

Calendar No. 629

116TH CONGRESS
2D SESSION

S. 1166

To direct the Assistant Secretary of Commerce for Communications and Information to make grants for the establishment or expansion of internet exchange facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2019

Mrs. BLACKBURN (for herself, Ms. BALDWIN, Ms. DUCKWORTH, and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 15, 2020

Reported by Mr. WICKER, with an amendment

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

A BILL

To direct the Assistant Secretary of Commerce for Communications and Information to make grants for the establishment or expansion of internet exchange facilities, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Internet Exchange Act
3 of 2019”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **ASSISTANT SECRETARY.**—The term “Assist-
7 ant Secretary” means the Assistant Secretary of
8 Commerce for Communications and Information.

9 (2) **CORE BASED STATISTICAL AREA.**—The
10 term “core based statistical area” has the meaning
11 given the term by the Office of Management and
12 Budget in the Notice of Decision entitled “2010
13 Standards for Delineating Metropolitan and
14 Micropolitan Statistical Areas”, published in the
15 Federal Register on June 28, 2010 (75 Fed. Reg.
16 37246), or any successor to that Notice.

17 (3) **COVERED GRANT.**—The term “covered
18 grant” means a grant awarded under section 3(a).

19 (4) **INTERNET EXCHANGE FACILITY.**—The term
20 “internet exchange facility” means physical infra-
21 structure through which internet service providers
22 and content delivery networks exchange internet
23 traffic between their networks.

1 **SEC. 3. NATIONAL TELECOMMUNICATIONS AND INFORMA-**
 2 **TION ADMINISTRATION GRANTS.**

3 (a) GRANTS.—On and after the first day of the first
 4 fiscal year beginning after the date on which the Assistant
 5 Secretary establishes rules and timelines under subsection
 6 (d), the Assistant Secretary shall award grants to entities
 7 to 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.—An entity may not receive a cov-
 17 ered grant unless the entity certifies to the Assistant Sec-
 18 retary that the entity has sufficient interest from third
 19 party entities that will use the internet exchange facility
 20 to be funded by the grant once the facility is established
 21 or operations are expanded, as applicable.

22 (c) FEDERAL SHARE.—The Federal share of the
 23 total cost of the establishment of, or expansion of oper-
 24 ations at, an internet exchange facility for which a covered
 25 grant is awarded may not exceed 50 percent.

26 (d) APPLICATIONS.—

1 (1) RULES AND TIMELINES.—Not later than 1
 2 year after the date of enactment of this Act, the As-
 3 sistant Secretary shall establish rules and timelines
 4 for applications for covered grants.

5 (2) THIRD PARTY REVIEW.—To prevent fraud
 6 in the covered grant program, the Assistant Sec-
 7 retary shall enter into a contract with an inde-
 8 pendent third party under which the third party re-
 9 views an application for a covered grant not later
 10 than 60 days after the date on which the application
 11 is submitted to ensure that only an entity that is eli-
 12 gible for a covered grant receives a covered grant.

13 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
 14 tion shall be construed to authorize the Assistant Sec-
 15 retary to regulate, issue guidance for, or otherwise inter-
 16 fere with the activities at an internet exchange facility.

17 (f) NO ADDITIONAL FUNDS AUTHORIZED.—No addi-
 18 tional funds are authorized to be appropriated to carry
 19 out this section. This section shall be carried out using
 20 amounts otherwise authorized.

21 **SEC. 4. USE OF E-RATE AND RURAL HEALTH CARE UNI-**
 22 **VERSAL SERVICE SUPPORT.**

23 Section 254 of the Communications Act of 1934 (47
 24 U.S.C. 254) is amended by adding at the end the fol-
 25 lowing:

1 “(m) USE OF E-RATE AND RURAL HEALTH CARE
 2 SUPPORT FOR COSTS RELATING TO INTERNET EX-
 3 CHANGE FACILITY CONNECTION.—

4 “(1) IN GENERAL.—Notwithstanding any other
 5 provision of law or regulation, including subpart F
 6 or G of part 54 of title 47, Code of Federal Regula-
 7 tions (or any successor regulation), a recipient of
 8 support under such subpart F or G may receive sup-
 9 port under that subpart—

10 “(A) to contract with a broadband internet
 11 service provider to obtain connection to an
 12 internet exchange facility; or

13 “(B) for the costs of maintaining a point
 14 of presence at an internet exchange facility.

15 “(2) RULE OF CONSTRUCTION.—Nothing in
 16 this subsection shall be construed to authorize the
 17 Commission to regulate, issue guidance for, or other-
 18 wise interfere with the activities at an internet ex-
 19 change facility.

20 “(3) INTERNET EXCHANGE FACILITY DE-
 21 FINED.—In this subsection, the term ‘internet ex-
 22 change facility’ means physical infrastructure
 23 through which internet service providers and content
 24 delivery networks exchange internet traffic between
 25 their networks.”.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Internet Exchange and*
 3 *Submarine Cable Act of 2020”.*

4 **SEC. 2. DEFINITIONS.**

5 *In this Act:*

6 (1) *ASSISTANT SECRETARY.*—*The term “Assist-*
 7 *ant Secretary” means the Assistant Secretary of Com-*
 8 *merce for Communications and Information.*

9 (2) *CORE BASED STATISTICAL AREA.*—*The term*
 10 *“core based statistical area” has the meaning given*
 11 *the term by the Office of Management and Budget in*
 12 *the Notice of Decision entitled “2010 Standards for*
 13 *Delineating Metropolitan and Micropolitan Statis-*
 14 *tical Areas”, published in the Federal Register on*
 15 *June 28, 2010 (75 Fed. Reg. 37246), or any successor*
 16 *to that Notice.*

17 (3) *COVERED GRANT.*—*The term “covered grant”*
 18 *means a grant awarded under section 3(a).*

19 (4) *INDIAN TRIBE.*—*The term “Indian Tribe”—*
 20 (A) *has the meaning given the term in sec-*
 21 *tion 4 of the Indian Self-Determination and*
 22 *Education Assistance Act (25 U.S.C. 5304); and*
 23 (B) *includes a Native Hawaiian organiza-*
 24 *tion, as that term is defined in section 6207 of*
 25 *the Native Hawaiian Education Act (20 U.S.C.*
 26 *7517).*

1 (5) *INTERNET EXCHANGE FACILITY*.—The term
 2 “internet exchange facility” means physical infra-
 3 structure through which internet service providers
 4 and content delivery networks exchange internet traf-
 5 fic between their networks.

6 (6) *STATE*.—The term “State” has the meaning
 7 given the term in section 3 of the Communications
 8 Act of 1934 (47 U.S.C. 153).

9 (7) *SUBMARINE CABLE LANDING STATION*.—The
 10 term “submarine cable landing station” means a
 11 cable landing station, as that term is used in section
 12 1.767(a)(5) of title 47, Code of Federal Regulations
 13 (or any successor regulation), that can be utilized to
 14 land a submarine cable by an entity that has ob-
 15 tained a license under the first section of the Act enti-
 16 tled “An Act relating to the landing and operation of
 17 submarine cables in the United States”, approved
 18 May 27, 1921 (47 U.S.C. 34) (commonly known as
 19 the “Cable Landing Licensing Act”).

20 **SEC. 3. INTERNET EXCHANGE FACILITY GRANTS.**

21 (a) *GRANTS*.—Not later than 1 year after the date on
 22 which amounts are made available under section 6, the As-
 23 sistant Secretary shall award grants to entities to acquire
 24 real property and necessary equipment to—

1 (1) *establish a new internet exchange facility in*
 2 *a core based statistical area in which, at the time the*
 3 *grant is awarded, there are no existing internet ex-*
 4 *change facilities; or*

5 (2) *expand operations at an existing internet ex-*
 6 *change facility in a core based statistical area in*
 7 *which, at the time the grant is awarded, there is only*
 8 *1 internet exchange facility.*

9 (b) *ELIGIBILITY.—To be eligible to receive a covered*
 10 *grant, an entity shall—*

11 (1) *have sufficient interest from third party enti-*
 12 *ties that will use the internet exchange facility to be*
 13 *funded by the grant once the facility is established or*
 14 *operations are expanded, as applicable;*

15 (2) *have sovereign control over the land or build-*
 16 *ing in which the internet exchange facility is to be*
 17 *housed;*

18 (3) *provide evidence of direct conduit, duct, and*
 19 *manhole access to public rights-of-way;*

20 (4) *have a plan to establish security protocols for*
 21 *the internet exchange facility to prevent physical or*
 22 *electronic intrusion from unauthorized users; and*

23 (5) *provide other information required by the As-*
 24 *stant Secretary to protect against waste, fraud, or*
 25 *abuse.*

1 (c) *FEDERAL SHARE.*—*The Federal share of the total*
 2 *cost of the establishment of, or expansion of operations at,*
 3 *an internet exchange facility for which a covered grant is*
 4 *awarded may not exceed 50 percent.*

5 (d) *GRANT AMOUNT.*—*The amount of a covered grant*
 6 *may not exceed \$3,000,000.*

7 (e) *APPLICATIONS.*—

8 (1) *RULES AND TIMELINES.*—*Not later than 1*
 9 *year after the date of enactment of this Act, the As-*
 10 *stant Secretary shall establish rules and timelines*
 11 *for applications for—*

12 (A) *covered grants; and*

13 (B) *grants under section 4.*

14 (2) *THIRD PARTY REVIEW.*—*To prevent fraud in*
 15 *the covered grant program, the Assistant Secretary*
 16 *shall enter into a contract with an independent third*
 17 *party under which the third party reviews an appli-*
 18 *cation for a covered grant not later than 60 days*
 19 *after the date on which the application is submitted*
 20 *to ensure that only an entity that is eligible for a cov-*
 21 *ered grant receives a covered grant.*

22 (f) *RULE OF CONSTRUCTION.*—*Nothing in this section*
 23 *shall be construed to authorize the Assistant Secretary to*
 24 *regulate, issue guidance for, or otherwise interfere with the*
 25 *activities at an internet exchange facility.*

1 **SEC. 4. SUBMARINE CABLE LANDING STATION GRANTS.**

2 *Not later than 1 year after the date on which amounts*
 3 *are made available under section 6, and in accordance with*
 4 *the rules and timelines established under section 3(e)(1), the*
 5 *Assistant Secretary shall award grants to States and In-*
 6 *dian Tribes to build infrastructure and acquire necessary*
 7 *equipment to establish or expand an open-access, carrier-*
 8 *neutral submarine cable landing station that serves a mili-*
 9 *tary facility.*

10 **SEC. 5. REPORT.**

11 *Not later than 5 years after the date of enactment of*
 12 *this Act, and annually thereafter for 5 years, the Assistant*
 13 *Secretary shall submit a report on outcomes of grants*
 14 *awarded under this Act to—*

15 *(1) the Committee on Commerce, Science, and*
 16 *Transportation of the Senate; and*

17 *(2) the Committee on Energy and Commerce of*
 18 *the House of Representatives.*

19 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

20 *(a) IN GENERAL.—There is authorized to be appro-*
 21 *priated \$35,000,000 to carry out sections 3 and 4.*

22 *(b) LIMITATION.—The Assistant Secretary may not*
 23 *use more than 10 percent of the amounts made available*
 24 *under subsection (a) to administer and report on the out-*
 25 *comes of grants awarded under this Act.*

1 **SEC. 7. RETURN OF CERTAIN GRANT AMOUNTS.**

2 *The Assistant Secretary may require a recipient of a*
3 *grant awarded under section 3 or 4 to return all or a por-*
4 *tion of the grant amount if there is evidence of waste, fraud,*
5 *or abuse of grant funds by the recipient.*

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