Purpose: To provide for E-Rate support for Wi-Fi hotspots, modems, routers, and connected devices during emergency periods relating to COVID–19, and for other purposes.


S. 4049

To authorize appropriations for fiscal year 2021 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Referred to the Committee on ____________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. Markey (for himself, Mr. Bennet, Ms. Hassan, and Mr. Van Hollen)

Viz:

1 At the end of subtitle G of title X, add the following:

2 SEC. 1085. E-RATE SUPPORT FOR WI-FI HOTSPOTS, OTHER EQUIPMENT, AND CONNECTED DEVICES DURING EMERGENCY PERIODS RELATING TO COVID–19.

(a) DEFINITIONS.—In this section:

(1) ADVANCED TELECOMMUNICATIONS AND INFORMATION SERVICES.—The term “advanced tele-
communications and information services” means advanced telecommunications and information services, as that term is used in section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)).

(2) COMMISSION.—The term “Commission” means the Federal Communications Commission.

(3) CONNECTED DEVICE.—The term “connected device” means a laptop computer, tablet computer, or similar device that is capable of connecting to advanced telecommunications and information services.

(4) COVERED REGULATIONS.—The term “covered regulations” means the regulations promulgated under subsection (b).

(5) COVID–19 EMERGENCY PERIOD.—The term “COVID–19 emergency period” means the period during which a public health emergency declared pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d) with respect to COVID–19, including under any renewal of such declaration, is in effect.

(6) EMERGENCY CONNECTIVITY FUND.—The term “Emergency Connectivity Fund” means the fund established under subsection (h)(1).
(7) ELIGIBLE EQUIPMENT.—The term “eligible equipment” means the following:

(A) Wi-Fi hotspots.

(B) Modems.

(C) Routers.

(D) Devices that combine a modem and router.

(E) Connected devices.

(8) LIBRARY.—The term “library” includes a library consortium.

(9) WI-FI.—The term “Wi-Fi” means a wireless networking protocol based on Institute of Electrical and Electronics Engineers standard 802.11 (or any successor standard).

(10) WI-FI HOTSPOT.—The term “Wi-Fi hotspot” means a device that is capable of—

(A) receiving mobile advanced telecommunications and information services; and

(B) sharing such services with another device through the use of Wi-Fi.

(b) REGULATIONS REQUIRED.—Not later than 7 days after the date of enactment of this Act, the Commission shall promulgate regulations providing for the provision, from amounts made available from the Emergency Connectivity Fund, of support under section 254(h)(1)(B)
of the Communications Act of 1934 (47 U.S.C. 254(h)(1)(B)) to an elementary school, secondary school, or library (including a Tribal elementary school, Tribal secondary school, or Tribal library) eligible for support under that section, during a COVID–19 emergency period (including any portion of the period occurring before the date of enactment of this Act) of eligible equipment or advanced telecommunications and information services, for use by—

(1) in the case of a school, students and staff of the school at locations that include locations other than the school; and

(2) in the case of a library, patrons of the library at locations that include locations other than the library.

(e) Eligibility of Tribal Libraries.—For purposes of determining the eligibility of a Tribal library for support under the covered regulations, the portion of paragraph (4) of section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) relating to eligibility for assistance from a State library administrative agency under the Library Services and Technology Act (20 U.S.C. 9121 et seq.) shall not apply.

(d) Prioritization of Support.—The Commission shall provide in the covered regulations for a mechanism
to require a school or library to prioritize the provision of eligible equipment or advanced telecommunications and information services (or both), for which support is received under those regulations, to students and staff or patrons (as the case may be) that the school or library believes do not have access to eligible equipment or advanced telecommunications and information services (or do not have access to either), respectively, at the residences of the students and staff or patrons.

(c) TREATMENT OF EQUIPMENT AFTER EMERGENCY PERIOD.—The Commission shall provide in the covered regulations that, in the case of a school or library that purchases eligible equipment using support received under the covered regulations, the school or library—

(1) may, after the COVID–19 emergency period with respect to which the support is received, use the equipment for any purposes that the school or library considers appropriate, subject to any restrictions provided in the covered regulations (or any successor regulation); and

(2) may not sell or otherwise transfer the equipment in exchange for any thing (including a service) of value, except that the school or library may exchange the equipment for upgraded equipment of the same type.
(f) Rule of Construction.—Nothing in this section shall be construed to affect any authority of the Commission under section 254(h)(1)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(1)(B)) to allow support under that section to be used for the purposes described in subsection (b) of this section other than as required by that subsection.

(g) Procedural Matters.—

(1) Part 54 regulations.—Nothing in this section shall be construed to prevent the Commission from providing that the regulations in part 54 of title 47, Code of Federal Regulations—

(A) shall apply in whole or in part to support provided under the covered regulations;

(B) shall not apply in whole or in part to support provided under the covered regulations; or

(C) shall be modified in whole or in part for purposes of application to support provided under the covered regulations.

(2) Exemption from certain rulemaking requirements.—Subsections (b), (c), and (d) of section 553 of title 5, United States Code, shall not apply to the covered regulations or a rulemaking to promulgate the covered regulations.
(3) **Paperwork Reduction Act Exemption.**—A collection of information conducted or sponsored under the covered regulations, or under section 254 of the Communications Act of 1934 (47 U.S.C. 254) in connection with support provided under the covered regulations, shall not constitute a collection of information for the purposes of subchapter I of chapter 35 of title 44, United States Code (commonly referred to as the “Paperwork Reduction Act”).

(h) **Emergency Connectivity Fund.**—

(1) **Establishment.**—There is established in the Treasury of the United States a fund to be known as the “Emergency Connectivity Fund”.

(2) **Appropriation.**—There is appropriated to the Emergency Connectivity Fund, out of any money in the Treasury not otherwise appropriated, $4,000,000,000 for fiscal year 2020, to remain available through fiscal year 2021.

(3) **Use of Funds.**—Amounts in the Emergency Connectivity Fund shall be available to the Commission to provide support under the covered regulations.

(4) **Relationship to Universal Service Contributions.**—Support provided under the cov-
ered regulations shall be provided from amounts made available under paragraph (3) and not from contributions under section 254(d) of the Communications Act of 1934 (47 U.S.C. 254(d)).