to deliver the contemplated
19 services in the area in question.

20 “(B) DETERMINATIONS REGARDING PRO-
21 VIDERS.—An entity administering a system of
22 competitive bidding (either a State or the Com-
23 mission) may not permit a provider of
24 broadband service to participate in the system
25 of competitive bidding unless the entity first de-

1 termines, after notice and an opportunity for
2 public comment, that the provider meets the
3 standards established under subparagraph (A).

4 “(9) CONTRACTING REQUIREMENTS.—All labor-
5 ers and mechanics employed by contractors or sub-
6 contractors in the performance of construction, al-
7 teration, or repair work carried out, in whole or in
8 part, with assistance made available under this sec-
9 tion shall be paid wages at rates not less than those
10 prevailing on projects of a similar character in the
11 locality as determined by the Secretary of Labor in
12 accordance with subchapter IV of chapter 31 of title
13 40, United States Code. With respect to the labor
14 standards in this paragraph, the Secretary of Labor
15 shall have the authority and functions set forth in
16 Reorganization Plan Numbered 14 of 1950 (64 Stat.
17 1267; 5 U.S.C. App.) and section 3145 of title 40,
18 United States Code.

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

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

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

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

6 “(D) the Endangered Species Act of 1973
7 (16 U.S.C. 1531 et seq.);

8 “(E) the Solid Waste Disposal Act (42
9 U.S.C. 6901 et seq.; commonly referred to as
10 the ‘Resource Conservation and Recovery Act’);
11 or

12 “(F) any State or local law that is similar
13 to a law listed in subparagraphs (A) through
14 (E).

15 “(11) REFERRAL OF ALLEGED VIOLATIONS OF
16 APPLICABLE FEDERAL LABOR AND EMPLOYMENT
17 LAWS.—The Commission shall refer any alleged vio-
18 lation of an applicable labor and employment law to
19 the appropriate Federal agency for investigation and
20 enforcement, and any alleged violation of paragraph
21 (9) or (12) to the National Labor Relations Board
22 for investigation and enforcement, utilizing all ap-
23 propriate remedies up to and including debarment
24 from the program.

25 “(12) LABOR ORGANIZATION.—

1 “(A) IN GENERAL.—Notwithstanding the
2 National Labor Relations Act (29 U.S.C. 151
3 et seq.), subparagraphs (B) through (F) shall
4 apply with respect to any funding recipient who
5 is an employer and any labor organization who
6 represents employees of a funding recipient.

7 “(B) NEUTRALITY REQUIREMENT.—An
8 employer shall remain neutral with respect to
9 the exercise of employees and labor organiza-
10 tions of the right to organize and bargain under
11 the National Labor Relations Act (29 U.S.C.
12 151 et seq.).

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

1 “(D) MEDIATION AND CONCILIATION FOR
2 FAILURE TO REACH A COLLECTIVE BARGAINING
3 AGREEMENT.—

4 “(i) IN GENERAL.—If the parties have
5 failed to reach an agreement before the
6 date that is 90 days after the date on
7 which bargaining is commenced under sub-
8 paragraph (C), or any later date agreed
9 upon by both parties, either party may no-
10 tify the Federal Mediation and Conciliation
11 Service of the existence of a dispute and
12 request mediation.

13 “(ii) FEDERAL MEDIATION AND CON-
14 CILIATION SERVICE.—Whenever a request
15 is received under clause (i), the Director of
16 the Federal Mediation and Conciliation
17 Service shall promptly communicate with
18 the parties and use best efforts, by medi-
19 ation and conciliation, to bring them to
20 agreement.

21 “(E) TRIPARTITE ARBITRATION PANEL.—

22 “(i) IN GENERAL.—If the Federal Me-
23 diation and Conciliation Service is not able
24 to bring the parties to agreement by medi-
25 ation or conciliation before the date that is

1 30 days after the date on which such medi-
2 ation or conciliation is commenced, or any
3 later date agreed upon by both parties, the
4 Service shall refer the dispute to a tri-
5 partite arbitration panel established in ac-
6 cordance with such regulations as may be
7 prescribed by the Service, with one mem-
8 ber selected by the labor organization, one
9 member selected by the employer, and one
10 neutral member mutually agreed to by the
11 parties.

12 “(ii) DISPUTE SETTLEMENT.—A ma-
13 jority of the tripartite arbitration panel
14 shall render a decision settling the dispute
15 and such decision shall be binding upon
16 the parties for a period of two years, un-
17 less amended during such period by writ-
18 ten consent of the parties. Such decision
19 shall be based on—

20 “(I) the employer’s financial sta-
21 tus and prospects;

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

24 “(III) the employees’ cost of liv-
25 ing;

1 “(IV) the employees’ ability to
2 sustain themselves, their families, and
3 their dependents on the wages and
4 benefits they earn from the employer;
5 and

6 “(V) the wages and benefits that
7 other employers in the same business
8 provide their employees.

9 “(F) PROHIBITION ON SUBCONTRACTING
10 FOR CERTAIN PURPOSES.—A funding recipient
11 may not engage in subcontracting for the pur-
12 pose of circumventing the terms of a collective
13 bargaining agreement with respect to wages,
14 benefits, or working conditions.

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

22 “(d) PROJECT REQUIREMENTS.—Any project funded
23 through the program shall meet the following require-
24 ments:

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

3 “(2) Except as provided in paragraphs (2) and
4 (3) of subsection (c), the project shall offer
5 broadband service with a download speed of at least
6 100 megabits per second, an upload speed of at least
7 100 megabits per second, and latency that is suffi-
8 ciently low to allow multiple, simultaneous, real-time,
9 interactive applications.

10 “(3) The project shall offer broadband service
11 at prices that are comparable to, or lower than, the
12 prices charged for comparable levels of service in
13 areas that were not unserved areas, areas with low-
14 tier service, or areas with mid-tier service on the day
15 before the date of the enactment of this section.

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

20 “(5) The project shall incorporate prudent cy-
21 bersecurity and supply chain risk management prac-
22 tices, as specified by the Commission through the
23 rulemaking described in subsection (e), in consulta-
24 tion with the Director of the National Institute of

1 Standards and Technology and the Assistant Sec-
2 retary.

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

7 “(7) Any funding recipient must agree to have
8 the project meet the requirements established under
9 section 224, as if the project were classified as a
10 ‘utility’ under such section. The preceding sentence
11 shall not apply to those entities or persons excluded
12 from the definition of the term ‘utility’ by the second
13 sentence of subsection (a)(1) of such section.

14 “(8) The project shall offer an affordable option
15 for a broadband service plan under which broadband
16 service is provided—

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

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

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

24 “(e) RULEMAKING AND DISTRIBUTION AND AWARD
25 OF FUNDS.—Not later than 180 days after the date of

1 the enactment of this section, the Commission, in con-
2 sultation with the Assistant Secretary, shall promulgate
3 rules—

4 “(1) that implement the requirements of this
5 section, as appropriate;

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

8 “(3) that establish notice requirements for all
9 systems of competitive bidding authorized under this
10 section that, at a minimum, provide the public with
11 notice of—

12 “(A) the initial determination of which
13 areas are unserved areas, areas with low-tier
14 service, or areas with mid-tier service;

15 “(B) the final determination of which
16 areas are unserved areas, areas with low-tier
17 service, or areas with mid-tier service after the
18 process for challenging the initial determination
19 has concluded;

20 “(C) which entities have applied to bid for
21 funding; and

22 “(D) the results of any system of competi-
23 tive bidding, including identifying the funding
24 recipients, which areas each project will serve,
25 the nature of the service that will be provided

1 by the project in each of those areas, and how
2 much funding the funding recipients will receive
3 in each of those areas;

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

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

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

19 “(7) that establish standard penalties for the
20 noncompliance of funding recipients or projects with
21 the requirements as set forth under this section and
22 as may be further prescribed by the Commission for
23 any system of competitive bidding authorized under
24 this section;

1 “(8) that establish procedures for recovery of
2 funds, in whole or in part, from funding recipients
3 in the event of the default or noncompliance of the
4 funding recipient or project with the requirements
5 established under this section for any system of com-
6 petitive bidding authorized under this section; and

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

10 “(f) REPORTS REQUIRED.—

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

23 “(2) STATE REPORTS.—Any State that receives
24 funds under the program shall submit an annual re-
25 port to the Commission on how such funds were

1 spent, along with a certification of compliance with
2 the requirements as set forth under this section and
3 as may be further prescribed by the Commission, in-
4 cluding a description of each service provided and
5 the number of individuals to whom the service was
6 provided.

7 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
8 is authorized to be appropriated to the Commission
9 \$79,500,000,000 for fiscal year 2022 to carry out the pro-
10 gram, and such amount is authorized to remain available
11 through fiscal year 2026.

12 “(h) DEFINITIONS.—In this section:

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

24 “(2) ANCHOR INSTITUTION.—The term ‘anchor
25 institution’—

1 “(A) means a public or private school, a li-
2 brary, a medical or healthcare provider, a mu-
3 seum, a public safety entity, a public housing
4 agency (as defined in section 3(b) of the United
5 States Housing Act of 1937 (42 U.S.C.
6 1437a(b))), a community college, an institution
7 of higher education, a religious organization, or
8 any other community support organization or
9 agency; and

10 “(B) includes any entity described in sub-
11 paragraph (A) that serves an Indian Tribe,
12 tribally designated entity, or Native Hawaiian
13 organization.

14 “(3) AREA.—The term ‘area’ means the geo-
15 graphic unit of measurement with the greatest level
16 of granularity reasonably feasible for the Commis-
17 sion to use in making eligibility determinations
18 under this section and in meeting the requirements
19 and deadlines of this section.

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

1 “(A) with a download speed of at least 25
2 megabits per second but less than 100 megabits
3 per second;

4 “(B) with an upload speed of at least 25
5 megabits per second but less than 100 megabits
6 per second; and

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

10 “(5) AREA WITH MID-TIER SERVICE.—The term
11 ‘area with mid-tier service’ means an area where at
12 least 90 percent of the population has access to
13 broadband service offered—

14 “(A) with a download speed of at least 100
15 megabits per second but less than 1 gigabit per
16 second;

17 “(B) with an upload speed of at least 100
18 megabits per second but less than 1 gigabit per
19 second; and

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

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

1 “(7) BROADBAND SERVICE.—The term
2 ‘broadband service’—

3 “(A) means broadband internet access
4 service that is a mass-market retail service, or
5 a service provided to an anchor institution, by
6 wire or radio that provides the capability to
7 transmit data to and receive data from all or
8 substantially all internet endpoints, including
9 any capabilities that are incidental to and en-
10 able the operation of the communications serv-
11 ice;

12 “(B) includes any service that is a func-
13 tional equivalent of the service described in sub-
14 paragraph (A); and

15 “(C) does not include dial-up internet ac-
16 cess service.

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

21 “(9) COLLECTIVE BARGAINING AGREEMENT.—
22 The term ‘collective bargaining agreement’ means an
23 agreement reached through collective bargaining.

24 “(10) FUNDING RECIPIENT.—The term ‘fund-
25 ing recipient’ means an entity that receives funding

1 for a project under this section, which may in-
2 clude—

3 “(A) a private entity, a public-private part-
4 nership, a cooperative, and a Tribal or munic-
5 ipal broadband service provider; and

6 “(B) a consortium between any of the enti-
7 ties described in subparagraph (A), including a
8 consortium that includes an investor-owned util-
9 ity.

10 “(11) HIGH-POVERTY AREA.—The term ‘high-
11 poverty area’ means a census tract with a poverty
12 rate of at least 20 percent, as measured by the most
13 recent 5-year data series available from the Amer-
14 ican Community Survey of the Bureau of the Census
15 as of the year before the date of the enactment of
16 this section. In the case of a territory or possession
17 of the United States in which no such data is col-
18 lected from the American Community Survey of the
19 Bureau of the Census as of the year before the date
20 of the enactment of this section, such term includes
21 a census tract with a poverty rate of at least 20 per-
22 cent, as measured by the most recent Island Areas
23 decennial census of the Bureau of the Census for
24 which data is available as of the year before the date
25 of the enactment of this section.

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

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

7 “(A) has the meaning given the term in
8 section 101 of the Higher Education Act of
9 1965 (20 U.S.C. 1001); and

10 “(B) includes a postsecondary vocational
11 institution.

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

16 “(15) NATIVE HAWAIIAN ORGANIZATION.—The
17 term ‘Native Hawaiian organization’ means any or-
18 ganization—

19 “(A) that serves the interests of Native
20 Hawaiians;

21 “(B) in which Native Hawaiians serve in
22 substantive and policymaking positions;

23 “(C) that has as a primary and stated pur-
24 pose the provision of services to Native Hawai-
25 ians; and

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

4 “(16) PERSISTENT POVERTY COUNTY.—The
5 term ‘persistent poverty county’ means any county
6 with a poverty rate of at least 20 percent, as deter-
7 mined in each of the 1990 and 2000 decennial cen-
8 suses and in the Small Area Income and Poverty Es-
9 timates of the Bureau of the Census for the most re-
10 cent year for which the Estimates are available. In
11 the case of a territory or possession of the United
12 States, such term includes any county equivalent
13 area in Puerto Rico with a poverty rate of at least
14 20 percent, as determined in each of the 1990 and
15 2000 decennial censuses and in the most recent 5-
16 year data series available from the American Com-
17 munity Survey of the Bureau of the Census as of
18 the year before the date of the enactment of this
19 section, or any other territory or possession of the
20 United States with a poverty rate of at least 20 per-
21 cent, as determined in each of the 1990 and 2000
22 Island Areas decennial censuses of the Bureau of the
23 Census and in the most recent Island Areas decen-
24 nial census of the Bureau of the Census for which

1 data is available as of the year before the date of the
2 enactment of this section.

3 “(17) POSTSECONDARY VOCATIONAL INSTITU-
4 TION.—The term ‘postsecondary vocational institu-
5 tion’ has the meaning given the term in section
6 102(c) of the Higher Education Act of 1965 (20
7 U.S.C. 1002(c)).

8 “(18) PROGRAM.—Unless otherwise indicated,
9 the term ‘program’ means the program established
10 under subsection (a).

11 “(19) PROJECT.—The term ‘project’ means an
12 undertaking by a funding recipient under this sec-
13 tion to construct and deploy infrastructure for the
14 provision of broadband service.

15 “(20) STATE.—The term ‘State’ has the mean-
16 ing given such term in section 3, except that such
17 term also includes the Republic of the Marshall Is-
18 lands, the Federated States of Micronesia, and the
19 Republic of Palau.

20 “(21) TRIBALLY DESIGNATED ENTITY.—The
21 term ‘tribally designated entity’ means an entity des-
22 ignated by an Indian Tribe for purposes of para-
23 graph (2)(B).

24 “(22) UNSERVED ANCHOR INSTITUTION.—The
25 term ‘unserved anchor institution’ means an anchor

1 institution that has no access to broadband service
2 or does not have access to broadband service of-
3 fered—

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

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

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

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

13 “(A) the Commission reasonably believes
14 there are potential subscribers of broadband
15 service; and

16 “(B) at least 90 percent of the population
17 has no access to broadband service or does not
18 have access to broadband service offered—

19 “(i) with a download speed of at least
20 25 megabits per second;

21 “(ii) with an upload speed of at least
22 25 megabits per second; and

23 “(iii) with latency that is sufficiently
24 low to allow multiple, simultaneous, real-
25 time, interactive applications.”.

1 (b) AUTHORIZATION OF APPROPRIATIONS FOR TRIB-
2 AL BROADBAND CONNECTIVITY PROGRAM.—

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

7 “(9) AUTHORIZATION OF APPROPRIATIONS.—
8 There is authorized to be appropriated to the Assist-
9 ant Secretary \$500,000,000 for fiscal year 2022 to
10 carry out the grant program under this subsection,
11 and such amount is authorized to remain available
12 through fiscal year 2026.”.

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

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

19 (B) in subsection (e)—

20 (i) in paragraph (1)—

21 (I) in the matter preceding sub-
22 paragraph (A), by inserting after
23 “this Act” the following: “(and, in the
24 case of the grant program under sub-
25 section (c), not earlier than 30 days,

1 and not later than 60 days, after the
2 date of enactment of any other law
3 making available amounts to carry out
4 such program)”; and

5 (II) in subparagraph (A), by in-
6 serting after “eligible entities and cov-
7 ered partnerships” the following: “(or,
8 in the case of a notice issued by rea-
9 son of the enactment of a law, other
10 than this Act, making available
11 amounts to carry out the grant pro-
12 gram under subsection (c), eligible en-
13 tities)”; and

14 (ii) in paragraph (2)(A), by inserting
15 after “an eligible entity or covered partner-
16 ship” the following: “(or, in the case of a
17 notice issued by reason of the enactment of
18 a law, other than this Act, making avail-
19 able amounts to carry out the grant pro-
20 gram under subsection (c), an eligible enti-
21 ty)”.

22 **SEC. 3102. TRIBAL INTERNET EXPANSION.**

23 Section 254(b)(3) of the Communications Act of
24 1934 (47 U.S.C. 254(b)(3)) is amended by inserting “and
25 in Indian country (as defined in section 1151 of title 18,

1 United States Code) and areas with high populations of
2 Indian (as defined in section 19 of the Act of June 18,
3 1934 (Chapter 576; 48 Stat. 988; 25 U.S.C. 5129)) peo-
4 ple” after “high cost areas”.

5 **Subtitle B—Broadband Infrastruc-** 6 **ture Finance and Innovation**

7 **SEC. 3201. SHORT TITLE.**

8 This subtitle may be cited as the “Broadband Infra-
9 structure Finance and Innovation Act of 2021”.

10 **SEC. 3202. DEFINITIONS.**

11 In this subtitle:

12 (1) BIFIA PROGRAM.—The term “BIFIA pro-
13 gram” means the broadband infrastructure finance
14 and innovation program established under this sub-
15 title.

16 (2) BROADBAND SERVICE.—The term
17 “broadband service”—

18 (A) means broadband internet access serv-
19 ice that is a mass-market retail service, or a
20 service provided to an entity described in para-
21 graph (11)(B)(ii), by wire or radio that pro-
22 vides the capability to transmit data to and re-
23 ceive data from all or substantially all internet
24 endpoints, including any capabilities that are

1 incidental to and enable the operation of the
2 communications service;

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

6 (C) does not include dial-up internet access
7 service.

8 (3) ELIGIBLE PROJECT COSTS.—The term “eli-
9 gible project costs” means amounts substantially all
10 of which are paid by, or for the account of, an obli-
11 gor in connection with a project, including the cost
12 of—

13 (A) development phase activities, including
14 planning, feasibility analysis, revenue fore-
15 casting, environmental review, historic preserva-
16 tion review, permitting, preliminary engineering
17 and design work, and other preconstruction ac-
18 tivities;

19 (B) construction and deployment phase ac-
20 tivities, including—

21 (i) construction, reconstruction, reha-
22 bilitation, replacement, and acquisition of
23 real property (including land relating to
24 the project and improvements to land),
25 equipment, instrumentation, networking

1 capability, hardware and software, and dig-
2 ital network technology;

3 (ii) environmental mitigation; and

4 (iii) construction contingencies; and

5 (C) capitalized interest necessary to meet
6 market requirements, reasonably required re-
7 serve funds, capital issuance expenses, and
8 other carrying costs during construction and
9 deployment.

10 (4) FEDERAL CREDIT INSTRUMENT.—The term
11 “Federal credit instrument” means a secured loan,
12 loan guarantee, or line of credit authorized to be
13 made available under the BIFIA program with re-
14 spect to a project.

15 (5) INVESTMENT-GRADE RATING.—The term
16 “investment-grade rating” means a rating of BBB
17 minus, Baa3, bbb minus, BBB (low), or higher as-
18 signed by a rating agency to project obligations.

19 (6) LENDER.—The term “lender” means any
20 non-Federal qualified institutional buyer (as defined
21 in section 230.144A(a) of title 17, Code of Federal
22 Regulations (or any successor regulation), known as
23 Rule 144A(a) of the Securities and Exchange Com-
24 mission and issued under the Securities Act of 1933
25 (15 U.S.C. 77a et seq.)), including—

1 (A) a qualified retirement plan (as defined
2 in section 4974(c) of the Internal Revenue Code
3 of 1986) that is a qualified institutional buyer;
4 and

5 (B) a governmental plan (as defined in
6 section 414(d) of the Internal Revenue Code of
7 1986) that is a qualified institutional buyer.

8 (7) LETTER OF INTEREST.—The term “letter
9 of interest” means a letter submitted by a potential
10 applicant prior to an application for credit assistance
11 in a format prescribed by the Assistant Secretary on
12 the website of the BIFIA program that—

13 (A) describes the project and the location,
14 purpose, and cost of the project;

15 (B) outlines the proposed financial plan,
16 including the requested credit assistance and
17 the proposed obligor;

18 (C) provides a status of environmental re-
19 view; and

20 (D) provides information regarding satis-
21 faction of other eligibility requirements of the
22 BIFIA program.

23 (8) LINE OF CREDIT.—The term “line of cred-
24 it” means an agreement entered into by the Assist-
25 ant Secretary with an obligor under section 3205 to

1 provide a direct loan at a future date upon the oc-
2 currence of certain events.

3 (9) LOAN GUARANTEE.—The term “loan guar-
4 antee” means any guarantee or other pledge by the
5 Assistant Secretary to pay all or part of the prin-
6 cipal of and interest on a loan or other debt obliga-
7 tion issued by an obligor and funded by a lender.

8 (10) OBLIGOR.—The term “obligor” means a
9 party that—

10 (A) is primarily liable for payment of the
11 principal of or interest on a Federal credit in-
12 strument; and

13 (B) may be a corporation, company, part-
14 nership, joint venture, trust, or governmental
15 entity, agency, or instrumentality.

16 (11) PROJECT.—The term “project” means a
17 project—

18 (A) to construct and deploy infrastructure
19 for the provision of broadband service; and

20 (B) that the Assistant Secretary deter-
21 mines will—

22 (i) provide access or improved access
23 to broadband service to consumers residing
24 in areas of the United States that have no

1 access to broadband service or do not have
2 access to broadband service offered—

3 (I) with a download speed of at
4 least 100 megabits per second;

5 (II) with an upload speed of at
6 least 100 megabits per second; and

7 (III) with latency that is suffi-
8 ciently low to allow multiple, simulta-
9 neous, real-time, interactive applica-
10 tions; or

11 (ii) provide access or improved access
12 to broadband service to—

13 (I) schools, libraries, medical and
14 healthcare providers, community col-
15 leges and other institutions of higher
16 education, museums, religious organi-
17 zations, and other community support
18 organizations and entities to facilitate
19 greater use of broadband service by or
20 through such organizations;

21 (II) organizations and agencies
22 that provide outreach, access, equip-
23 ment, and support services to facili-
24 tate greater use of broadband service

1 by low-income, unemployed, aged, and
2 otherwise vulnerable populations;

3 (III) job-creating strategic facili-
4 ties located within a State-designated
5 economic zone, Economic Develop-
6 ment District designated by the De-
7 partment of Commerce, Empower-
8 ment Zone designated by the Depart-
9 ment of Housing and Urban Develop-
10 ment, or Enterprise Community des-
11 ignated by the Department of Agri-
12 culture; or

13 (IV) public safety agencies.

14 (12) PROJECT OBLIGATION.—The term
15 “project obligation” means any note, bond, deben-
16 ture, or other debt obligation issued by an obligor in
17 connection with the financing of a project, other
18 than a Federal credit instrument.

19 (13) PUBLIC AUTHORITY.—The term “public
20 authority” means a Federal, State, county, town or
21 township, Indian Tribe, municipal, or other local
22 government or instrumentality with authority to fi-
23 nance, build, operate, or maintain infrastructure for
24 the provision of broadband service.

1 (14) RATING AGENCY.—The term “rating agen-
2 cy” means a credit rating agency registered with the
3 Securities and Exchange Commission as a nationally
4 recognized statistical rating organization (as defined
5 in section 3(a) of the Securities Exchange Act of
6 1934 (15 U.S.C. 78c(a))).

7 (15) SECURED LOAN.—The term “secured
8 loan” means a direct loan or other debt obligation
9 issued by an obligor and funded by the Assistant
10 Secretary in connection with the financing of a
11 project under section 3204.

12 (16) SMALL PROJECT.—The term “small
13 project” means a project having eligible project costs
14 that are reasonably anticipated not to equal or ex-
15 ceed \$20,000,000.

16 (17) SUBSIDY AMOUNT.—The term “subsidy
17 amount” means the amount of budget authority suf-
18 ficient to cover the estimated long-term cost to the
19 Federal Government of a Federal credit instru-
20 ment—

21 (A) calculated on a net present value basis;

22 and

23 (B) excluding administrative costs and any
24 incidental effects on governmental receipts or

1 outlays in accordance with the Federal Credit
2 Reform Act of 1990 (2 U.S.C. 661 et seq.).

3 (18) SUBSTANTIAL COMPLETION.—The term
4 “substantial completion” means, with respect to a
5 project receiving credit assistance under the BIFIA
6 program—

7 (A) the commencement of the provision of
8 broadband service using the infrastructure
9 being financed; or

10 (B) a comparable event, as determined by
11 the Assistant Secretary and specified in the
12 credit agreement.

13 **SEC. 3203. DETERMINATION OF ELIGIBILITY AND PROJECT**
14 **SELECTION.**

15 (a) ELIGIBILITY.—

16 (1) IN GENERAL.—A project shall be eligible to
17 receive credit assistance under the BIFIA program
18 if—

19 (A) the entity proposing to carry out the
20 project submits a letter of interest prior to sub-
21 mission of a formal application for the project;
22 and

23 (B) the project meets the criteria described
24 in this subsection.

25 (2) CREDITWORTHINESS.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), to be eligible for assistance
3 under the BIFIA program, a project shall sat-
4 isfy applicable creditworthiness standards,
5 which, at a minimum, shall include—

6 (i) adequate coverage requirements to
7 ensure repayment;

8 (ii) an investment-grade rating from
9 at least two rating agencies on debt senior
10 to the Federal credit instrument; and

11 (iii) a rating from at least two rating
12 agencies on the Federal credit instrument.

13 (B) SMALL PROJECTS.—In order for a
14 small project to be eligible for assistance under
15 the BIFIA program, such project shall satisfy
16 alternative creditworthiness standards that shall
17 be established by the Assistant Secretary under
18 section 3206 for purposes of this paragraph.

19 (3) APPLICATION.—A State, local government,
20 agency or instrumentality of a State or local govern-
21 ment, public authority, public-private partnership, or
22 any other legal entity undertaking the project and
23 authorized by the Assistant Secretary shall submit a
24 project application that is acceptable to the Assist-
25 ant Secretary.

1 (4) ELIGIBLE PROJECT COST PARAMETERS FOR
2 INFRASTRUCTURE PROJECTS.—Eligible project costs
3 shall be reasonably anticipated to equal or exceed
4 \$2,000,000 in the case of a project or program of
5 projects—

6 (A) in which the applicant is a local gov-
7 ernment, instrumentality of local government,
8 or public authority (other than a public author-
9 ity that is a Federal or State government or in-
10 strumentality);

11 (B) located on a facility owned by a local
12 government; or

13 (C) for which the Assistant Secretary de-
14 termines that a local government is substan-
15 tially involved in the development of the project.

16 (5) DEDICATED REVENUE SOURCES.—The ap-
17 plicable Federal credit instrument shall be repayable,
18 in whole or in part, from—

19 (A) amounts charged to—

20 (i) subscribers of broadband service
21 for such service; or

22 (ii) subscribers of any related service
23 provided over the same infrastructure for
24 such related service;

25 (B) user fees;

1 (C) payments owing to the obligor under a
2 public-private partnership; or

3 (D) other dedicated revenue sources that
4 also secure or fund the project obligations.

5 (6) APPLICATIONS WHERE OBLIGOR WILL BE
6 IDENTIFIED LATER.—A State, local government,
7 agency or instrumentality of a State or local govern-
8 ment, or public authority may submit to the Assist-
9 ant Secretary an application under paragraph (3),
10 under which a private party to a public-private part-
11 nership will be—

12 (A) the obligor; and

13 (B) identified later through completion of
14 a procurement and selection of the private
15 party.

16 (7) BENEFICIAL EFFECTS.—The Assistant Sec-
17 retary shall determine that financial assistance for
18 the project under the BIFIA program will—

19 (A) foster, if appropriate, partnerships
20 that attract public and private investment for
21 the project;

22 (B) enable the project to proceed at an
23 earlier date than the project would otherwise be
24 able to proceed or reduce the lifecycle costs (in-
25 cluding debt service costs) of the project; and

1 (C) reduce the contribution of Federal
2 grant assistance for the project.

3 (8) PROJECT READINESS.—To be eligible for
4 assistance under the BIFIA program, the applicant
5 shall demonstrate a reasonable expectation that the
6 contracting process for the construction and deploy-
7 ment of infrastructure for the provision of
8 broadband service through the project can commence
9 by no later than 90 days after the date on which a
10 Federal credit instrument is obligated for the project
11 under the BIFIA program.

12 (9) PUBLIC SPONSORSHIP OF PRIVATE ENTI-
13 TIES.—

14 (A) IN GENERAL.—If an eligible project is
15 carried out by an entity that is not a State or
16 local government or an agency or instrumen-
17 tality of a State or local government or a Tribal
18 Government or consortium of Tribal Govern-
19 ments, the project shall be publicly sponsored.

20 (B) PUBLIC SPONSORSHIP.—For purposes
21 of this subtitle, a project shall be considered to
22 be publicly sponsored if the obligor can dem-
23 onstrate, to the satisfaction of the Assistant
24 Secretary, that the project applicant has con-
25 sulted with the State, local, or Tribal govern-

1 ment in the area in which the project is located,
2 or that is otherwise affected by the project, and
3 that such government supports the proposal.

4 (b) SELECTION AMONG ELIGIBLE PROJECTS.—

5 (1) ESTABLISHMENT OF APPLICATION PROC-
6 ESS.—The Assistant Secretary shall establish a roll-
7 ing application process under which projects that are
8 eligible to receive credit assistance under subsection
9 (a) shall receive credit assistance on terms accept-
10 able to the Assistant Secretary, if adequate funds
11 are available to cover the subsidy costs associated
12 with the Federal credit instrument.

13 (2) PRELIMINARY RATING OPINION LETTER.—
14 The Assistant Secretary shall require each project
15 applicant to provide—

16 (A) a preliminary rating opinion letter
17 from at least one rating agency—

18 (i) indicating that the senior obliga-
19 tions of the project, which may be the Fed-
20 eral credit instrument, have the potential
21 to achieve an investment-grade rating; and

22 (ii) including a preliminary rating
23 opinion on the Federal credit instrument;
24 or

1 (B) in the case of a small project, alter-
2 native documentation that the Assistant Sec-
3 retary shall require in the standards established
4 under section 3206 for purposes of this para-
5 graph.

6 (3) TECHNOLOGY NEUTRALITY REQUIRED.—In
7 selecting projects to receive credit assistance under
8 the BIFIA program, the Assistant Secretary may
9 not favor a project using any particular technology.

10 (4) PREFERENCE FOR OPEN-ACCESS NET-
11 WORKS.—In selecting projects to receive credit as-
12 sistance under the BIFIA program, the Assistant
13 Secretary shall give preference to projects providing
14 for the deployment of open-access broadband service
15 networks.

16 (c) FEDERAL REQUIREMENTS.—

17 (1) IN GENERAL.—The following provisions of
18 law shall apply to funds made available under the
19 BIFIA program and projects assisted with those
20 funds:

21 (A) Title VI of the Civil Rights Act of
22 1964 (42 U.S.C. 2000d et seq.).

23 (B) The National Environmental Policy
24 Act of 1969 (42 U.S.C. 4321 et seq.).

1 (C) 54 U.S.C. 300101 et seq. (commonly
2 referred to as the “National Historic Preserva-
3 tion Act”).

4 (D) The Uniform Relocation Assistance
5 and Real Property Acquisition Policies Act of
6 1970 (42 U.S.C. 4601 et seq.).

7 (2) NEPA.—No funding shall be obligated for
8 a project that has not received an environmental cat-
9 egorical exclusion, a finding of no significant impact,
10 or a record of decision under the National Environ-
11 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

12 (3) TITLE VI OF THE CIVIL RIGHTS ACT OF
13 1964.—For purposes of title VI of the Civil Rights
14 Act of 1964 (42 U.S.C. 2000d et seq.), any project
15 that receives credit assistance under the BIFIA pro-
16 gram shall be considered a program or activity with-
17 in the meaning of section 606 of such title (42
18 U.S.C. 2000d–4a).

19 (4) CONTRACTING REQUIREMENTS.—All labor-
20 ers and mechanics employed by contractors or sub-
21 contractors in the performance of construction, al-
22 teration, or repair work carried out, in whole or in
23 part, with assistance made available through a Fed-
24 eral credit instrument shall be paid wages at rates
25 not less than those prevailing on projects of a simi-

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

10 (5) NEUTRALITY REQUIREMENT.—An employer
11 receiving assistance made available through a Fed-
12 eral credit instrument under this subtitle shall re-
13 main neutral with respect to the exercise of employ-
14 ees and labor organizations of the right to organize
15 and bargain under the National Labor Relations Act
16 (29 U.S.C. 151 et seq.).

17 (6) REFERRAL OF ALLEGED VIOLATIONS OF AP-
18 PPLICABLE FEDERAL LABOR AND EMPLOYMENT
19 LAWS.—The Assistant Secretary shall refer any al-
20 leged violation of an applicable labor and employ-
21 ment law to the appropriate Federal agency for in-
22 vestigation and enforcement, and any alleged viola-
23 tion of paragraph (4) or (5) to the National Labor
24 Relations Board for investigation and enforcement,

1 utilizing all appropriate remedies up to and includ-
2 ing debarment from the BIFLA program.

3 (d) APPLICATION PROCESSING PROCEDURES.—

4 (1) NOTICE OF COMPLETE APPLICATION.—Not
5 later than 30 days after the date of receipt of an ap-
6 plication under this section, the Assistant Secretary
7 shall provide to the applicant a written notice to in-
8 form the applicant whether—

9 (A) the application is complete; or

10 (B) additional information or materials are
11 needed to complete the application.

12 (2) APPROVAL OR DENIAL OF APPLICATION.—

13 Not later than 60 days after the date of issuance of
14 the written notice under paragraph (1), the Assist-
15 ant Secretary shall provide to the applicant a writ-
16 ten notice informing the applicant whether the As-
17 sistant Secretary has approved or disapproved the
18 application.

19 (3) APPROVAL BEFORE NEPA REVIEW.—Subject
20 to subsection (c)(2), an application for a project may
21 be approved before the project receives an environ-
22 mental categorical exclusion, a finding of no signifi-
23 cant impact, or a record of decision under the Na-
24 tional Environmental Policy Act of 1969 (42 U.S.C.
25 4321 et seq.).

1 (e) DEVELOPMENT PHASE ACTIVITIES.—Any credit
2 instrument secured under the BIFLA program may be
3 used to finance up to 100 percent of the cost of develop-
4 ment phase activities as described in section 3202(3)(A).

5 **SEC. 3204. SECURED LOANS.**

6 (a) IN GENERAL.—

7 (1) AGREEMENTS.—Subject to paragraphs (2)
8 and (3), the Assistant Secretary may enter into
9 agreements with one or more obligors to make se-
10 cured loans, the proceeds of which shall be used—

11 (A) to finance eligible project costs of any
12 project selected under section 3203;

13 (B) to refinance interim construction fi-
14 nancing of eligible project costs of any project
15 selected under section 3203; or

16 (C) to refinance long-term project obliga-
17 tions or Federal credit instruments, if the refi-
18 nancing provides additional funding capacity for
19 the completion, enhancement, or expansion of
20 any project that—

21 (i) is selected under section 3203; or

22 (ii) otherwise meets the requirements
23 of section 3203.

24 (2) LIMITATION ON REFINANCING OF INTERIM
25 CONSTRUCTION FINANCING.—A loan under para-

1 graph (1) shall not refinance interim construction fi-
2 nancing under paragraph (1)(B)—

3 (A) if the maturity of such interim con-
4 struction financing is later than 1 year after
5 the substantial completion of the project; and

6 (B) later than 1 year after the date of sub-
7 stantial completion of the project.

8 (3) RISK ASSESSMENT.—Before entering into
9 an agreement under this subsection, the Assistant
10 Secretary, in consultation with the Director of the
11 Office of Management and Budget, shall determine
12 an appropriate capital reserve subsidy amount for
13 each secured loan, taking into account each rating
14 letter provided by a rating agency under section
15 3203(b)(2)(A)(ii) or, in the case of a small project,
16 the alternative documentation provided under section
17 3203(b)(2)(B).

18 (b) TERMS AND LIMITATIONS.—

19 (1) IN GENERAL.—A secured loan under this
20 section with respect to a project shall be on such
21 terms and conditions and contain such covenants,
22 representations, warranties, and requirements (in-
23 cluding requirements for audits) as the Assistant
24 Secretary determines to be appropriate.

1 (2) MAXIMUM AMOUNT.—The amount of a se-
2 cured loan under this section shall not exceed the
3 lesser of 49 percent of the reasonably anticipated eli-
4 gible project costs or, if the secured loan is not for
5 a small project and does not receive an investment-
6 grade rating, the amount of the senior project obli-
7 gations.

8 (3) PAYMENT.—A secured loan under this sec-
9 tion—

10 (A) shall—

11 (i) be payable, in whole or in part,
12 from—

13 (I) amounts charged to—

14 (aa) subscribers of
15 broadband service for such serv-
16 ice; or

17 (bb) subscribers of any re-
18 lated service provided over the
19 same infrastructure for such re-
20 lated service;

21 (II) user fees;

22 (III) payments owing to the obli-
23 gor under a public-private partner-
24 ship; or

1 (IV) other dedicated revenue
2 sources that also secure the senior
3 project obligations; and

4 (ii) include a coverage requirement or
5 similar security feature supporting the
6 project obligations; and

7 (B) may have a lien on revenues described
8 in subparagraph (A), subject to any lien secur-
9 ing project obligations.

10 (4) INTEREST RATE.—The interest rate on a
11 secured loan under this section shall be not less than
12 the yield on United States Treasury securities of a
13 similar maturity to the maturity of the secured loan
14 on the date of execution of the loan agreement.

15 (5) MATURITY DATE.—The final maturity date
16 of the secured loan shall be the lesser of—

17 (A) 35 years after the date of substantial
18 completion of the project; and

19 (B) if the useful life of the infrastructure
20 for the provision of broadband service being fi-
21 nanced is of a lesser period, the useful life of
22 the infrastructure.

23 (6) NONSUBORDINATION.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraph (B), the secured loan shall not be

1 subordinated to the claims of any holder of
2 project obligations in the event of bankruptcy,
3 insolvency, or liquidation of the obligor.

4 (B) PREEXISTING INDENTURE.—

5 (i) IN GENERAL.—The Assistant Sec-
6 retary shall waive the requirement under
7 subparagraph (A) for a public agency bor-
8 rower that is financing ongoing capital
9 programs and has outstanding senior
10 bonds under a preexisting indenture, if—

11 (I) the secured loan—

12 (aa) is rated in the A cat-
13 egory or higher; or

14 (bb) in the case of a small
15 project, meets an alternative
16 standard that the Assistant Sec-
17 retary shall establish under sec-
18 tion 3206 for purposes of this
19 subclause;

20 (II) the secured loan is secured
21 and payable from pledged revenues
22 not affected by project performance,
23 such as a tax-backed revenue pledge
24 or a system-backed pledge of project
25 revenues; and

1 (III) the BIFLA program share
2 of eligible project costs is 33 percent
3 or less.

4 (ii) LIMITATION.—If the Assistant
5 Secretary waives the nonsubordination re-
6 quirement under this subparagraph—

7 (I) the maximum credit subsidy
8 to be paid by the Federal Government
9 shall be not more than 10 percent of
10 the principal amount of the secured
11 loan; and

12 (II) the obligor shall be respon-
13 sible for paying the remainder of the
14 subsidy cost, if any.

15 (7) FEES.—The Assistant Secretary may estab-
16 lish fees at a level sufficient to cover all or a portion
17 of the costs to the Federal Government of making
18 a secured loan under this section.

19 (8) NON-FEDERAL SHARE.—The proceeds of a
20 secured loan under the BIFLA program, if the loan
21 is repayable from non-Federal funds—

22 (A) may be used for any non-Federal share
23 of project costs required under this subtitle;
24 and

1 (B) shall not count toward the total Fed-
2 eral assistance provided for a project for pur-
3 poses of paragraph (9).

4 (9) MAXIMUM FEDERAL INVOLVEMENT.—The
5 total Federal assistance provided for a project re-
6 ceiving a loan under the BIFLA program shall not
7 exceed 80 percent of the total project cost.

8 (c) REPAYMENT.—

9 (1) SCHEDULE.—The Assistant Secretary shall
10 establish a repayment schedule for each secured loan
11 under this section based on—

12 (A) the projected cash flow from project
13 revenues and other repayment sources; and

14 (B) the useful life of the infrastructure for
15 the provision of broadband service being fi-
16 nanced.

17 (2) COMMENCEMENT.—Scheduled loan repay-
18 ments of principal or interest on a secured loan
19 under this section shall commence not later than 5
20 years after the date of substantial completion of the
21 project.

22 (3) DEFERRED PAYMENTS.—

23 (A) IN GENERAL.—If, at any time after
24 the date of substantial completion of the
25 project, the project is unable to generate suffi-

1 cient revenues to pay the scheduled loan repay-
2 ments of principal and interest on the secured
3 loan, the Assistant Secretary may, subject to
4 subparagraph (C), allow the obligor to add un-
5 paid principal and interest to the outstanding
6 balance of the secured loan.

7 (B) INTEREST.—Any payment deferred
8 under subparagraph (A) shall—

9 (i) continue to accrue interest in ac-
10 cordance with subsection (b)(4) until fully
11 repaid; and

12 (ii) be scheduled to be amortized over
13 the remaining term of the loan.

14 (C) CRITERIA.—

15 (i) IN GENERAL.—Any payment defer-
16 ral under subparagraph (A) shall be con-
17 tingent on the project meeting criteria es-
18 tablished by the Assistant Secretary.

19 (ii) REPAYMENT STANDARDS.—The
20 criteria established pursuant to clause (i)
21 shall include standards for reasonable as-
22 surance of repayment.

23 (4) PREPAYMENT.—

24 (A) USE OF EXCESS REVENUES.—Any ex-
25 cess revenues that remain after satisfying

1 scheduled debt service requirements on the
2 project obligations and secured loan and all de-
3 posit requirements under the terms of any trust
4 agreement, bond resolution, or similar agree-
5 ment securing project obligations may be ap-
6 plied annually to prepay the secured loan with-
7 out penalty.

8 (B) USE OF PROCEEDS OF REFI-
9 NANCING.—The secured loan may be prepaid at
10 any time without penalty from the proceeds of
11 refinancing from non-Federal funding sources.

12 (d) SALE OF SECURED LOANS.—

13 (1) IN GENERAL.—Subject to paragraph (2), as
14 soon as practicable after substantial completion of a
15 project and after notifying the obligor, the Assistant
16 Secretary may sell to another entity or reoffer into
17 the capital markets a secured loan for the project if
18 the Assistant Secretary determines that the sale or
19 reoffering can be made on favorable terms.

20 (2) CONSENT OF OBLIGOR.—In making a sale
21 or reoffering under paragraph (1), the Assistant
22 Secretary may not change the original terms and
23 conditions of the secured loan without the written
24 consent of the obligor.

25 (e) LOAN GUARANTEES.—

1 (1) IN GENERAL.—The Assistant Secretary
2 may provide a loan guarantee to a lender in lieu of
3 making a secured loan under this section if the As-
4 sistant Secretary determines that the budgetary cost
5 of the loan guarantee is substantially the same as
6 that of a secured loan.

7 (2) TERMS.—The terms of a loan guarantee
8 under paragraph (1) shall be consistent with the
9 terms required under this section for a secured loan,
10 except that the rate on the guaranteed loan and any
11 prepayment features shall be negotiated between the
12 obligor and the lender, with the consent of the As-
13 sistant Secretary.

14 (f) STREAMLINED APPLICATION PROCESS.—

15 (1) IN GENERAL.—The Assistant Secretary
16 shall develop one or more expedited application proc-
17 esses, available at the request of entities seeking se-
18 cured loans under the BIFIA program, that use a
19 set or sets of conventional terms established pursu-
20 ant to this section.

21 (2) TERMS.—In establishing the streamlined
22 application process required by this subsection, the
23 Assistant Secretary may allow for an expedited ap-
24 plication period and include terms such as those that
25 require—

1 (A) that the project be a small project;

2 (B) the secured loan to be secured and
3 payable from pledged revenues not affected by
4 project performance, such as a tax-backed revenue
5 pledge, tax increment financing, or a system-backed
6 pledge of project revenues; and

7 (C) repayment of the loan to commence
8 not later than 5 years after disbursement.

9 **SEC. 3205. LINES OF CREDIT.**

10 (a) IN GENERAL.—

11 (1) AGREEMENTS.—Subject to paragraphs (2)
12 through (4), the Assistant Secretary may enter into
13 agreements to make available to one or more obligors
14 lines of credit in the form of direct loans to be
15 made by the Assistant Secretary at future dates on
16 the occurrence of certain events for any project selected
17 under section 3203.

18 (2) USE OF PROCEEDS.—The proceeds of a line
19 of credit made available under this section shall be
20 available to pay debt service on project obligations
21 issued to finance eligible project costs, extraordinary
22 repair and replacement costs, operation and maintenance
23 expenses, and costs associated with unexpected Federal or State
24 environmental restrictions.

25 (3) RISK ASSESSMENT.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), before entering into an
3 agreement under this subsection, the Assistant
4 Secretary, in consultation with the Director of
5 the Office of Management and Budget and each
6 rating agency providing a preliminary rating
7 opinion letter under section 3203(b)(2)(A),
8 shall determine an appropriate capital reserve
9 subsidy amount for each line of credit, taking
10 into account the rating opinion letter.

11 (B) SMALL PROJECTS.—Before entering
12 into an agreement under this subsection to
13 make available a line of credit for a small
14 project, the Assistant Secretary, in consultation
15 with the Director of the Office of Management
16 and Budget, shall determine an appropriate
17 capital reserve subsidy amount for each such
18 line of credit, taking into account the alter-
19 native documentation provided under section
20 3203(b)(2)(B) instead of preliminary rating
21 opinion letters provided under section
22 3203(b)(2)(A).

23 (4) INVESTMENT-GRADE RATING REQUIRE-
24 MENT.—The funding of a line of credit under this
25 section shall be contingent on—

1 (A) the senior obligations of the project re-
2 ceiving an investment-grade rating from 2 rat-
3 ing agencies; or

4 (B) in the case of a small project, the
5 project meeting an alternative standard that the
6 Assistant Secretary shall establish under section
7 3206 for purposes of this paragraph.

8 (b) TERMS AND LIMITATIONS.—

9 (1) IN GENERAL.—A line of credit under this
10 section with respect to a project shall be on such
11 terms and conditions and contain such covenants,
12 representations, warranties, and requirements (in-
13 cluding requirements for audits) as the Assistant
14 Secretary determines to be appropriate.

15 (2) MAXIMUM AMOUNTS.—The total amount of
16 a line of credit under this section shall not exceed
17 33 percent of the reasonably anticipated eligible
18 project costs.

19 (3) DRAWS.—Any draw on a line of credit
20 under this section shall—

21 (A) represent a direct loan; and

22 (B) be made only if net revenues from the
23 project (including capitalized interest, but not
24 including reasonably required financing re-

1 serves) are insufficient to pay the costs speci-
2 fied in subsection (a)(2).

3 (4) INTEREST RATE.—The interest rate on a
4 direct loan resulting from a draw on the line of cred-
5 it shall be not less than the yield on 30-year United
6 States Treasury securities, as of the date of execu-
7 tion of the line of credit agreement.

8 (5) SECURITY.—A line of credit issued under
9 this section—

10 (A) shall—

11 (i) be payable, in whole or in part,
12 from—

13 (I) amounts charged to—

14 (aa) subscribers of
15 broadband service for such serv-
16 ice; or

17 (bb) subscribers of any re-
18 lated service provided over the
19 same infrastructure for such re-
20 lated service;

21 (II) user fees;

22 (III) payments owing to the obli-
23 gor under a public-private partner-
24 ship; or

1 (IV) other dedicated revenue
2 sources that also secure the senior
3 project obligations; and

4 (ii) include a coverage requirement or
5 similar security feature supporting the
6 project obligations; and

7 (B) may have a lien on revenues described
8 in subparagraph (A), subject to any lien secur-
9 ing project obligations.

10 (6) PERIOD OF AVAILABILITY.—The full
11 amount of a line of credit under this section, to the
12 extent not drawn upon, shall be available during the
13 10-year period beginning on the date of substantial
14 completion of the project.

15 (7) RIGHTS OF THIRD-PARTY CREDITORS.—

16 (A) AGAINST FEDERAL GOVERNMENT.—A
17 third-party creditor of the obligor shall not have
18 any right against the Federal Government with
19 respect to any draw on a line of credit under
20 this section.

21 (B) ASSIGNMENT.—An obligor may assign
22 a line of credit under this section to—

23 (i) one or more lenders; or

24 (ii) a trustee on the behalf of such a
25 lender.

1 (8) NONSUBORDINATION.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B), a direct loan under this sec-
4 tion shall not be subordinated to the claims of
5 any holder of project obligations in the event of
6 bankruptcy, insolvency, or liquidation of the ob-
7 ligor.

8 (B) PRE-EXISTING INDENTURE.—

9 (i) IN GENERAL.—The Assistant Sec-
10 retary shall waive the requirement of sub-
11 paragraph (A) for a public agency bor-
12 rower that is financing ongoing capital
13 programs and has outstanding senior
14 bonds under a preexisting indenture, if—

15 (I) the line of credit—

16 (aa) is rated in the A cat-
17 egory or higher; or

18 (bb) in the case of a small
19 project, meets an alternative
20 standard that the Assistant Sec-
21 retary shall establish under sec-
22 tion 3206 for purposes of this
23 subclause;

24 (II) the BIFIA program loan re-
25 sulting from a draw on the line of

1 credit is payable from pledged reve-
2 nues not affected by project perform-
3 ance, such as a tax-backed revenue
4 pledge or a system-backed pledge of
5 project revenues; and

6 (III) the BIFLA program share
7 of eligible project costs is 33 percent
8 or less.

9 (ii) LIMITATION.—If the Assistant
10 Secretary waives the nonsubordination re-
11 quirement under this subparagraph—

12 (I) the maximum credit subsidy
13 to be paid by the Federal Government
14 shall be not more than 10 percent of
15 the principal amount of the secured
16 loan; and

17 (II) the obligor shall be respon-
18 sible for paying the remainder of the
19 subsidy cost.

20 (9) FEES.—The Assistant Secretary may estab-
21 lish fees at a level sufficient to cover all or a portion
22 of the costs to the Federal Government of providing
23 a line of credit under this section.

24 (10) RELATIONSHIP TO OTHER CREDIT INSTRU-
25 MENTS.—A project that receives a line of credit

1 under this section also shall not receive a secured
2 loan or loan guarantee under section 3204 in an
3 amount that, combined with the amount of the line
4 of credit, exceeds 49 percent of eligible project costs.

5 (c) REPAYMENT.—

6 (1) TERMS AND CONDITIONS.—The Assistant
7 Secretary shall establish repayment terms and condi-
8 tions for each direct loan under this section based
9 on—

10 (A) the projected cash flow from project
11 revenues and other repayment sources; and

12 (B) the useful life of the infrastructure for
13 the provision of broadband service being fi-
14 nanced.

15 (2) TIMING.—All repayments of principal or in-
16 terest on a direct loan under this section shall be
17 scheduled—

18 (A) to commence not later than 5 years
19 after the end of the period of availability speci-
20 fied in subsection (b)(6); and

21 (B) to conclude, with full repayment of
22 principal and interest, by the date that is 25
23 years after the end of the period of availability
24 specified in subsection (b)(6).

1 **SEC. 3206. ALTERNATIVE PRUDENTIAL LENDING STAND-**
2 **ARDS FOR SMALL PROJECTS.**

3 Not later than 180 days after the date of the enact-
4 ment of this Act, the Assistant Secretary shall establish
5 alternative, streamlined prudential lending standards for
6 small projects receiving credit assistance under the BIFIA
7 program to ensure that such projects pose no additional
8 risk to the Federal Government, as compared with
9 projects that are not small projects.

10 **SEC. 3207. PROGRAM ADMINISTRATION.**

11 (a) **REQUIREMENT.**—The Assistant Secretary shall
12 establish a uniform system to service the Federal credit
13 instruments made available under the BIFIA program.

14 (b) **FEEES.**—The Assistant Secretary may collect and
15 spend fees, contingent on authority being provided in ap-
16 propriations Acts, at a level that is sufficient to cover—

17 (1) the costs of services of expert firms retained
18 pursuant to subsection (d); and

19 (2) all or a portion of the costs to the Federal
20 Government of servicing the Federal credit instru-
21 ments.

22 (c) **SERVICER.**—

23 (1) **IN GENERAL.**—The Assistant Secretary
24 may appoint a financial entity to assist the Assistant
25 Secretary in servicing the Federal credit instru-
26 ments.

1 (2) DUTIES.—A servicer appointed under para-
2 graph (1) shall act as the agent for the Assistant
3 Secretary.

4 (3) FEE.—A servicer appointed under para-
5 graph (1) shall receive a servicing fee, subject to ap-
6 proval by the Assistant Secretary.

7 (d) ASSISTANCE FROM EXPERT FIRMS.—The Assist-
8 ant Secretary may retain the services of expert firms, in-
9 cluding counsel, in the field of municipal and project fi-
10 nance to assist in the underwriting and servicing of Fed-
11 eral credit instruments.

12 (e) EXPEDITED PROCESSING.—The Assistant Sec-
13 retary shall implement procedures and measures to econo-
14 mize the time and cost involved in obtaining approval and
15 the issuance of credit assistance under the BIFIA pro-
16 gram.

17 (f) ASSISTANCE TO SMALL PROJECTS.—Of the
18 amount appropriated under section 3210(a), and after the
19 set-aside for administrative expenses under section
20 3210(b), not less than 20 percent shall be made available
21 for the Assistant Secretary to use in lieu of fees collected
22 under subsection (b) for small projects.

23 **SEC. 3208. STATE AND LOCAL PERMITS.**

24 The provision of credit assistance under the BIFIA
25 program with respect to a project shall not—

1 (1) relieve any recipient of the assistance of any
2 obligation to obtain any required State or local per-
3 mit or approval with respect to the project;

4 (2) limit the right of any unit of State or local
5 government to approve or regulate any rate of re-
6 turn on private equity invested in the project; or

7 (3) otherwise supersede any State or local law
8 (including any regulation) applicable to the construc-
9 tion or operation of the project.

10 **SEC. 3209. REGULATIONS.**

11 The Assistant Secretary may promulgate such regula-
12 tions as the Assistant Secretary determines to be appro-
13 priate to carry out the BIFIA program.

14 **SEC. 3210. FUNDING.**

15 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There is
16 authorized to be appropriated to the Assistant Secretary
17 \$5,000,000,000 for fiscal year 2022 to carry out this sub-
18 title, and such amount is authorized to remain available
19 through fiscal year 2026.

20 (b) **ADMINISTRATIVE EXPENSES.**—Of the amount
21 appropriated under subsection (a), the Assistant Secretary
22 may use not more than 5 percent for the administration
23 of the BIFIA program.

1 **SEC. 3211. REPORTS TO CONGRESS.**

2 (a) IN GENERAL.—Not later than 1 year after the
3 date of the enactment of this Act, and every 2 years there-
4 after, the Assistant Secretary shall submit to Congress a
5 report summarizing the financial performance of the
6 projects that are receiving, or have received, assistance
7 under the BIFIA program, including a recommendation
8 as to whether the objectives of the BIFIA program are
9 best served by—

10 (1) continuing the program under the authority
11 of the Assistant Secretary; or

12 (2) establishing a Federal corporation or feder-
13 ally sponsored enterprise to administer the program.

14 (b) APPLICATION PROCESS REPORT.—

15 (1) IN GENERAL.—Not later than 1 year after
16 the date of the enactment of this Act, and annually
17 thereafter, the Assistant Secretary shall submit to
18 the Committee on Energy and Commerce of the
19 House of Representatives and the Committee on
20 Commerce, Science, and Transportation of the Sen-
21 ate a report that includes a list of all of the letters
22 of interest and applications received for assistance
23 under the BIFIA program during the preceding fis-
24 cal year.

25 (2) INCLUSIONS.—

1 (A) IN GENERAL.—Each report under
2 paragraph (1) shall include, at a minimum, a
3 description of, with respect to each letter of in-
4 terest and application included in the report—

5 (i) the date on which the letter of in-
6 terest or application was received;

7 (ii) the date on which a notification
8 was provided to the applicant regarding
9 whether the application was complete or
10 incomplete;

11 (iii) the date on which a revised and
12 completed application was submitted (if
13 applicable);

14 (iv) the date on which a notification
15 was provided to the applicant regarding
16 whether the project was approved or dis-
17 approved; and

18 (v) if the project was not approved,
19 the reason for the disapproval.

20 (B) CORRESPONDENCE.—Each report
21 under paragraph (1) shall include copies of any
22 correspondence provided to the applicant in ac-
23 cordance with section 3203(d).

1 **Subtitle C—Wi-Fi on School Buses**

2 **SEC. 3301. E-RATE SUPPORT FOR SCHOOL BUS WI-FI.**

3 (a) DEFINITION.—In this section, the term “school
4 bus” means a passenger motor vehicle that is—

5 (1) designed to carry a driver and not less than
6 5 passengers; and

7 (2) used significantly to transport early child
8 education, elementary school, or secondary school
9 students to or from school or an event related to
10 school.

11 (b) RULEMAKING.—Notwithstanding the limitations
12 under paragraphs (1)(B) and (2)(A) of section 254(h) of
13 the Communications Act of 1934 (47 U.S.C. 254(h)) re-
14 garding the authorized recipients and uses of discounted
15 telecommunications services, not later than 180 days after
16 the date of enactment of this Act, the Commission shall
17 commence a rulemaking to make the provision of Wi-Fi
18 access on school buses eligible for support under the E-
19 rate program of the Commission set forth under subpart
20 F of part 54 of title 47, Code of Federal Regulations.

21 **Subtitle D—Healthcare Broadband** 22 **Expansion.**

23 **SEC. 3401. DEFINITIONS.**

24 In this subtitle:

1 (1) ELIGIBLE EQUIPMENT.—The term “eligible
2 equipment” means the equipment described in sec-
3 tion 54.613 of title 47, Code of Federal Regulations,
4 or any successor regulation.

5 (2) ELIGIBLE SERVICE PROVIDER.—The term
6 “eligible service provider” means a provider de-
7 scribed in section 54.608 of title 47, Code of Federal
8 Regulations, or any successor regulation.

9 (3) FUNDING YEAR.—The term “funding year”
10 has the meaning given the term in section 54.600(a)
11 of title 47, Code of Federal Regulations, or any suc-
12 cessor regulation.

13 (4) HEALTH CARE PROVIDER.—The term
14 “health care provider” has the meaning given the
15 term in section 54.600(b) of title 47, Code of Fed-
16 eral Regulations, or any successor regulation.

17 (5) HEALTHCARE CONNECT FUND PROGRAM.—
18 The term “Healthcare Connect Fund Program”
19 means the program described in section 54.602(b) of
20 title 47, Code of Federal Regulations, or any suc-
21 cessor regulation.

22 (6) MULTI-YEAR COMMITMENTS.—The term
23 “multi-year commitments” means the commitments
24 described in section 54.620(c) of title 47, Code of
25 Federal Regulations, or any successor regulation.

1 (7) RURAL AREA.—The term “rural area” has
2 the meaning given the term in section 54.600(e) of
3 title 47, Code of Federal Regulations, or any suc-
4 cessor regulation.

5 (8) RURAL HEALTH CARE PROGRAM.—The
6 term “Rural Health Care Program” means the pro-
7 gram described in subpart G of part 54 of title 47,
8 Code of Federal Regulations, or any successor regu-
9 lation.

10 (9) RURAL HEALTH CARE PROVIDER.—The
11 term “rural health care provider” has the meaning
12 given the term in section 54.600(f) of title 47, Code
13 of Federal Regulations, or any successor regulation.

14 (10) TELECOMMUNICATIONS PROGRAM.—The
15 term “Telecommunications Program” has the mean-
16 ing given the term in section 54.602(a) of title 47,
17 Code of Federal Regulations, or any successor regu-
18 lation.

19 (11) UPFRONT PAYMENTS.—The term “upfront
20 payments” means the payments described in section
21 54.616 of title 47, Code of Federal Regulations, or
22 any successor regulation.

23 **SEC. 3402. EXPANSION OF RURAL HEALTH CARE PROGRAM.**

24 (a) PROMULGATION OF REGULATIONS REQUIRED.—
25 Not later than 180 days after the date of enactment of

1 this Act, the Commission shall promulgate regulations
2 modifying the requirements in subpart G of part 54 of
3 title 47, Code of Federal Regulations, in the following
4 manner:

5 (1) A health care provider not located in a rural
6 area shall be treated as a rural health care provider
7 in funding years 2022, 2023, and 2024 for the pur-
8 poses of the Healthcare Connect Fund Program.

9 (2) The discount rate for an eligible expense
10 through the Healthcare Connect Fund Program (as
11 described in section 54.611(a) of title 47, Code of
12 Federal Regulations, or any successor regulation)
13 shall be increased to 85 percent in funding years
14 2022, 2023, and 2024 for eligible equipment pur-
15 chased or eligible services rendered in such funding
16 years, including for eligible equipment, upfront pay-
17 ments, and multi-year commitments without limita-
18 tion.

19 (3) A temporary, mobile, or satellite health care
20 delivery site shall be treated as a health care pro-
21 vider or an eligible site of a health care provider in
22 funding years 2022, 2023, and 2024 for purposes of
23 determining eligibility for the Healthcare Connect
24 Fund Program or the Telecommunications Program.

1 (4) The adoption and implementation of a roll-
2 ing application process to allow a health care pro-
3 vider to apply for funding.

4 (5) The following changes to certain bidding re-
5 quirements:

6 (A) Modification of the requirements in
7 section 54.622 of title 47, Code of Federal Reg-
8 ulations, or any successor regulation, to—

9 (i) provide that bid evaluation criteria
10 may give additional consideration to the
11 speed with which an eligible service pro-
12 vider can initiate service; and

13 (ii) encourage applicants to consider
14 bids from different providers to provide
15 service to different locations of such appli-
16 cants, if considering bids in this manner
17 would expedite the overall timeline for ini-
18 tiating or expanding service to individual
19 locations.

20 (6) Issuance of a decision on each application
21 for funding not later than 60 days after the date on
22 which the application is filed.

23 (7) Release of funding not later than 30 days
24 after the date on which an invoice is submitted with
25 respect to an application that is approved, applicable

1 services have been provided, and required invoices
2 have been submitted as required under program
3 rules.

4 (b) ADDITIONAL CHANGES TO RURAL HEALTH CARE
5 PROGRAM.—

6 (1) RELEASE OF FUNDING FOR OUTSTANDING
7 FUNDING REQUESTS.—

8 (A) IN GENERAL.—The Commission shall
9 ensure the release of funding for all requests
10 (outstanding as of the date of enactment of this
11 Act) under the Rural Health Care Program not
12 later than 60 days after the date of enactment
13 of this Act, except that for outstanding funding
14 requests that are subject to a review of the ap-
15 plicable urban and rural rates, the Commission
16 shall ensure the release of interim funding not
17 later than 60 days after the date of enactment
18 of this Act, disbursed at 65 percent of the fund-
19 ing request, subject to a true-up following the
20 completion of such review.

21 (B) LIMITATION.—This paragraph shall
22 not apply to any party or successor-in-interest
23 to any party to which the Commission, during
24 the period beginning on the date that is 1 year
25 before the date of enactment of this Act and

1 ending on January 31, 2022, has issued a Let-
2 ter of Inquiry, Notice of Apparent Liability, or
3 Forfeiture Order relating to the party's partici-
4 pation in the Rural Health Care Program, pur-
5 suant to section 503(b) of the Communications
6 Act of 1934 (47 U.S.C. 503(b)).

7 (C) REQUIRED REPAYMENT.—In the case
8 of an eligible service provider that receives
9 funding through the Rural Health Care Pro-
10 gram pursuant to this paragraph to which the
11 eligible service provider is not entitled, the
12 Commission shall require the eligible service
13 provider to repay such funds.

14 (e) EFFECTIVE DATE OF REGULATIONS.—The regu-
15 lations required under subsection (a) shall take effect on
16 the date on which the regulations are promulgated.

17 (d) TELEHEALTH CONNECTIVITY FUND.—

18 (1) ESTABLISHMENT.—There is established in
19 the Treasury of the United States a fund to be
20 known as the Telehealth Connectivity Fund.

21 (2) APPROPRIATION.—There is appropriated to
22 the Telehealth Connectivity Fund, out of any money
23 in the Treasury not otherwise appropriated,
24 \$2,000,000,000 for fiscal year 2022, to remain
25 available through fiscal year 2026.

1 (3) USE OF FUNDS.—Amounts in the Tele-
2 health Connectivity Fund shall be available to the
3 Commission to carry out the Rural Health Care Pro-
4 gram, as modified by the regulations promulgated
5 under subsection (a).

6 (4) RELATIONSHIP TO UNIVERSAL SERVICE
7 CONTRIBUTIONS.—Support provided under the regu-
8 lations required by paragraphs (1) through (3) of
9 subsection (a) shall be—

10 (A) provided from amounts made available
11 under paragraph (3) of this subsection and not
12 from contributions under section 254(d) of the
13 Communications Act of 1934 (47 U.S.C.
14 254(d)); and

15 (B) in addition to, and not in replacement
16 of, funds authorized by the Commission for the
17 Rural Health Care Program as of the date of
18 enactment of this Act from contributions under
19 section 254(d) of the Communications Act of
20 1934 (47 U.S.C. 254(d)).

21 (e) LABOR REQUIREMENTS.—

22 (1) IN GENERAL.—All laborers and mechanics
23 employed by contractors or subcontractors in the
24 performance of construction, alteration or repair
25 work carried out, in whole or in part, with assistance

1 made available through the Rural Health Care pro-
2 gram shall be paid wages at rates not less than
3 those prevailing on projects of a similar character in
4 the locality as determined by the Secretary of Labor
5 in accordance with subchapter IV of chapter 31 of
6 title 40, United States Code.

7 (2) AUTHORITY AND FUNCTIONS OF SEC-
8 RETARY OF LABOR.—With respect to the labor
9 standards described in paragraph (1), the Secretary
10 of Labor shall have the authority and functions set
11 forth in Reorganization Plan Numbered 14 of 1950
12 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of
13 title 40, United States Code.

14 (f) NEUTRALITY REQUIREMENT.—

15 (1) IN GENERAL.—In the case of a recipient of
16 funding through the Rural Health Care Program
17 that is an employer, the employer shall remain neu-
18 tral with respect to the exercise of employees and
19 labor organizations of the right to organize and bar-
20 gain under the National Labor Relations Act (29
21 U.S.C. 151 et seq.).

22 (2) DEFINITIONS.—In this subsection, the
23 terms “employee”, “employer”, and “labor organiza-
24 tion” have the meanings given those terms in section

1 2 of the National Labor Relations Act (29 U.S.C.
2 152).

3 (g) REFERRAL OF ALLEGED VIOLATIONS OF APPLI-
4 CABLE FEDERAL LABOR AND EMPLOYMENT LAWS.—The
5 Commission shall refer any alleged violation of an applica-
6 ble labor and employment law to the appropriate Federal
7 agency for investigation and enforcement, and shall refer
8 any alleged violation of subsection (e) or (f) to the Na-
9 tional Labor Relations Board for investigation and en-
10 forcement.

11 **Subtitle E—Internet Exchange and**
12 **Submarine Cable Grants.**

13 **SEC. 3501. DEFINITIONS.**

14 In this subtitle:

15 (1) CORE BASED STATISTICAL AREA.—The
16 term “core based statistical area” has the meaning
17 given the term by the Office of Management and
18 Budget in the Notice of Decision entitled “2010
19 Standards for Delineating Metropolitan and
20 Micropolitan Statistical Areas”, published in the
21 Federal Register on June 28, 2010 (75 Fed. Reg.
22 37246), or any successor to that Notice.

23 (2) COVERED GRANT.—The term “covered
24 grant” means a grant awarded under section
25 3502(a).

1 (3) INDIAN TRIBE.—The term “Indian
2 Tribe”—

3 (A) has the meaning given the term in sec-
4 tion 4 of the Indian Self-Determination and
5 Education Assistance Act (25 U.S.C. 5304);
6 and

7 (B) includes a Native Hawaiian organiza-
8 tion, as that term is defined in section 6207 of
9 the Native Hawaiian Education Act (20 U.S.C.
10 7517).

11 (4) INTERNET EXCHANGE FACILITY.—The term
12 “internet exchange facility” means physical infra-
13 structure through which internet service providers
14 and content delivery networks exchange internet
15 traffic between their networks.

16 (5) SUBMARINE CABLE LANDING STATION.—
17 The term “submarine cable landing station” means
18 a cable landing station, as that term is used in sec-
19 tion 1.767(a)(5) of title 47, Code of Federal Regula-
20 tions (or any successor regulation), that can be uti-
21 lized to land a submarine cable by an entity that has
22 obtained a license under the first section of the Act
23 entitled “An Act relating to the landing and oper-
24 ation of submarine cables in the United States”, ap-

1 proved May 27, 1921 (47 U.S.C. 34) (commonly
2 known as the “Cable Landing Licensing Act”).

3 **SEC. 3502. INTERNET EXCHANGE FACILITY GRANTS.**

4 (a) GRANTS.—Not later than 1 year after the date
5 on which amounts are made available under section 3505,
6 the Assistant Secretary shall award grants to entities to
7 acquire real property and necessary equipment to—

8 (1) establish a new internet exchange facility in
9 a core based statistical area in which, at the time
10 the grant is awarded, there are no existing internet
11 exchange facilities; or

12 (2) expand operations at an existing internet
13 exchange facility in a core based statistical area in
14 which, at the time the grant is awarded, there is
15 only 1 internet exchange facility.

16 (b) ELIGIBILITY.—To be eligible to receive a covered
17 grant, an entity shall—

18 (1) have sufficient interest from third party en-
19 tities that will use the internet exchange facility to
20 be funded by the grant once the facility is estab-
21 lished or operations are expanded, as applicable;

22 (2) have sovereign control over the land or
23 building in which the internet exchange facility is to
24 be housed;

1 (3) provide evidence of direct conduit, duct, and
2 manhole access to public rights-of-way;

3 (4) have a plan to establish security protocols
4 for the internet exchange facility to prevent physical
5 or electronic intrusion from unauthorized users; and

6 (5) provide other information required by the
7 Assistant Secretary to protect against waste, fraud,
8 or abuse.

9 (c) FEDERAL SHARE.—The Federal share of the
10 total cost of the establishment of, or expansion of oper-
11 ations at, an internet exchange facility for which a covered
12 grant is awarded may not exceed 50 percent.

13 (d) GRANT AMOUNT.—The amount of a covered
14 grant may not exceed \$3,000,000.

15 (e) APPLICATIONS.—

16 (1) RULES AND TIMELINES.—Not later than 1
17 year after the date of enactment of this Act, the As-
18 sistant Secretary shall establish rules and timelines
19 for applications for—

20 (A) covered grants; and

21 (B) grants under section 3503.

22 (2) THIRD PARTY REVIEW.—To prevent fraud
23 in the covered grant program, the Assistant Sec-
24 retary shall enter into a contract with an inde-
25 pendent third party under which the third party re-

1 views an application for a covered grant not later
2 than 60 days after the date on which the application
3 is submitted to ensure that only an entity that is eli-
4 gible for a covered grant receives a covered grant.

5 (f) **RULE OF CONSTRUCTION.**—Nothing in this sec-
6 tion shall be construed to authorize the Assistant Sec-
7 retary to regulate, issue guidance for, or otherwise inter-
8 fere with the activities at an internet exchange facility.

9 **SEC. 3503. SUBMARINE CABLE LANDING STATION GRANTS.**

10 Not later than 1 year after the date on which
11 amounts are made available under section 3505, and in
12 accordance with the rules and timelines established under
13 section 3502(e)(1), the Assistant Secretary shall award
14 grants to States and Indian Tribes to build infrastructure
15 and acquire necessary equipment to establish or expand
16 an open-access, carrier-neutral submarine cable landing
17 station that serves a military facility.

18 **SEC. 3504. REPORT.**

19 Not later than 5 years after the date of enactment
20 of this Act, and annually thereafter for 5 years, the Assist-
21 ant Secretary shall submit a report on outcomes of grants
22 awarded under this subtitle to—

23 (1) the Committee on Commerce, Science, and
24 Transportation of the Senate; and

1 (2) the Committee on Energy and Commerce of
2 the House of Representatives.

3 **SEC. 3505. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) IN GENERAL.—There is authorized to be appro-
5 priated \$35,000,000 to carry out sections 3502 and 3503.

6 (b) LIMITATION.—The Assistant Secretary may not
7 use more than 10 percent of the amounts made available
8 under subsection (a) to administer and report on the out-
9 comes of grants awarded under this subtitle.

10 **SEC. 3506. RETURN OF CERTAIN GRANT AMOUNTS.**

11 The Assistant Secretary may require a recipient of
12 a grant awarded under section 3502 or 3503 to return
13 all or a portion of the grant amount if there is evidence
14 of waste, fraud, or abuse of grant funds by the recipient.

15 **TITLE IV—COMMUNITY**
16 **BROADBAND**

17 **SEC. 4001. STATE, LOCAL, PUBLIC-PRIVATE PARTNERSHIP,**
18 **AND CO-OP BROADBAND SERVICES.**

19 Section 706 of the Telecommunications Act of 1996
20 (47 U.S.C. 1302) is amended—

21 (1) by redesignating subsection (d) as sub-
22 section (e) and inserting after subsection (e) the fol-
23 lowing:

1 “(d) STATE, LOCAL, PUBLIC-PRIVATE PARTNER-
2 SHIP, AND CO-OP ADVANCED TELECOMMUNICATIONS CA-
3 PABILITY AND SERVICES.—

4 “(1) IN GENERAL.—No State statute, regula-
5 tion, or other State legal requirement may prohibit
6 or have the effect of prohibiting any public provider,
7 public-private partnership provider, or cooperatively
8 organized provider from providing, to any person or
9 any public or private entity, advanced telecommuni-
10 cations capability or any service that utilizes the ad-
11 vanced telecommunications capability provided by
12 such provider.

13 “(2) ANTIDISCRIMINATION SAFEGUARDS.—

14 “(A) PUBLIC PROVIDERS.—To the extent
15 any public provider regulates competing private
16 providers of advanced telecommunications capa-
17 bility or services that utilize advanced tele-
18 communications capability, such public provider
19 shall apply its ordinances and rules without dis-
20 crimination in favor of itself or any provider
21 that it owns of services that utilize advanced
22 telecommunications capability.

23 “(B) PUBLIC-PRIVATE PARTNERSHIP PRO-
24 VIDERS.—To the extent any State or local enti-
25 ty that is part of a public-private partnership

1 provider regulates competing private providers
2 of advanced telecommunications capability or
3 services that utilize advanced telecommuni-
4 cations capability, such State or local entity
5 shall apply its ordinances and rules without dis-
6 crimination in favor of such public-private part-
7 nership provider or any provider that such
8 State or local entity or public-private partner-
9 ship provider owns of services that utilize ad-
10 vanced telecommunications capability.

11 “(3) SAVINGS CLAUSE.—Nothing in this sub-
12 section shall exempt a public provider, public-private
13 partnership provider, or cooperatively organized pro-
14 vider from any Federal or State telecommunications
15 law or regulation that applies to all providers of ad-
16 vanced telecommunications capability or services
17 that utilize such advanced telecommunications capa-
18 bility.”; and

19 (2) in subsection (e), as redesignated—

20 (A) in the matter preceding paragraph (1),
21 by striking “this subsection” and inserting
22 “this section”;

23 (B) by redesignating paragraph (2) as
24 paragraph (3);

1 (C) by inserting after paragraph (1) the
2 following:

3 “(2) COOPERATIVELY ORGANIZED PROVIDER.—
4 The term ‘cooperatively organized provider’ means
5 an entity that is treated as a cooperative under Fed-
6 eral tax law and that provides advanced tele-
7 communications capability, or any service that uti-
8 lizes such advanced telecommunications capability,
9 to any person or public or private entity.”; and

10 (D) by adding at the end the following:

11 “(4) PUBLIC PROVIDER.—The term ‘public pro-
12 vider’ means a State or local entity that provides ad-
13 vanced telecommunications capability, or any service
14 that utilizes such advanced telecommunications ca-
15 pability, to any person or public or private entity.

16 “(5) PUBLIC-PRIVATE PARTNERSHIP PRO-
17 VIDER.—The term ‘public-private partnership pro-
18 vider’ means a public-private partnership, between a
19 State or local entity and a private entity, that pro-
20 vides advanced telecommunications capability, or any
21 service that utilizes such advanced telecommuni-
22 cations capability, to any person or public or private
23 entity.

24 “(6) STATE OR LOCAL ENTITY.—The term
25 ‘State or local entity’ means a State or political sub-

1 division thereof, any agency, authority, or instru-
 2 mentality of a State or political subdivision thereof,
 3 or an Indian Tribe (as defined in section 4(e) of the
 4 Indian Self-Determination and Education Assistance
 5 Act (25 U.S.C. 5304(e))).”.

6 **TITLE V—BROADBAND INFRA-** 7 **STRUCTURE DEPLOYMENT**

8 **SEC. 5001. BROADBAND INFRASTRUCTURE DEPLOYMENT.**

9 (a) DEFINITIONS.—In this section:

10 (1) APPROPRIATE STATE AGENCY.—The term
 11 “appropriate State agency” means a State govern-
 12 mental agency that is recognized by the executive
 13 branch of the State as having the experience nec-
 14 essary to evaluate and facilitate the installation and
 15 operation of broadband infrastructure within the
 16 State.

17 (2) BROADBAND.—The term “broadband” has
 18 the meaning given the term “advanced telecommuni-
 19 cations capability” in section 706 of the Tele-
 20 communications Act of 1996 (47 U.S.C. 1302).

21 (3) BROADBAND CONDUIT.—The term
 22 “broadband conduit” means a conduit or innerduct
 23 for fiber optic cables (or successor technology of
 24 greater quality and speed) that supports the provi-
 25 sion of broadband.

1 (4) BROADBAND INFRASTRUCTURE.—The term
2 “broadband infrastructure” means any buried or un-
3 derground facility and any wireless or wireline con-
4 nection that enables the provision of broadband.

5 (5) BROADBAND PROVIDER.—The term
6 “broadband provider” means an entity that provides
7 broadband to any person or facilitates provision of
8 broadband to any person, including, with respect to
9 such entity—

10 (A) a corporation, company, association,
11 firm, partnership, nonprofit organization, or
12 any other private entity;

13 (B) a State or local broadband provider;

14 (C) an Indian Tribe; and

15 (D) a partnership between any of the enti-
16 ties described in subparagraphs (A), (B), and
17 (C).

18 (6) COVERED HIGHWAY CONSTRUCTION
19 PROJECT.—

20 (A) IN GENERAL.—The term “covered
21 highway construction project” means, without
22 regard to ownership of a highway, a project to
23 construct a new highway or an additional lane
24 for an existing highway, to reconstruct an exist-

1 ing highway, or new construction, including for
2 a paved shoulder.

3 (B) EXCLUSIONS.—The term “covered
4 highway construction project” excludes any
5 project—

6 (i) awarded before the date on which
7 regulations required under subsection (b)
8 take effect;

9 (ii) that does not include work beyond
10 the edge of pavement or current paved
11 shoulder; or

12 (iii) that does not require excavation.

13 (7) DIG ONCE REQUIREMENT.—The term “dig
14 once requirement” means a requirement designed to
15 reduce the cost and accelerate the deployment to
16 broadband by minimizing the number and scale of
17 repeated excavations for the installation and mainte-
18 nance of broadband conduit or broadband infrastruc-
19 ture in rights-of-way.

20 (8) PROJECT.—The term “project” has the
21 meaning given such term in section 101 of title 23,
22 United States Code.

23 (9) SECRETARY.—The term “Secretary” means
24 the Secretary of Transportation.

1 (10) STATE.—The term “State” has the mean-
2 ing given such term in section 401 of title 23,
3 United States Code.

4 (11) STATE OR LOCAL BROADBAND PRO-
5 VIDER.—The term “State or local broadband pro-
6 vider” means a State or political subdivision thereof,
7 or any agency, authority, or instrumentality of a
8 State or political subdivision thereof, that provides
9 broadband to any person or facilitates the provision
10 of broadband to any person in that State.

11 (12) TRIBAL GOVERNMENT.—The term “Tribal
12 government” means the recognized governing body
13 of an Indian Tribe or any agency, authority, or in-
14 strumentality of such governing body or such Indian
15 Tribe.

16 (b) DIG ONCE REQUIREMENT.—To facilitate the in-
17 stallation of broadband infrastructure, the Secretary shall,
18 not later than 9 months after the date of enactment of
19 this Act, promulgate regulations to ensure that each State
20 that receives funds under chapter 1 of title 23, United
21 States Code, meets the following requirements:

22 (1) BROADBAND PLANNING.—The State depart-
23 ment of transportation, in consultation with appro-
24 priate State agencies, shall—

1 (A) identify a broadband coordinator, who
2 may have additional responsibilities in the State
3 department of transportation or in another
4 State agency, that is responsible for facilitating
5 the broadband infrastructure right-of-way ef-
6 forts within the State; and

7 (B) review existing State broadband plans,
8 including existing dig once requirements of the
9 State, municipal governments incorporated
10 under State law, and Tribal governments within
11 the State, to determine opportunities to coordi-
12 nate projects occurring within or across high-
13 way rights-of-way with planned broadband in-
14 frastructure projects.

15 (2) NOTICE OF PLANNED CONSTRUCTION FOR
16 BROADBAND PROVIDERS.—

17 (A) NOTICE.—The State department of
18 transportation, in consultation with appropriate
19 State agencies, shall establish a process—

20 (i) for the registration of broadband
21 providers that seek to be included in the
22 advance notification of, and opportunity to
23 participate in, broadband infrastructure
24 right-of-way facilitation efforts within the
25 State; and

1 (ii) to electronically notify all
2 broadband providers registered under
3 clause (i)—

4 (I) of the State transportation
5 improvement program on at least an
6 annual basis; and

7 (II) of projects within the high-
8 way right-of-way for which Federal
9 funding is expected to be obligated in
10 the subsequent fiscal year.

11 (B) WEBSITE.—A State department of
12 transportation shall be considered to meet the
13 requirements of subparagraph (A) if such State
14 department of transportation publishes on a
15 public website—

16 (i) the State transportation improve-
17 ment program on at least an annual basis;
18 and

19 (ii) projects within the highway right-
20 of-way for which Federal funding is ex-
21 pected to be obligated in the subsequent
22 fiscal year.

23 (C) COORDINATION.—The State depart-
24 ment of transportation, in consultation with ap-
25 propriate State agencies, shall establish a proc-

1 ess for a broadband provider to commit to in-
2 stalling broadband conduit or broadband infra-
3 structure as part of any project.

4 (3) REQUIRED INSTALLATION OF CONDUIT.—

5 (A) IN GENERAL.—The State department
6 of transportation shall install broadband con-
7 duit, in accordance with this paragraph, except
8 as described in subparagraph (F), as part of
9 any covered highway construction project, un-
10 less a broadband provider has committed to in-
11 stall broadband conduit or broadband infra-
12 structure as part of such project in a process
13 described under paragraph (2)(C).

14 (B) INSTALLATION REQUIREMENTS.—The
15 State department of transportation shall ensure
16 that—

17 (i) an appropriate number of
18 broadband conduits, as determined in con-
19 sultation with the appropriate State agen-
20 cies, are installed along the highway of a
21 covered highway construction project to ac-
22 commodate multiple broadband providers,
23 with consideration given to the availability
24 of existing conduits;

1 (ii) the size of each such conduit is
2 consistent with industry best practices and
3 is sufficient to accommodate potential de-
4 mand, as determined in consultation with
5 the appropriate State agencies;

6 (iii) hand holes and manholes nec-
7 essary for fiber access and pulling with re-
8 spect to such conduit are placed at inter-
9 vals consistent with standards determined
10 in consultation with the appropriate State
11 agencies (which may differ by type of road,
12 topologies, and rurality) and consistent
13 with safety requirements;

14 (iv) each broadband conduit installed
15 pursuant to this paragraph includes a pull
16 tape and is capable of supporting fiber
17 optic cable placement techniques consistent
18 with best practices; and

19 (v) is placed at a depth consistent
20 with requirements of the covered highway
21 construction project and best practices and
22 that, in determining the depth of place-
23 ment, consideration is given to the location
24 of existing utilities and cable separation re-

1 requirements of State and local electrical
2 codes.

3 (C) GUIDANCE FOR THE INSTALLATION OF
4 BROADBAND CONDUIT.—The Secretary, in con-
5 sultation with the Assistant Secretary, shall
6 issue guidance for best practices related to the
7 installation of broadband conduit as described
8 in this paragraph and of conduit and similar in-
9 frastructure for intelligent transportation sys-
10 tems (as such term is defined in section 501 of
11 title 23, United States Code) that may utilize
12 broadband conduit installed pursuant to this
13 paragraph.

14 (D) ACCESS.—

15 (i) IN GENERAL.—The State depart-
16 ment of transportation shall ensure that
17 any requesting broadband provider has ac-
18 cess to each broadband conduit installed
19 pursuant to this paragraph, on a competi-
20 tively neutral and nondiscriminatory basis,
21 and in accordance with State permitting,
22 licensing, leasing, or other similar laws and
23 regulations.

24 (ii) FEE SCHEDULE.—The State de-
25 partment of transportation, in consultation

1 with appropriate State agencies, shall pub-
2 lish a fee schedule for a broadband pro-
3 vider to access conduit installed pursuant
4 to this paragraph. Fees in such schedule—

5 (I) shall be consistent with the
6 fees established pursuant to section
7 224 of the Communications Act of
8 1934 (47 U.S.C. 224);

9 (II) may vary by topography, lo-
10 cation, type of road, rurality, and
11 other factors in the determination of
12 the State; and

13 (III) may be updated not more
14 frequently than annually.

15 (iii) IN-KIND COMPENSATION.—The
16 State department of transportation may
17 negotiate in-kind compensation with any
18 broadband provider requesting access to
19 broadband conduit installed under the pro-
20 visions of this paragraph as a replacement
21 for part or all of, but not to exceed, the
22 relevant fee in the fee schedule described
23 in clause (ii).

24 (iv) SAFETY CONSIDERATIONS.—The
25 State department of transportation shall

1 require of broadband providers a process
2 for safe access to the highway right-of-way
3 during installation and on-going maintenance
4 of the broadband fiber optic cables
5 including a traffic control safety plan.

6 (v) COMMUNICATION.—A broadband
7 provider with access to the conduit installed
8 pursuant to this subsection shall
9 notify and receive permission from the relevant
10 agencies of State responsible for the
11 installation of such broadband conduit
12 prior to accessing any highway or highway
13 right-of-way, in accordance with applicable
14 Federal requirements.

15 (E) TREATMENT OF PROJECTS.—Notwithstanding
16 any other provision of law, broadband
17 conduit and broadband infrastructure installation
18 projects under this paragraph shall comply
19 with section 113(a) of title 23, United States
20 Code.

21 (F) WAIVER AUTHORITY.—

22 (i) IN GENERAL.—A State department
23 of transportation may waive the required
24 installation of broadband conduit for part
25 or all of any covered highway construction

1 project under this paragraph if, in the de-
2 termination of the State—

3 (I) broadband infrastructure, ter-
4 restrial broadband infrastructure, aer-
5 ial broadband fiber cables, or
6 broadband conduit is present near a
7 majority of the length of the covered
8 highway construction project;

9 (II) the installation of conduit in-
10 creases overall costs of a covered high-
11 way construction project by 1.5 per-
12 cent or greater;

13 (III) the installation of
14 broadband conduit associated with
15 covered highway construction project
16 will not be utilized or connected to fu-
17 ture broadband infrastructure in the
18 next 20 years, in the determination of
19 the State department of transpor-
20 tation, in consultation with appro-
21 priate State agencies and potentially
22 affected local governments and Tribal
23 governments;

24 (IV) the requirements of this
25 paragraph would require installation

1 of conduit redundant with a dig once
2 requirement of a local or Tribal gov-
3 ernment;

4 (V) there exists a circumstance
5 involving force majeure; or

6 (VI) other relevant factors, as de-
7 termined by the Secretary in consulta-
8 tion with the Assistant Secretary
9 through regulation, warrant a waiver.

10 (ii) CONTENTS OF WAIVER.—A waiver
11 authorized under this subparagraph
12 shall—

13 (I) identify the covered highway
14 construction project; and

15 (II) include a brief description of
16 the determination of the State for
17 issuing such waiver.

18 (iii) AVAILABILITY OF WAIVER.—A
19 waiver authorized under this subparagraph
20 shall be included in the plans, specifica-
21 tions, and estimates for the associated
22 project, as long as such info is publicly
23 available.

24 (4) PRIORITY.—If a State provides for the in-
25 stallation of broadband infrastructure or broadband

1 conduit in the right-of-way of an applicable project
2 under this subsection, the State department of
3 transportation, along with appropriate State agen-
4 cies, shall carry out appropriate measures to ensure
5 that any existing broadband providers are afforded
6 equal opportunity access, as compared to other
7 broadband providers, with respect to the program
8 under this subsection.

9 (5) CONSULTATION.—

10 (A) IN GENERAL.—In promulgating regu-
11 lations required by this subsection or to imple-
12 ment any part of this section, the Secretary
13 shall consult—

14 (i) the Assistant Secretary;

15 (ii) the Commission;

16 (iii) State departments of transpor-
17 tation;

18 (iv) appropriate State agencies;

19 (v) agencies of local governments re-
20 sponsible for transportation and rights-of-
21 way, utilities, and telecommunications and
22 broadband;

23 (vi) Tribal governments;

24 (vii) broadband providers; and

1 (viii) manufacturers of optical fiber,
2 conduit, pull tape, and related items.

3 (B) BROADBAND USERS.—The Secretary
4 shall ensure that the entities consulted under
5 clauses (iii) through (vi) of subparagraph (A)
6 include rural areas and populations with limited
7 access to broadband infrastructure.

8 (C) BROADBAND PROVIDERS.—The Sec-
9 retary shall ensure that the entities consulted
10 under clause (vii) of subparagraph (A) include
11 entities who provide broadband to rural areas
12 and populations with limited access to
13 broadband infrastructure.

14 (6) PROHIBITION ON UNFUNDED MANDATE.—

15 (A) IN GENERAL.—This subsection shall
16 apply only to projects for which Federal obliga-
17 tions or expenditures are initially approved on
18 or after the date regulations required under this
19 subsection take effect.

20 (B) NO MANDATE.—Absent an available
21 and dedicated Federal source of funding—

22 (i) nothing in this subsection estab-
23 lishes a mandate or requirement that a
24 State install broadband conduit in a high-
25 way right-of-way; and

1 (ii) nothing in paragraph (3) shall es-
2 tablish any requirement for a State.

3 (7) RULES OF CONSTRUCTION.—

4 (A) STATE LAW.—Nothing in this sub-
5 section shall be construed to require a State to
6 install or allow the installation of broadband
7 conduit or broadband infrastructure—

8 (i) that is otherwise inconsistent with
9 what is allowable under State law; or

10 (ii) where the State lacks the author-
11 ity or property easement necessary for
12 such installation.

13 (B) NO REQUIREMENT FOR INSTALLATION
14 OF MOBILE SERVICES EQUIPMENT.—Nothing in
15 this section shall be construed to require a
16 State, a municipal government incorporated
17 under State law, or an Indian Tribe to install
18 or allow for the installation of equipment essen-
19 tial for the provision of commercial mobile serv-
20 ices (as defined in section 332(d) of the Com-
21 munications Act of 1934 (47 U.S.C. 332(d)))
22 or commercial mobile data service (as defined in
23 section 6001 of the Middle Class Tax Relief
24 and Job Creation Act of 2012 (47 U.S.C.
25 1401)), other than broadband conduit and asso-

1 ciated equipment described in paragraph
2 (3)(B).

3 (c) RELATION TO STATE DIG ONCE REQUIRE-
4 MENTS.—Nothing in subsection (b) or any regulations
5 promulgated under subsection (b) shall be construed to
6 alter or supersede any provision of a State law or regula-
7 tion that provides for a dig once requirement that includes
8 similar or more stringent requirements to the provisions
9 of subsection (b) and any regulations promulgated under
10 subsection (b).

11 (d) DIG ONCE FUNDING TASK FORCE.—

12 (1) ESTABLISHMENT.—There is established an
13 independent task force on funding the nationwide
14 dig once requirement described in this section to be
15 known as the “Dig Once Funding Task Force”
16 (hereinafter referred to as the “Task Force”).

17 (2) DUTIES.—The duties of the Task Force
18 shall be to—

19 (A) estimate the annual cost for imple-
20 menting and administering a nationwide dig
21 once requirement; and

22 (B) propose and evaluate options for fund-
23 ing a nationwide dig once requirement described
24 in this section that includes—

- 1 (i) a discussion of the role and poten-
2 tial share of costs of—
3 (I) the Federal Government;
4 (II) State, local, and Tribal gov-
5 ernments; and
6 (III) broadband providers; and
7 (ii) consideration of the role of exist-
8 ing dig once requirements of State, local,
9 and Tribal governments and private
10 broadband investment, with a goal to not
11 discourage or disincentivize such dig once
12 requirements or such investment.

13 (3) REPORTS.—

14 (A) INTERIM REPORT AND BRIEFING.—
15 Not later than 9 months after the date of en-
16 actment of this Act, the Task Force shall sub-
17 mit an interim report to Congress and provide
18 briefings for Congress on the findings of the
19 Task Force.

20 (B) FINAL REPORT.—Not later than 12
21 months after the date of enactment of this Act,
22 the Task Force shall submit a final report to
23 Congress on the findings of the Task Force.

24 (4) MEMBERS.—

1 (A) APPOINTMENTS.—The Task Force
2 shall consist of 14 members, consisting of—

3 (i) the two co-chairs described in sub-
4 paragraph (B);

5 (ii) six members jointly appointed by
6 the Speaker and minority leader of the
7 House of Representatives, in consultation
8 with the respective Chairs and Ranking
9 Members of the—

10 (I) the Committee on Transpor-
11 tation and Infrastructure of the
12 House of Representatives;

13 (II) the Committee on Energy
14 and Commerce of the House of Rep-
15 resentatives; and

16 (III) the Committee on Appro-
17 priations of the House of Representa-
18 tives; and

19 (iii) six members jointly appointed by
20 the majority leader and minority leader of
21 the Senate, in consultation with the respec-
22 tive Chairs and Ranking Members of the—

23 (I) the Committee on Environ-
24 ment and Public Works of the Senate;

1 (II) the Committee on Com-
2 merce, Science, and Transportation of
3 the Senate; and

4 (III) the Committee on Appro-
5 priations of the Senate.

6 (B) CO-CHAIRS.—The Task Force shall be
7 co-chaired by the Secretary and the Assistant
8 Secretary, or their designees.

9 (C) COMPOSITION.—The Task Force shall
10 include at least—

11 (i) one representative from a State de-
12 partment of transportation;

13 (ii) one representative from a local
14 government;

15 (iii) one representative from a Tribal
16 government;

17 (iv) one representative from a
18 broadband provider;

19 (v) one representative from a State or
20 local broadband provider;

21 (vi) one representative from a labor
22 union; and

23 (vii) one representative from a public
24 interest organization.

1 (D) APPOINTMENT DEADLINE.—Members
2 shall be appointed to the Task Force not later
3 than 60 days after the date of enactment of
4 this Act.

5 (E) EFFECT OF LACK OF APPOINTMENT
6 BY APPOINTMENT DATE.—If one or more ap-
7 pointments required under subparagraph (A) is
8 not made by the appointment date specified in
9 subparagraph (D), the authority to make such
10 appointment or appointments shall expire and
11 the number of members of the Task Force shall
12 be reduced by the number equal to the number
13 of appointments so expired.

14 (F) TERMS.—Members shall be appointed
15 for the life of the Task Force. A vacancy in the
16 Task Force shall not affect its powers and shall
17 be filled in the same manner as the initial ap-
18 pointment was made.

19 (5) CONSULTATIONS.—In carrying out the du-
20 ties required under this subsection, the Task Force
21 shall consult, at a minimum—

22 (A) the Commission;

23 (B) agencies of States including—

24 (i) State departments of transpor-
25 tation; and

1 (ii) appropriate State agencies;

2 (C) agencies of local governments respon-
3 sible for transportation and rights of way, utili-
4 ties, and telecommunications and broadband;

5 (D) Tribal governments;

6 (E) broadband providers and other tele-
7 communications providers;

8 (F) labor unions; and

9 (G) State or local broadband providers and
10 Tribal governments that act as broadband pro-
11 viders.

12 (6) ADDITIONAL PROVISIONS.—

13 (A) EXPENSES FOR NON-FEDERAL MEM-
14 BERS.—Non-Federal members of the Task
15 Force shall be allowed travel expenses, includ-
16 ing per diem in lieu of subsistence, at rates au-
17 thorized for employees under subchapter I of
18 chapter 57 of title 5, United States Code, while
19 away from their homes or regular places of
20 business in the performance of services for the
21 Task Force.

22 (B) STAFF.—Staff of the Task Force shall
23 comprise detailees with relevant expertise from
24 the Department of Transportation and the Na-
25 tional Telecommunications and Information Ad-

1 ministration, or another Federal agency the co-
2 chairpersons consider appropriate, with the con-
3 sent of the head of the Federal agency, and
4 such detailee shall retain the rights, status, and
5 privileges of his or her regular employment
6 without interruption.

7 (C) ADMINISTRATIVE ASSISTANCE.—The
8 Secretary and Assistant Secretary shall provide
9 to the Task Force on a reimbursable basis ad-
10 ministrative support and other services for the
11 performance of the functions of the Task Force.

12 (7) TERMINATION.—The Task Force shall ter-
13 minate not later than 90 days after issuance of the
14 final report required under paragraph (3)(B).

○