

Calendar No. 473

118TH CONGRESS
2D SESSION

S. 275

To require the Federal Communications Commission to establish a vetting process for prospective applicants for high-cost universal service program funding.

 IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2023

Mrs. CAPITO (for herself and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

AUGUST 1, 2024

Reported by Ms. CANTWELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

 A BILL

To require the Federal Communications Commission to establish a vetting process for prospective applicants for high-cost universal service program funding.

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 “Rural Broadband Pro-
5 tection Act of 2023”.

1 **SEC. 2. VETTING PROCESS FOR PROSPECTIVE HIGH-COST**
 2 **UNIVERSAL SERVICE FUND APPLICANTS.**

3 (a) **DEFINITIONS.**—In this section—

4 (1) the term “Commission” means the Federal
 5 Communications Commission;

6 (2) the term “covered funding” means high-cost
 7 universal service program funding provided through
 8 a competitive award process for the deployment of a
 9 broadband-capable network and the provision of sup-
 10 ported services over the network; and

11 ~~(3) the term “new covered funding award”~~
 12 ~~means an award of covered funding that is made~~
 13 ~~based on an application submitted to the Commis-~~
 14 ~~sion on or after the date on which rules are promul-~~
 15 ~~gated under subsection (b).~~

16 (b) **FCC RULEMAKING.**—Not later than 180 days
 17 after the date of enactment of this Act, the Commission
 18 shall initiate a rulemaking proceeding to establish a vet-
 19 ting process for applicants for, and other recipients of, a
 20 new covered funding award.

21 (c) **CONTENTS.**—In promulgating rules under sub-
 22 section (b), the Commission shall provide that—

23 (1) an applicant for a new covered funding
 24 award shall include in the initial application a pro-
 25 posal containing sufficient detail and documentation
 26 for the Commission to ascertain that the applicant

1 possesses the technical capability, and has a reason-
 2 able plan, to deploy the proposed network and de-
 3 liver services with the relevant performance charac-
 4 teristics defined by the Commission and as pledged
 5 by the applicant;

6 (2) the proposal described in paragraph (1)
 7 shall include sufficient detail and supporting docu-
 8 mentation for the Commission to reasonably ascer-
 9 tain whether the applicant and the technology that
 10 the applicant plans to use would have the ability to
 11 perform as required given the characteristics of the
 12 locations to be served; and

13 (3) the Commission shall evaluate a proposal
 14 described in paragraph (1) against reasonable and
 15 well-established technical standards, including the
 16 technical standards adopted by the Commission in
 17 orders of the Commission relating to modernizing
 18 the FCC Form 477 Data Program (WC Docket No.
 19 11-10) (or orders of the Commission relating to
 20 modernizing any successor collection) for purposes of
 21 entities that must report broadband availability cov-
 22 erage.

23 **SECTION 1. SHORT TITLE.**

24 *This Act may be cited as the “Rural Broadband Pro-*
 25 *tection Act of 2024”.*

1 **SEC. 2. VETTING PROCESS FOR PROSPECTIVE HIGH-COST**
 2 **UNIVERSAL SERVICE FUND APPLICANTS.**

3 *Section 254 of the Communications Act of 1934 (47*
 4 *U.S.C. 254) is amended by adding at the end the following:*

5 *“(m) VETTING OF HIGH-COST FUND RECIPIENTS.—*

6 *“(1) DEFINITIONS.—In this subsection—*

7 *“(A) the term ‘covered funding’ means any*
 8 *new offer of high-cost universal service program*
 9 *funding, including funding provided through a*
 10 *reverse competitive bidding mechanism provided*
 11 *under this section, for the deployment of a*
 12 *broadband-capable network and the provision of*
 13 *supported services over the network; and*

14 *“(B) the term ‘new covered funding award’*
 15 *means an award of covered funding that is made*
 16 *based on an application submitted to the Com-*
 17 *mission on or after the date on which rules are*
 18 *promulgated under paragraph (2).*

19 *“(2) COMMISSION RULEMAKING.—Not later than*
 20 *180 days after the date of enactment of this sub-*
 21 *section, the Commission shall initiate a rulemaking*
 22 *proceeding to establish a vetting process for appli-*
 23 *cants for, and other recipients of, a new covered fund-*
 24 *ing award.*

25 *“(3) CONTENTS.—*

1 “(A) *IN GENERAL.*—*In promulgating rules*
 2 *under paragraph (2), the Commission shall pro-*
 3 *vide that, consistent with principles of tech-*
 4 *nology neutrality, the Commission will only*
 5 *award covered funding to applicants that can*
 6 *demonstrate that they meet the qualifications in*
 7 *subparagraph (B).*

8 “(B) *QUALIFICATIONS DESCRIBED.*—*An ap-*
 9 *plicant for a new covered funding award shall*
 10 *include in the initial application a proposal*
 11 *containing sufficient detail and documentation*
 12 *for the Commission to ascertain that the appli-*
 13 *cant possesses the technical, financial, and oper-*
 14 *ational capabilities, and has a reasonable busi-*
 15 *ness plan, to deploy the proposed network and*
 16 *deliver services with the relevant performance*
 17 *characteristics and requirements defined by the*
 18 *Commission and as pledged by the applicant.*

19 “(C) *EVALUATION OF PROPOSAL.*—*The*
 20 *Commission shall evaluate a proposal described*
 21 *in subparagraph (B) against—*

22 “(i) *reasonable and well-established*
 23 *technical, financial, and operational stand-*
 24 *ards, including the technical standards*
 25 *adopted by the Commission in orders of the*

1 *Commission relating to Establishing the*
 2 *Digital Opportunity Data Collection (WC*
 3 *Docket No. 19–195) (or orders of the Com-*
 4 *mission relating to modernizing any suc-*
 5 *cessor collection) for purposes of entities*
 6 *that must report broadband availability*
 7 *coverage; and*

8 “(ii) *the applicant’s history of com-*
 9 *plying with requirements in Commission*
 10 *and other government broadband deploy-*
 11 *ment funding programs.*

12 “(D) *PENALTIES FOR PRE-AUTHORIZATION*
 13 *DEFAULTS.—In adopting rules for any new cov-*
 14 *ered funding award, the Commission shall set a*
 15 *penalty for pre-authorization defaults of at least*
 16 *\$9,000 per violation and may not limit the base*
 17 *forfeiture to an amount less than 30 percent of*
 18 *the applicant’s total support, unless the Commis-*
 19 *sion demonstrates the need for lower penalties in*
 20 *a particular instance.”.*

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