

116TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Communications Act of 1934 to provide funding to States for extending broadband service to unserved areas in partnership with broadband service providers, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. CORNYN (for himself and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To amend the Communications Act of 1934 to provide funding to States for extending broadband service to unserved areas in partnership with broadband service providers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Eliminate the Digital  
5 Divide Act of 2020”.

1 **SEC. 2. EXPANSION OF BROADBAND ACCESS IN UNSERVED**  
2 **AREAS.**

3 (a) IN GENERAL.—The Communications Act of 1934  
4 (47 U.S.C. 151 et seq.) is amended—

5 (1) in title I (47 U.S.C. 151 et seq.), by adding  
6 at the end the following:

7 **“SEC. 14. EXPANSION AND ADOPTION OF BROADBAND**  
8 **SERVICE THROUGH STATE FUNDING.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) BROADBAND FUNDING PARTNER.—The  
11 term ‘broadband funding partner’ means an eligible  
12 entity that receives funding for a project under this  
13 section.

14 “(2) BROADBAND SERVICE.—The term  
15 ‘broadband service’—

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

23 “(B) includes any service that is a func-  
24 tional equivalent of the service described in sub-  
25 paragraph (A); and

1           “(C) does not include dial-up internet ac-  
2           cess service.

3           “(3) ELIGIBLE ENTITY.—The term ‘eligible en-  
4           tity’ means a private provider of broadband service,  
5           or a public-private partnership or cooperative (in-  
6           cluding a subsidiary of a cooperative) that provides  
7           broadband service, that has submitted to the Com-  
8           mission, in addition to any data required to be sub-  
9           mitted under section 802, data regarding the service  
10          option described in subsection (f)(2) that the entity  
11          would offer if the entity were to receive funding  
12          under this section.

13          “(4) HIGH COST AREA.—The term ‘high cost  
14          area’ means an area in which the cost of building  
15          out broadband service is higher, as compared with  
16          the average such cost in the United States (and as  
17          determined by the Commission), because of—

18                 “(A) the remote location of the area;

19                 “(B) the scarcity of services in the area;

20                 “(C) the unique topography of the area;

21                 “(D) a high rate of poverty in the area; or

22                 “(E) any other factor that contributes to  
23          the cost of building out that service.

24          “(5) LOCATION.—The term ‘location’ has the  
25          meaning given the term by the Commission under

1 rules and guidance that are in effect, as of the date  
2 of enactment of this section.

3 “(6) PROJECT.—The term ‘project’ means an  
4 undertaking by a broadband funding partner under  
5 this section to construct and deploy infrastructure  
6 for the provision of broadband service.

7 “(7) UNSERVED AREA.—The term ‘unserved  
8 area’ means an area that, as determined in accord-  
9 ance with the maps created under section  
10 802(c)(1)—

11 “(A) has no access to broadband service;

12 or

13 “(B) does not have access to broadband  
14 service offered—

15 “(i) with a download speed of at least  
16 25 megabits per second; and

17 “(ii) with an upload speed of at least  
18 3 megabits per second.

19 “(b) PROGRAM ESTABLISHED.—

20 “(1) IN GENERAL.—Not later than 100 days  
21 after the date of enactment of this section, the Com-  
22 mission shall establish a program for States to ex-  
23 pand access to broadband service in unserved areas.

24 “(2) RELATIONSHIP TO UNIVERSAL SERVICE.—

25 The program established under paragraph (1) shall

1 be separate from any universal service program es-  
2 tablished under section 254.

3 “(c) STATE PROGRAM REQUIREMENTS.—A State  
4 seeking funding under the program established under sub-  
5 section (b) shall create a program that—

6 “(1) implements the requirements of this sec-  
7 tion;

8 “(2) does not favor the use of any particular  
9 technology or any particular eligible entity;

10 “(3) encourages small broadband providers to  
11 participate in the program through streamlined reg-  
12 ulatory requirements for all broadband funding part-  
13 ners;

14 “(4) takes into account—

15 “(A) the size and scope of each unserved  
16 area, and the number of locations, proposed to  
17 be served by each project carried out using the  
18 funds; and

19 “(B) the speed of the broadband service  
20 provided by eligible entities seeking funding for  
21 projects under the program;

22 “(5) may take into account—

23 “(A) the size and proportion of the match-  
24 ing funds proposed to be committed by the eli-  
25 gible entities seeking funding for projects under

1 the program, which may not be provided from  
2 any funds derived from government grants,  
3 loans, or subsidies;

4 “(B) the speed with which the eligible enti-  
5 ties seeking funding for projects under the pro-  
6 gram can complete the proposed deployment  
7 and provision of broadband service to house-  
8 holds under those projects; and

9 “(C) whether an eligible entity seeking  
10 funding for a project under the program has  
11 the ability to leverage nearby or adjacent  
12 broadband service provided by the eligible entity  
13 to facilitate the deployment and provision of  
14 broadband service proposed under that project;

15 “(6) establishes—

16 “(A) periodic buildout milestones, report-  
17 ing requirements, and certification by  
18 broadband funding partners; and

19 “(B) a maximum buildout timeframe for a  
20 broadband funding partner of 3 years, begin-  
21 ning on the date on which funding is provided  
22 to the broadband funding partner to undertake  
23 a project, except that the State may extend that  
24 timeframe if the broadband funding partner es-

1           tablishes that the failure to complete the project  
2           within that timeframe is due to—

3                   “(i) delays by third parties in pro-  
4                   viding necessary permits, approvals, or ac-  
5                   cess to (or construction of) poles; or

6                   “(ii) a State or federally declared dis-  
7                   aster;

8           “(7) contains sufficient notice, transparency,  
9           accountability, and oversight measures to—

10                   “(A) provide the public and broadband  
11                   funding partners with notice of the funding pro-  
12                   vided under this section; and

13                   “(B) deter waste, fraud, and abuse of pro-  
14                   gram funds;

15           “(8) establishes procedures for the recovery of  
16           funds, in whole or in part, from a broadband fund-  
17           ing partner if the broadband funding partner—

18                   “(A) defaults or fails to comply with the  
19                   buildout requirements established for the  
20                   project with respect to which the funding re-  
21                   lates; and

22                   “(B) has not received an extension under  
23                   paragraph (6)(B);

24           “(9) establishes procedures for broadband fund-  
25           ing partners to receive expedited approval for all

1 necessary access to (or construction of) poles, State  
2 and local rights-of-way permits, or other approvals  
3 in the areas of the State served by projects under  
4 the program;

5 “(10) provides that broadband funding partners  
6 are not required to be designated as eligible tele-  
7 communications carriers under section 214(e);

8 “(11) provides that an eligible entity shall grant  
9 access to poles, ducts, conduits, and rights-of-way  
10 that the eligible entity owns or controls within the  
11 State at rates, terms, and conditions regulated by  
12 the Commission under, or the State consistent with,  
13 section 224, without regard to whether that section  
14 otherwise applies with respect to those items; and

15 “(12) except as otherwise explicitly provided in  
16 this section, does not require, or include consider-  
17 ation of, the imposition of any new or additional reg-  
18 ulatory obligations on broadband funding partners  
19 beyond those required under applicable law.

20 “(d) DISTRIBUTION OF FUNDS TO STATES.—

21 “(1) COMMISSION DISTRIBUTIONS.—

22 “(A) IN GENERAL.—Not later than 200  
23 days after the date of enactment of this section,  
24 the Commission, under the program established  
25 under subsection (b), and in accordance with



1 the requirements of this section, shall, with re-  
2 spect to the amounts made available to carry  
3 out this section—

4 “(i) reserve 10 percent of those  
5 amounts for distributions under subpara-  
6 graph (B) to States that have established  
7 programs under subsection (c); and

8 “(ii) of the amounts not reserved  
9 under clause (i), make distributions under  
10 paragraph (2) to States that have estab-  
11 lished programs under subsection (c).

12 “(B) DISTRIBUTIONS FOR HIGH COST  
13 AREAS.—The amount of a distribution to a  
14 State under this subparagraph shall be cal-  
15 culated as follows:

16 “(i) Divide the number of high cost  
17 areas in the State by the total number of  
18 high cost areas in the United States.

19 “(ii) Multiply the quotient obtained  
20 under clause (i) by the total amount re-  
21 served under subparagraph (A)(i).

22 “(2) AMOUNT OF DISTRIBUTIONS FOR PROJECT  
23 AWARDS.—The amount of a distribution to a State  
24 under paragraph (1) shall be calculated as follows:

1           “(A) Divide the number of individuals liv-  
2           ing in unserved areas in the State by the total  
3           number of individuals living in unserved areas  
4           in the United States, as determined in accord-  
5           ance with the maps created under section  
6           802(c)(1).

7           “(B) Multiply the quotient obtained under  
8           subparagraph (A) of this paragraph by the  
9           amount described in paragraph (1)(A)(ii).

10          “(3) STATE ENTITLEMENT.—With respect to a  
11          State that has established a program under sub-  
12          section (c), the State shall receive a distribution  
13          under both of paragraphs (1)(B) and (2) of this sub-  
14          section.

15          “(e) STATE USE OF PROGRAM FUNDS.—

16          “(1) IN GENERAL.—Not later than 120 days  
17          after the date on which a State receives funds under  
18          subsection (d), and subject to paragraph (2), the  
19          State shall make awards to eligible entities through  
20          the program established by the State under sub-  
21          section (c).

22          “(2) FUNDS USED SOLELY FOR UNSERVED  
23          AREAS.—A State to which funds are distributed  
24          under subsection (d)—

25                 “(A) may not—

1           “(i) use any portion of those funds for  
2 a project in any area that is not an  
3 unserved area; or

4           “(ii) use more than 5 percent of those  
5 funds to administer the program estab-  
6 lished by the State under subsection (c);  
7 and

8           “(B) shall—

9           “(i) before making any awards de-  
10 scribed in paragraph (1), consult the maps  
11 created under section 802(c)(1), as up-  
12 dated through the resolution of any chal-  
13 lenges brought under section 802(b)(5), to  
14 create a list of areas within the State that  
15 are unserved areas, which the State shall  
16 make publicly available;

17           “(ii) from the list created under  
18 clause (i), remove any area in the State  
19 that—

20           “(I) has been awarded funding in  
21 the Rural Digital Opportunity Fund  
22 Phase I auction provided for in the  
23 Report and Order in the matter of  
24 Rural Digital Opportunity Fund and  
25 Connect America Fund adopted by

1 the Commission on January 30, 2020  
2 (FCC 20–5);

3 “(II) has been awarded funding  
4 through any Rural Utilities Service  
5 broadband funding program with a  
6 minimum speed commitment of 25  
7 megabits per second for downloads  
8 and 3 megabits per second for  
9 uploads;

10 “(III) has been awarded funding  
11 through any existing program estab-  
12 lished by the State with minimum  
13 speed commitments described in sub-  
14 clause (II); or

15 “(IV) is the subject of an en-  
16 forceable commitment by a broadband  
17 provider to serve the area with min-  
18 imum speed commitments described in  
19 subclause (II), even if, in any such  
20 areas, the service is not yet available,  
21 provided that the broadband provider  
22 is meeting any applicable build-out  
23 deadlines;

24 “(iii) establish a streamlined process  
25 that allows a broadband service provider,

1 the State, or a unit of local government  
2 within the State not less than 30 days  
3 after the date on which the list created  
4 under clause (i), as updated under clause  
5 (ii), is made publicly available to bring a  
6 challenge regarding whether an area on  
7 that final list is an unserved area;

8 “(iv) provide a written notice regard-  
9 ing how each challenge brought under  
10 clause (iii) was decided, including the rea-  
11 sons for that decision;

12 “(v) update the list created under  
13 clause (i) to reflect the results of chal-  
14 lenges brought under clause (iii);

15 “(vi) not later than 10 years after the  
16 date of enactment of this section, return  
17 any unused portion of those funds to the  
18 Commission; and

19 “(vii) not later than 2 years after the  
20 date on which the funds are distributed to  
21 the State, and biennially thereafter, submit  
22 to the Commission a report—

23 “(I) regarding how the State  
24 spent those funds during the period  
25 covered by the report, which shall in-

1                   clude a description of each award  
2                   made with those funds; and

3                                 “(II) that contains a certification  
4                   that the State has complied with the  
5                   requirements of this section during  
6                   the period covered by the report.

7           “(f) PROJECT REQUIREMENTS.—Any project funded  
8 through the program established under subsection (b)  
9 shall—

10                   “(1) adhere to the same quality-of-service  
11 standards established by the Commission with re-  
12 spect to the Rural Digital Opportunity Fund set  
13 forth in subpart J of part 54 of title 47, Code of  
14 Federal Regulations (or any successor regulations);  
15 and

16                   “(2) offer a low-cost broadband service option  
17 for low-income subscribers with eligibility for the  
18 service option determined by the applicable  
19 broadband funding partner.

20           “(g) PROMOTING BROADBAND DEPLOYMENT.—Not  
21 later than 1 year after the date on which a State receives  
22 funding under this section, the State shall publish on a  
23 publicly available website of the State a report that ana-  
24 lyzes the following:

1           “(1) The process by which the State, or any  
2 local authority within the State, acts on a new re-  
3 quest to access poles, ducts, conduits, or rights-of-  
4 way, which shall include an analysis of—

5                   “(A) the speed with which the State or  
6 local authority, as applicable, responds to such  
7 a request; and

8                   “(B) the impact that granting such a re-  
9 quest not later than 30 days after the date on  
10 which the request is submitted would have on  
11 the speed at which broadband service is de-  
12 ployed in the State.

13           “(2) The process by which the State, or any  
14 local authority within the State, acts on a non-  
15 emergency request for authorization to place, con-  
16 struct, or modify facilities with respect to broadband  
17 service that are supported through access to poles,  
18 ducts, conduits, or rights-of-way, which shall include  
19 an analysis of—

20                   “(A) the speed with which the State or  
21 local authority, as applicable, responds to such  
22 a request; and

23                   “(B) the impact that granting such a re-  
24 quest not later than 30 days after the date on  
25 which the request is submitted would have on

1           the speed at which broadband service is de-  
2           ployed in the State.

3           “(3) The impact on the deployment of  
4           broadband service within the State of not requiring  
5           a permit or other authorization for emergency work  
6           performed in the rights-of-way if a broadband facil-  
7           ity supported through access to poles, ducts, con-  
8           duits, or rights-of-way notifies the State, or the ap-  
9           plicable local authority within the State, regarding  
10          the emergency and the associated work.

11          “(4) The impact on the deployment of  
12          broadband service within the State of requiring the  
13          State, or any instrumentality of the State, whenever  
14          the State or instrumentality intends to modify or  
15          alter a pole, duct, conduit, or right-of-way, or con-  
16          duct road work in which there will be open trenches,  
17          to provide prior written notification of that action to  
18          any broadband service provider, or other entity, that  
19          has obtained an attachment to a pole, duct, or con-  
20          duit, or right-of-way that may be affected, so that  
21          the applicable entity may have a reasonable oppor-  
22          tunity to add to or modify its existing attachment or  
23          facilities.

24          “(h) GUIDANCE.—The Commission may provide  
25          guidance to States with respect to service obligations, pro-



1 cedures, reporting requirements, and other requirements  
2 in carrying out programs established under this section.

3 “(i) RULE OF CONSTRUCTION.—Nothing in this sec-  
4 tion may be construed to permit the Commission to use  
5 any data submitted by a provider of broadband service  
6 under this section to issue or establish additional regu-  
7 latory requirements with respect to that provider.”; and

8 (2) in section 802(e) (47 U.S.C. 642(e))—

9 (A) in paragraph (1)(A)—

10 (i) in clause (i), by striking “and” at  
11 the end;

12 (ii) in clause (ii), by adding “and”  
13 after the semicolon at the end; and

14 (iii) by adding at the end the fol-  
15 lowing:

16 “(iii) the areas of the United States in  
17 which options described in section 14(f)(2)  
18 are available;”;

19 (B) in paragraph (5), by striking “and” at  
20 the end;

21 (C) in paragraph (6)—

22 (i) in the matter preceding subpara-  
23 graph (A), by inserting “, including on a  
24 publicly available website” after “make  
25 public”;

1 (ii) in subparagraph (A), by striking  
2 “and” at the end; and

3 (iii) in subparagraph (B), by striking  
4 the period at the end and inserting “;  
5 and”; and

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

7 “(7) beginning not later than 18 months after  
8 the date of enactment of the Eliminate the Digital  
9 Divide Act of 2020, ensure that the publicly avail-  
10 able website described in paragraph (6)—

11 “(A) allows a consumer to determine,  
12 based on financial information entered by the  
13 consumer, whether the consumer is eligible—

14 “(i) to receive a Federal or State sub-  
15 sidy with respect to broadband internet ac-  
16 cess service; or

17 “(ii) to qualify for a low-income plan  
18 with respect to broadband internet access  
19 service; and

20 “(B) with respect to a consumer who is eli-  
21 gible under clause (i) or (ii) of subparagraph  
22 (A), contains information regarding how to  
23 apply for the applicable benefit.”.

24 (b) DIRECT APPROPRIATION.—There is appropriated  
25 to the Federal Communications Commission, out of any

1 money in the Treasury not otherwise appropriated,  
2 \$10,000,000,000 for fiscal year 2020 to carry out section  
3 14 of the Communications Act of 1934, as added by sub-  
4 section (a)(1), which shall remain available through fiscal  
5 year 2029.