

116TH CONGRESS  
1ST SESSION

# H. R. 3278

To amend the Communications Act of 1934 to provide for the establishment of a program to expand access to broadband.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2019

Mr. LOEBSACK (for himself, Mr. LUJÁN, Ms. SCHAKOWSKY, Mr. MCNERNEY, Mr. O'HALLERAN, Mr. WELCH, Ms. ESHOO, Ms. CLARKE of New York, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. TONKO, Mr. VEASEY, Ms. DEGETTE, Ms. KUSTER of New Hampshire, Mr. PALLONE, Mr. BUTTERFIELD, Mrs. DINGELL, Mr. CÁRDENAS, and Ms. MATSUI) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Communications Act of 1934 to provide for the establishment of a program to expand access to broadband.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Connect America Act  
5 of 2019”.

1 **SEC. 2. EXPANSION OF BROADBAND ACCESS.**

2 Title I of the Communications Act of 1934 (47  
3 U.S.C. 151 et seq.) is amended by adding at the end the  
4 following new section:

5 **“SEC. 14. EXPANSION OF BROADBAND ACCESS.**

6 “(a) PROGRAM ESTABLISHED.—Not later than 180  
7 days after the date of the enactment of this section, the  
8 Commission, in consultation with the Assistant Secretary,  
9 shall establish a program to expand access to broadband  
10 for unserved areas, underserved areas, and unserved an-  
11 chor institutions in accordance with the requirements of  
12 this section that—

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

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

18 “(b) USE OF PROGRAM FUNDS.—

19 “(1) EXPANDING ACCESS TO BROADBAND  
20 THROUGH NATIONAL REVERSE AUCTION.—Not later  
21 than 18 months after the date of the enactment of  
22 this section, the Commission shall award 75 percent  
23 of the amounts appropriated under subsection (h)  
24 through a national reverse auction to funding recipi-  
25 ents only to expand access to broadband in unserved  
26 areas.

1           “(2) EXPANDING ACCESS TO BROADBAND  
2 THROUGH STATES.—

3           “(A) DISTRIBUTION OF FUNDS TO  
4 STATES.—Not later than 255 days after the  
5 date of the enactment of this section, the Com-  
6 mission shall distribute 25 percent of the  
7 amounts appropriated under subsection (h)  
8 among the States, in direct proportion to the  
9 population of each State.

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

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

21           “(ii) the date (which is 30 days after  
22 the date on which the public notice is  
23 issued) by which such acceptance or ac-  
24 ceptance in part is due; and

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

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

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

17                 “(i) shall only award such amounts  
18                 through a statewide reverse auction or auc-  
19                 tions, in the manner prescribed by the  
20                 State but subject to the requirements as  
21                 set forth under this section and as may be  
22                 further prescribed by the Commission;

23                 “(ii) shall make such awards only—

1           “(I) to funding recipients to ex-  
2           pand access to broadband in unserved  
3           areas;

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

7           “(III) to funding recipients to ex-  
8           pand access to broadband in under-  
9           served areas, but only if a State does  
10          not have, or no longer has, any  
11          unserved areas;

12          “(iii) shall conduct separate reverse  
13          auctions for awards made to unserved an-  
14          chor institutions under clause (ii)(II), if a  
15          State awards any funding provided by this  
16          section to unserved anchor institutions;

17          “(iv) shall return any unused portion  
18          of such amounts to the Commission within  
19          10 years after the date of the enactment of  
20          this section and shall submit a certification  
21          to the Commission before receiving such  
22          amounts that the State will return such  
23          amounts; and

24          “(v) may not use more than 5 percent  
25          of the amounts distributed under this

1 paragraph to administer a reverse auction  
2 or auctions authorized by this paragraph.

3 “(3) COORDINATION OF FEDERAL AND STATE  
4 FUNDING.—The Commission shall establish proc-  
5 esses through the rulemaking under subsection (e)  
6 to—

7 “(A) enable States to conduct statewide re-  
8 verse auctions as part of, or in coordination  
9 with, the national reverse auction;

10 “(B) assist States in conducting statewide  
11 reverse auctions;

12 “(C) coordinate with States to ensure that  
13 program funds awarded by the Commission and  
14 program funds awarded by the States are not  
15 used to expand access to broadband in the same  
16 unserved areas; and

17 “(D) coordinate with other Federal pro-  
18 grams that expand access to broadband, such  
19 as the Connect America Fund or the  
20 Broadband e-Connectivity Pilot Program, to en-  
21 sure the efficient use of program funds.

22 “(c) PROGRAM REQUIREMENTS.—

23 “(1) TECHNOLOGY NEUTRALITY REQUIRED.—  
24 Any entity administering a reverse auction (either

1 the State or the Commission) in making awards may  
2 not favor a project using any particular technology.

3 “(2) FUNDS PREFERENCE.—There shall be a  
4 preference, as determined by the entity admin-  
5 istering the reverse auction (either the State or the  
6 Commission), for bidders in a reverse auction pro-  
7 posing projects—

8 “(A) with at least 20 percent matching  
9 funds from private sources;

10 “(B) that would expand access to  
11 broadband on tribal lands, as defined by the  
12 Commission;

13 “(C) that would provide higher speeds than  
14 those specified in subsection (d)(2);

15 “(D) that would expand access to  
16 broadband in advance of the time specified in  
17 subsection (e)(5); or

18 “(E) that would expand access to  
19 broadband to areas where the median household  
20 income is below 150 percent of the poverty  
21 threshold as defined by the Bureau of the Cen-  
22 sus.

23 “(3) UNSERVED AND UNDERSERVED AREAS.—  
24 In determining whether an area is an unserved area  
25 or an underserved area or whether an anchor insti-

1       tution is an unserved anchor institution for any re-  
2       verse auction authorized under this section, the  
3       Commission shall implement the following require-  
4       ments through the rulemaking described in sub-  
5       section (e):

6               “(A) DATA FOR INITIAL DETERMINA-  
7               TION.—To make an initial determination as to  
8               whether an area is an unserved area or an un-  
9               derserved area or whether an anchor institution  
10              is an unserved anchor institution, the Commis-  
11              sion shall—

12                   “(i) to the extent practicable, use the  
13                   National Broadband Availability Map, up-  
14                   dated pursuant to the Consolidated Appro-  
15                   priations Act, 2018 (Public Law 115–141);

16                   “(ii) consider other data on access to  
17                   broadband obtained or purchased by the  
18                   Commission;

19                   “(iii) consider other publicly available  
20                   data or information on access to  
21                   broadband;

22                   “(iv) consider other publicly available  
23                   data or information on State broadband  
24                   deployment programs; and



1           “(v) not determine an area is not an  
2           unserved area or an underserved area on  
3           the basis that one location within such  
4           area does not meet the definition of an  
5           unserved area or an underserved area.

6           “(B) INITIAL DETERMINATION.—The  
7           Commission shall make an initial determination  
8           of the areas that are unserved areas or under-  
9           served areas and which anchor institutions are  
10          unserved anchor institutions not later than 270  
11          days after the date of the enactment of this sec-  
12          tion.

13          “(C) CHALLENGE OF DETERMINATION.—

14                 “(i) IN GENERAL.—The Commission  
15                 shall provide for a process for challenging  
16                 any initial determination regarding wheth-  
17                 er an area is an unserved area or an un-  
18                 derserved area or whether an anchor insti-  
19                 tution is an unserved anchor institution  
20                 that, at a minimum, provides not less than  
21                 45 days for a person to voluntarily submit  
22                 information concerning—

23                         “(I) the broadband offered in the  
24                         area; or

1                   “(II) the broadband offered to  
2                   the anchor institution.

3                   “(ii) STREAMLINED PROCESS.—The  
4                   Commission shall ensure that such process  
5                   is sufficiently streamlined such that a rea-  
6                   sonably prudent person may easily partici-  
7                   pate to challenge such initial determination  
8                   with little burden on such person.

9                   “(D) FINAL DETERMINATION.—The Com-  
10                  mission shall make a final determination of the  
11                  areas that are unserved areas or underserved  
12                  areas and which anchor institutions are  
13                  unserved anchor institutions within 1 year after  
14                  the date of the enactment of this section.

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

22                  “(5) COMPETENCE.—The program shall contain  
23                  sufficient processes and requirements, as established  
24                  by the entity administering the reverse auction (ei-  
25                  ther the State or the Commission), to ensure fund-

1 ing recipients participating in such a reverse auc-  
2 tion—

3 “(A) are capable of carrying out the  
4 project in a competent manner in compliance  
5 with all applicable Federal, State, and local  
6 laws; and

7 “(B) have the financial capacity to meet  
8 the buildout obligations of the project and re-  
9 quirements as set forth under this section and  
10 as may be further prescribed by the Commis-  
11 sion.

12 “(6) CONTRACTING REQUIREMENTS.—Any la-  
13 borer or mechanic employed by any contractor or  
14 subcontractor in the performance of work on any  
15 project under this section shall be paid wages at  
16 rates not less than those prevailing on similar con-  
17 struction in the locality as determined by the Sec-  
18 retary of Labor under subchapter IV of chapter 31  
19 of title 40, United States Code (commonly referred  
20 to as the Davis-Bacon Act).

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

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

1           “(2) The project shall offer broadband with a  
2           download speed of at least 100 megabits per second,  
3           an upload speed of at least 20 megabits per second,  
4           and a latency that is sufficiently low to allow real-  
5           time, interactive applications.

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

10           “(4) The project may not offer broadband that  
11           does not, at a minimum, provide a download speed  
12           of at least 25 megabits per second, an upload speed  
13           of at least 3 megabits per second, and a latency that  
14           is sufficiently low to allow real-time, interactive ap-  
15           plications.

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

23           “(6) The project shall incorporate best prac-  
24           tices, as defined by the Commission, for ensuring re-

1 liability and resiliency of the network during disas-  
2 ters.

3 “(7) Any funding recipient must agree to have  
4 the project meet the requirements established under  
5 section 224, as if the project were classified as a  
6 ‘utility’ under such section.

7 “(e) RULEMAKING AND DISTRIBUTION AND AWARD  
8 OF FUNDS.—Not later than 180 days after the date of  
9 the enactment of this section, the Commission, in con-  
10 sultation with the Assistant Secretary, shall promulgate  
11 rules—

12 “(1) that implement the requirements of this  
13 section, as appropriate, including the program re-  
14 quirements of subsections (a), (b), and (c) and the  
15 project requirements of subsection (d);

16 “(2) that establish the design of and rules for  
17 the nationwide reverse auction;

18 “(3) that establish notice requirements for all  
19 reverse auctions authorized under this section that,  
20 at a minimum, provide the public with notice of—

21 “(A) the initial determination of which  
22 areas are unserved areas or underserved areas;

23 “(B) the final determination of which  
24 areas are unserved areas or underserved areas

1 after the process for challenging the initial de-  
2 termination has concluded;

3 “(C) which entities have applied to bid for  
4 funding; and

5 “(D) the results of any reverse auctions,  
6 including identifying the funding recipients,  
7 which areas each project will serve, the nature  
8 of the service that will be provided by the  
9 project in each of those areas, and how much  
10 funding the funding recipients will receive in  
11 each of those areas;

12 “(4) that establish broadband buildout mile-  
13 stones and periodic certification by funding recipi-  
14 ents to ensure compliance with the broadband build-  
15 out milestones for all reverse auctions authorized  
16 under this section;

17 “(5) that establish a maximum buildout time-  
18 frame of four years beginning on the date on which  
19 funding is provided under this section for any  
20 project by a funding recipient for a project under  
21 this section;

22 “(6) that establish periodic reporting require-  
23 ments for funding recipients of projects and that  
24 identify, at a minimum, the nature of the service

1 provided in each area for any reverse auction au-  
2 thorized under this section;

3 “(7) that establish standard penalties for the  
4 noncompliance of funding recipients or projects with  
5 the requirements as set forth under this section and  
6 as may be further prescribed by the Commission for  
7 any reverse auction authorized under this section;

8 “(8) that establish procedures for recovery of  
9 funds, in whole or in part, from funding recipients  
10 in the event of the default or noncompliance of the  
11 funding recipient or project with the requirements  
12 established under this section for any reverse auc-  
13 tion authorized under this section; and

14 “(9) that establish mechanisms to reduce waste,  
15 fraud, and abuse within the program for any reverse  
16 auction authorized under this section.

17 “(f) REPORTS REQUIRED.—

18 “(1) INSPECTOR GENERAL AND COMPTROLLER  
19 GENERAL REPORT.—Not later than June 30 and  
20 December 31 of each year following the awarding of  
21 the first funds under the program, the Inspector  
22 General of the Commission and the Comptroller  
23 General of the United States shall submit to the  
24 Committees on Energy and Commerce of the House  
25 of Representatives and Commerce, Science, and

1 Transportation of the Senate a report for the pre-  
2 vious 6 months that reviews the program. Such re-  
3 port shall include any recommendations to address  
4 waste, fraud, and abuse.

5 “(2) STATE REPORTS.—Any State that receives  
6 funds under the program shall submit an annual re-  
7 port to the Commission on how such funds were  
8 spent, along with a certification of compliance with  
9 the requirements as set forth under this section and  
10 as may be further prescribed by the Commission, in-  
11 cluding a description of each service provided and  
12 the number of individuals to whom the service was  
13 provided.

14 “(g) DEFINITIONS.—In this section:

15 “(1) ANCHOR INSTITUTION.—The term ‘anchor  
16 institution’ means a public or private school, a li-  
17 brary, a medical or healthcare provider, a museum,  
18 a public safety entity, public housing, a community  
19 college, an institution of higher education, or any  
20 other community support organization or agency.

21 “(2) AREA.—The term ‘area’ means the geo-  
22 graphic unit of measurement with the greatest level  
23 of granularity reasonably feasible for the Commis-  
24 sion to use in making eligibility determinations



1 under this section and in meeting the requirements  
2 and deadlines of this section.

3 “(3) ASSISTANT SECRETARY.—The term ‘As-  
4 sistant Secretary’ means the Assistant Secretary of  
5 Commerce for Communications and Information.

6 “(4) BROADBAND.—The term ‘broadband’—

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

16 “(B) includes any service that is a func-  
17 tional equivalent of the service described in sub-  
18 paragraph (A); and

19 “(C) does not include dial-up internet ac-  
20 cess service.

21 “(5) FUNDING RECIPIENT.—The term ‘funding  
22 recipient’ means an entity that receives funding for  
23 a project under this section.

1           “(6) PROGRAM.—Unless otherwise indicated,  
2 the term ‘program’ means the program established  
3 under subsection (a).

4           “(7) PROJECT.—The term ‘project’ means an  
5 undertaking by a funding recipient under this sec-  
6 tion to construct and deploy infrastructure for the  
7 provision of broadband.

8           “(8) REVERSE AUCTION.—The term ‘reverse  
9 auction’ means an auction in which bids are sub-  
10 mitted for a particular project and the bids serving  
11 the most locations for the lowest cost to the entity  
12 administering the reverse auction (either the State  
13 or the Commission), taking into consideration the  
14 funding preferences in subsection (c)(2) are selected  
15 for funding.

16           “(9) UNDERSERVED AREA.—The term ‘under-  
17 served area’ means an area that has access to  
18 broadband offered—

19                   “(A) with a download speed of at least 25  
20 megabits per second and not more than 99  
21 megabits per second;

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

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

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

5           “(A) with a download speed of at least 1  
6 gigabit per second;

7           “(B) with an upload speed of at least 1  
8 gigabit per second; and

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

12           “(11) UNSERVED AREA.—The term ‘unserved  
13 area’ means an area that has no access to  
14 broadband or does not have access to broadband of-  
15 fered—

16           “(A) with a download speed of at least 25  
17 megabits per second;

18           “(B) with an upload speed of at least 3  
19 megabits per second; and

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

22           “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
23 is authorized to be appropriated to the Commission  
24 \$40,000,000,000 for fiscal year 2020 to carry out the pro-

- 1 gram and such amount is authorized to remain available
- 2 for 10 years.”.

