

118TH CONGRESS
2D SESSION

S. 4208

To authorize annual appropriations for the Affordable Connectivity Program, to expand the Universal Service Fund to support the Affordable Connectivity Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2024

Mr. FETTERMAN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize annual appropriations for the Affordable Connectivity Program, to expand the Universal Service Fund to support the Affordable Connectivity Program, 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 “Promoting Affordable
5 Connectivity Act of 2024”.

1 **SEC. 2. CLARIFICATION OF RELATIONSHIP TO UNIVERSAL**
 2 **SERVICE CONTRIBUTIONS; FCC BORROWING**
 3 **AUTHORITY FOR AFFORDABLE**
 4 **CONNECTIVITY PROGRAM.**

5 Section 904(i) of division N of the Consolidated Ap-
 6 propriations Act, 2021 (47 U.S.C. 1752(i)) is amended—

7 (1) by striking paragraph (4);

8 (2) by redesignating paragraph (5) as para-
 9 graph (4); and

10 (3) by adding at the end the following:

11 “(5) BORROWING AUTHORITY.—

12 “(A) IN GENERAL.—During the 2-year pe-
 13 riod beginning on the date of enactment of the
 14 Promoting Affordable Connectivity Act of 2024,
 15 the Commission may borrow from the Treasury
 16 of the United States an amount not to exceed
 17 \$25,000,000,000, to be used in the same man-
 18 ner as amounts in the Affordable Connectivity
 19 Fund.

20 “(B) REIMBURSEMENT.—Not later than 8
 21 years after the date as of which the amend-
 22 ments made by subsections (a) and (b)(1) of
 23 section 3 of the Promoting Affordable
 24 Connectivity Act of 2024 have been imple-
 25 mented, as determined by the Commission, the
 26 Commission shall, using amounts from the Fed-

1 eral universal service support mechanisms, re-
 2 imburse the general fund of the Treasury for
 3 any amounts borrowed under subparagraph (A)
 4 of this paragraph.”.

5 **SEC. 3. EXPANSION OF UNIVERSAL SERVICE FUND TO SUP-**
 6 **PORT AFFORDABLE CONNECTIVITY PRO-**
 7 **GRAM.**

8 (a) EXPANSION OF UNIVERSAL SERVICE FUND CON-
 9 TRIBUTION BASE TO INCLUDE EDGE PROVIDERS AND
 10 BROADBAND PROVIDERS.—Section 254 of the Commu-
 11 nications Act of 1934 (47 U.S.C. 254) is amended—

12 (1) in subsection (b)—

13 (A) in paragraph (2), by inserting “in a
 14 manner that promotes digital equity (as defined
 15 in section 60302 of the Digital Equity Act of
 16 2021 (47 U.S.C. 1721))” after “all regions of
 17 the Nation”; and

18 (B) in paragraph (4), by inserting “, all
 19 providers of edge services, all broadband pro-
 20 viders, and all enterprise broadband service pro-
 21 viders” after “providers of telecommunications
 22 services”;

23 (2) in subsection (d)—

24 (A) in the subsection heading, by inserting
 25 “, EDGE PROVIDER, AND BROADBAND PRO-

1 VIDER” after “TELECOMMUNICATIONS CAR-
2 RIER”;

3 (B) by striking “Every” and inserting the
4 following:

5 “(1) IN GENERAL.—Every”;

6 (C) in the first sentence of paragraph (1),
7 as so designated, by inserting “, every edge pro-
8 vider, every broadband provider, and every en-
9 terprise broadband service provider” after
10 “Every telecommunications carrier that pro-
11 vides interstate telecommunications services”;
12 and

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

14 “(2) ASSESSMENTS.—In determining contribu-
15 tion assessments from all applicable carriers and
16 providers for the preservation and advancement of
17 universal service under paragraph (1), the Commis-
18 sion shall prioritize assessing greater contributions—

19 “(A) for edge services with respect to
20 which the assessment is least likely to be di-
21 rectly passed on as increased costs to con-
22 sumers through an explicit fee on invoices; and

23 “(B) from edge providers whose annual
24 revenue (including revenue from any subsidiary

1 edge provider) is greater than
2 \$5,000,000,000.”;

3 (3) in subsection (f), by adding at the end the
4 following: “For the purposes of this subsection,
5 broadband internet access service, enterprise
6 broadband service, and edge services shall be consid-
7 ered to be inherently interstate services.”; and

8 (4) by adding at the end the following:

9 “(m) DEFINITIONS.—For purposes of this section:

10 “(1) BROADBAND INTERNET ACCESS SERV-
11 ICE.—The term ‘broadband internet access serv-
12 ice’—

13 “(A) has the meaning given the term in
14 section 8.1(b) of title 47, Code of Federal Reg-
15 ulations, or any successor regulation; and

16 “(B) does not include enterprise broadband
17 service.

18 “(2) BROADBAND PROVIDER.—The term
19 ‘broadband provider’ means a provider of broadband
20 internet access service.

21 “(3) EDGE PROVIDER.—The term ‘edge pro-
22 vider’—

23 “(A) means an entity whose primary or
24 only business revenue is derived from providing
25 an edge service; and

1 “(B) does not include—

2 “(i) the Federal Government, a State,
3 a political subdivision of a State, an Indian
4 Tribe (as defined in section 4 of the Indian
5 Self-Determination and Education Assist-
6 ance Act (25 U.S.C. 5304)), or any agency
7 thereof;

8 “(ii) any organization that is de-
9 scribed in subsection (c) of section 501 of
10 the Internal Revenue Code of 1986 and ex-
11 empt from tax under subsection (a) of that
12 section;

13 “(iii) any dual or concurrent enroll-
14 ment program, early childhood education
15 program, early college high school, edu-
16 cational service agency, elementary school,
17 or secondary school, as those terms are de-
18 fined in section 8101 of the Elementary
19 and Secondary Education Act of 1965 (20
20 U.S.C. 7801);

21 “(iv) any area career and technical
22 education school, as defined in section 3 of
23 the Carl D. Perkins Career and Technical
24 Education Act of 2006 (20 U.S.C. 2302);
25 or

1 “(v) any institution of higher edu-
2 cation, as defined in section 102 of the
3 Higher Education Act of 1965 (20 U.S.C.
4 1002).

5 “(4) EDGE SERVICE.—The term ‘edge serv-
6 ice’—

7 “(A) means a service that—

8 “(i) requires the user to subscribe or
9 establish an account in order to—

10 “(I) access or publish content
11 that is available publicly; or

12 “(II) access, post, or publish con-
13 tent for individuals approved by the
14 user;

15 “(ii) allows the user to purchase,
16 download, or access content, applications,
17 or services from the edge provider without
18 a subscription or account;

19 “(iii) enables the user to initiate a
20 search query for particular information
21 using the internet and is capable of return-
22 ing at least 1 search result unaffiliated
23 with the provider of the service;

24 “(iv) is a cloud computing or digital
25 advertising service; or

1 “(v) requires or allows the user to di-
2 vulge personally identifiable information of
3 the user;

4 “(B) includes a service described in sub-
5 paragraph (A) that is provided through a soft-
6 ware program, including a mobile application;
7 and

8 “(C) does not include an online patient
9 portal operated by a hospital or other health
10 care provider.

11 “(5) ENTERPRISE BROADBAND SERVICE.—The
12 term ‘enterprise broadband service’ means any com-
13 munications product or service, regardless of regu-
14 latory classification, that—

15 “(A) is primarily offered to business enti-
16 ties to support or manage business operations;

17 “(B) is not ordinarily offered to mass mar-
18 ket customers; and

19 “(C) includes transmission or a combina-
20 tion of transmission and information proc-
21 essing, whether facilities-based or resold, includ-
22 ing dedicated internet access, virtual private
23 networks (commonly known as ‘VPNs’), wide
24 area networks (commonly known as ‘WANs’),

1 multi-protocol label switching-enabled services,
2 and ethernet services.

3 “(6) ENTERPRISE BROADBAND SERVICE PRO-
4 VIDER.—The term ‘enterprise broadband service
5 provider’ means a provider of enterprise broadband
6 service.

7 “(7) PERSONALLY IDENTIFIABLE INFORMA-
8 TION.—The term ‘personally identifiable informa-
9 tion’ means information described in clauses (i)
10 through (vi) of subparagraph (A), or subparagraph
11 (B), of section 101(41A) of title 11, United States
12 Code.”.

13 (b) FUNDING FOR AFFORDABLE CONNECTIVITY
14 PROGRAM FROM UNIVERSAL SERVICE FUND.—

15 (1) MODIFICATION OF UNIVERSAL SERVICE
16 FUND.—Section 254(c) of the Communications Act
17 of 1934 (47 U.S.C. 254(c)) is amended by adding at
18 the end the following:

19 “(4) AFFORDABLE CONNECTIVITY PROGRAM.—
20 The Affordable Connectivity Program established
21 under section 904(b)(1) of division N of the Consoli-
22 dated Appropriations Act, 2021 (47 U.S.C.
23 1752(b)(1)) shall be supported by the Federal uni-
24 versal service support mechanisms.”.

1 (2) INAPPLICABILITY OF CERTAIN REQUIRE-
2 MENTS.—Section 254(e) of the Communications Act
3 of 1934 (47 U.S.C. 254(e)) is amended—

4 (A) by striking “After the date” and in-
5 serting the following:

6 “(1) IN GENERAL.—After the date”; and

7 (B) by adding at the end the following:

8 “(2) INAPPLICABILITY TO CERTAIN PRO-
9 VIDERS.—

10 “(A) IN GENERAL.—The requirements
11 under paragraph (1) shall not apply with re-
12 spect to the participation of a provider in the
13 Affordable Connectivity Program established
14 under section 904(b)(1) of division N of the
15 Consolidated Appropriations Act, 2021 (47
16 U.S.C. 1752(b)(1)).

17 “(B) RULE OF CONSTRUCTION.—Nothing
18 in subparagraph (A) shall be construed to apply
19 with respect to the receipt of Federal universal
20 service support for any purpose other than par-
21 ticipation in the Affordable Connectivity Pro-
22 gram.”.

23 (3) CONFORMING AMENDMENTS.—Section
24 904(b) of division N of the Consolidated Appropria-
25 tions Act, 2021 (47 U.S.C. 1752(b)) is amended—

1 (A) in paragraphs (1), (4), and (5), by in-
2 serting “or the Universal Service Fund under
3 section 254 of the Communications Act of 1934
4 (47 U.S.C. 254)” after “the Affordable
5 Connectivity Fund established in subsection (i)”
6 each place that term appears; and

7 (B) in paragraph (12), by inserting “or the
8 Universal Service Fund under section 254 of
9 the Communications Act of 1934 (47 U.S.C.
10 254)” after “the Affordable Connectivity Fund”
11 each place that term appears.

12 (c) REGULATIONS; EFFECTIVE DATE.—

13 (1) REGULATIONS.—

14 (A) IN GENERAL.—Not later than 2 years
15 after the date of enactment of this Act, the
16 Federal Communications Commission shall pro-
17 mulgate regulations to implement the amend-
18 ments made by subsections (a) and (b)(1).

19 (B) STAGGERED IMPLEMENTATION.—In
20 promulgating regulations under subparagraph
21 (A), the Federal Communications Commission
22 shall ensure that the amendments made by sub-
23 section (a) are implemented not later than 270
24 days before the amendment made by subsection
25 (b)(1) is implemented.

1 (C) PAPERWORK REDUCTION ACT RE-
 2 QUIREMENTS.—A collection of information con-
 3 ducted or sponsored under any regulation pro-
 4 mulgated under subparagraph (A) shall not
 5 constitute a collection of information for the
 6 purposes of subchapter 1 of chapter 35 of title
 7 44, United States Code (commonly referred to
 8 as the “Paperwork Reduction Act”).

9 (2) EFFECTIVE DATE.—The amendments made
 10 by subsections (a) and (b) shall take effect on the
 11 date of enactment of this Act.

12 **SEC. 4. ENSURING QUICK APPLICATION OF AFFORDABLE**
 13 **CONNECTIVITY BENEFIT TO USER ACCOUNT.**

14 (a) IN GENERAL.—Section 904(b) of division N of
 15 the Consolidated Appropriations Act, 2021 (47 U.S.C.
 16 1752(b)) is amended—

17 (1) by redesignating paragraphs (8) through
 18 (15) as paragraphs (9) through (16), respectively;

19 and

20 (2) by inserting after paragraph (7) the fol-
 21 lowing:

22 “(8) TIMING OF APPLICATION OF AFFORDABLE
 23 CONNECTIVITY BENEFIT TO ACCOUNT OF ELIGIBLE
 24 HOUSEHOLD.—

1 “(A) IN GENERAL.—Not later than the
2 next billing cycle after the billing cycle in which
3 a participating provider verifies that a house-
4 hold is an eligible household under paragraph
5 (2), the participating provider shall apply the
6 affordable connectivity benefit to the internet
7 service offering specified by the eligible house-
8 hold.

9 “(B) GUIDANCE.—Not later than 18
10 months after the date of enactment of the Pro-
11 moting Affordable Connectivity Act of 2024,
12 the Commission shall issue guidance for partici-
13 pating providers to comply with subparagraph
14 (A).”.

15 (b) CONFORMING AMENDMENT.—Paragraph (15) of
16 section 904(b) of division N of the Consolidated Appro-
17 priations Act, 2021 (47 U.S.C. 1752(b)), as so redesi-
18 gnated by subsection (a), is amended by striking “para-
19 graph (12)” and inserting “paragraph (13)”.

20 **SEC. 5. FLEXIBILITY TO MODIFY AFFORDABLE**
21 **CONNECTIVITY PROGRAM REQUIREMENTS.**

22 Section 904 of division N of the Consolidated Appro-
23 priations Act, 2021 (47 U.S.C. 1752) is amended by add-
24 ing at the end the following:

1 “(k) AUTHORITY TO REVISE PROGRAM REQUIRE-
2 MENTS.—

3 “(1) IN GENERAL.—As may be appropriate to
4 improve the functionality, administrability, or sus-
5 tainability of the Affordable Connectivity Program,
6 the Commission may promulgate regulations to alter
7 or eliminate any requirement for the program under
8 this section, including a requirement related to eligi-
9 bility or benefit reimbursements.

10 “(2) PAPERWORK REDUCTION ACT REQUIRE-
11 MENTS.—A collection of information conducted or
12 sponsored under any regulation promulgated under
13 paragraph (1) shall not constitute a collection of in-
14 formation for the purposes of subchapter 1 of chap-
15 ter 35 of title 44, United States Code (commonly re-
16 ferred to as the ‘Paperwork Reduction Act’).”.

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