

110TH CONGRESS
1ST SESSION

S. 1492

To improve the quality of Federal and State data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation.

IN THE SENATE OF THE UNITED STATES

MAY 24, 2007

Mr. INOUE (for himself, Mr. DORGAN, Mr. PRYOR, Ms. CANTWELL, Ms. KLOBUCHAR, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To improve the quality of Federal and State data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation.

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 “Broadband Data Im-
5 provement Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The deployment and adoption of broadband
2 technology has resulted in enhanced economic devel-
3 opment and public safety for communities across the
4 Nation, improved health care and educational oppor-
5 tunities, and a better quality of life for all Ameri-
6 cans.

7 (2) Continued progress in the deployment and
8 adoption of broadband technology is vital to ensur-
9 ing that our Nation remains competitive and con-
10 tinues to create business and job growth.

11 (3) Improving Federal data on the deployment
12 and adoption of broadband service will assist in the
13 development of broadband technology across all re-
14 gions of the Nation.

15 (4) The Federal Government should also recog-
16 nize and encourage complementary state efforts to
17 improve the quality and usefulness of broadband
18 data and should encourage and support the partner-
19 ship of the public and private sectors in the contin-
20 ued growth of broadband services and information
21 technology for the residents and businesses of the
22 Nation.

23 **SEC. 3. IMPROVING FEDERAL DATA ON BROADBAND.**

24 (a) **IMPROVING FCC BROADBAND DATA.**—Within
25 120 days after the date of enactment of this Act, the Fed-

1 eral Communications Commission shall issue an order in
2 WC docket No. 07–38 which shall, at a minimum—

3 (1) revise or update, if determined necessary,
4 the existing definitions of advanced telecommuni-
5 cations capability, or broadband;

6 (2) establish a new definition of second genera-
7 tion broadband to reflect a data rate that is not less
8 than the data rate required to reliably transmit full-
9 motion, high-definition video; and

10 (3) revise its Form 477 reporting requirements
11 to require filing entities to report broadband connec-
12 tions and second generation broadband connections
13 by 5-digit postal zip code plus 4-digit location.

14 (b) EXCEPTION.—The Commission shall exempt an
15 entity from the reporting requirements of subsection
16 (a)(3) if the Commission determines that a compliance by
17 that entity with the requirements is cost prohibitive, as
18 defined by the Commission.

19 (c) IMPROVING SECTION 706 INQUIRY.—Section 706
20 of the Telecommunications Act of 1996 (47 U.S.C. 157
21 nt) is amended—

22 (1) by striking “regularly” in subsection (b)
23 and inserting “annually”;

24 (2) by redesignating subsection (c) as sub-
25 section (e); and

1 (3) by inserting after subsection (b) the fol-
2 lowing:

3 “(c) MEASUREMENT OF EXTENT OF DEPLOY-
4 MENT.—In determining under subsection (b) whether ad-
5 vanced telecommunications capability is being deployed to
6 all Americans in a reasonable and timely fashion, the
7 Commission shall consider data collected using 5-digit
8 postal zip code plus 4-digit location.

9 “(d) DEMOGRAPHIC INFORMATION FOR UNSERVED
10 AREAS.—As part of the inquiry required by subsection (b),
11 the Commission shall, using 5-digit postal zip code plus
12 4-digit location information, compile a list of geographical
13 areas that are not served by any provider of advanced tele-
14 communications capability (as defined by section
15 706(e)(1) of the Telecommunications Act of 1996 (47
16 U.S.C. 157 nt)) and to the extent that data from the Cen-
17 sus Bureau is available, determine, for each such unserved
18 area—

19 “(1) the population;

20 “(2) the population density; and

21 “(3) the average per capita income.”;

22 (4) by inserting “an evolving level of” after
23 “technology,” in paragraph (1) of subsection (e), as
24 redesignated.

1 (d) IMPROVING CENSUS DATA ON BROADBAND.—
2 The Secretary of Commerce, in consultation with the Fed-
3 eral Communications Commission, shall expand the Amer-
4 ican Community Survey conducted by the Bureau of the
5 Census to elicit information for residential households, in-
6 cluding those located on native lands, to determine wheth-
7 er persons at such households own or use a computer at
8 that address, whether persons at that address subscribe
9 to Internet service and, if so, whether such persons sub-
10 scribe to dial-up or broadband Internet service at that ad-
11 dress.

12 **SEC. 4. STUDY ON ADDITIONAL BROADBAND METRICS AND**
13 **STANDARDS.**

14 (a) IN GENERAL.—The Comptroller General shall
15 conduct a study to consider and evaluate additional
16 broadband metrics or standards that may be used by in-
17 dustry and the Federal Government to provide users with
18 more accurate information about the cost and capability
19 of their broadband connection, and to better compare the
20 deployment and penetration of broadband in the United
21 States with other countries. At a minimum, such study
22 shall consider potential standards or metrics that may be
23 used—

24 (1) to calculate the average price per megabyte
25 of broadband offerings;

1 (2) to reflect the average actual speed of
2 broadband offerings compared to advertised poten-
3 tial speeds;

4 (3) to compare the availability and quality of
5 broadband offerings in the United States with the
6 availability and quality of broadband offerings in
7 other industrialized nations, including countries that
8 are members of the Organization for Economic Co-
9 operation and Development; and

10 (4) to distinguish between complementary and
11 substitutable broadband offerings in evaluating de-
12 ployment and penetration.

13 (b) REPORT.—Not later than one year after the date
14 of enactment of this Act, the Comptroller General shall
15 submit a report to the Senate Committee on Commerce,
16 Science, and Transportation and the House of Represent-
17 atives Committee on Energy and Commerce on the results
18 of the study, with recommendations for how industry and
19 the Federal Communications Commission can use such
20 metrics and comparisons to improve the quality of
21 broadband data and to better evaluate the deployment and
22 penetration of comparable broadband service at com-
23 parable rates across all regions of the Nation.

1 **SEC. 5. STUDY ON THE IMPACT OF BROADBAND SPEED AND**
2 **PRICE ON SMALL BUSINESSES.**

3 (a) IN GENERAL.—The Small Business Administra-
4 tion Office of Advocacy shall conduct a study evaluating
5 the impact of broadband speed and price on small busi-
6 nesses.

7 (b) REPORT.—Not later than one year after the date
8 of enactment of this Act, the Office shall submit a report
9 to the Senate Committee on Commerce, Science, and
10 Transportation, the Senate Committee on Small Business
11 and Entrepreneurship, the House of Representatives Com-
12 mittee on Energy and Commerce, and the House of Rep-
13 resentatives Committee on Small Business on the results
14 of the study, including—

15 (1) a survey of broadband speeds available to
16 small businesses;

17 (2) a survey of the cost of broadband speeds
18 available to small businesses;

19 (3) a survey of the type of broadband tech-
20 nology used by small businesses; and

21 (4) any policy recommendations that may im-
22 prove small businesses access to comparable
23 broadband services at comparable rates in all regions
24 of the Nation.

1 **SEC. 6. ENCOURAGING STATE INITIATIVES TO IMPROVE**
2 **BROADBAND.**

3 (a) **PURPOSES.**—The purposes of any grant under
4 subsection (b) are—

5 (1) to ensure that all citizens and businesses in
6 a State have access to affordable and reliable
7 broadband service;

8 (2) to achieve improved technology literacy, in-
9 creased computer ownership, and home broadband
10 use among such citizens and businesses;

11 (3) to establish and empower local grassroots
12 technology teams in each State to plan for improved
13 technology use across multiple community sectors;
14 and

15 (4) to establish and sustain an environment
16 ripe for broadband services and information tech-
17 nology investment.

18 (b) **ESTABLISHMENT OF STATE BROADBAND DATA**
19 **AND DEVELOPMENT GRANT PROGRAM.**—

20 (1) **IN GENERAL.**—The Secretary of Commerce
21 shall award grants, taking into account the results
22 of the peer review process under subsection (d), to
23 eligible entities for the development and implementa-
24 tion of statewide initiatives to identify and track the
25 availability and adoption of broadband services with-
26 in each State.

1 (2) COMPETITIVE BASIS.—Any grant under
2 subsection (b) shall be awarded on a competitive
3 basis.

4 (c) ELIGIBILITY.—To be eligible to receive a grant
5 under subsection (b), an eligible entity shall—

6 (1) submit an application to the Secretary of
7 Commerce, at such time, in such manner, and con-
8 taining such information as the Secretary may re-
9 quire; and

10 (2) contribute matching non-Federal funds in
11 an amount equal to not less than 20 percent of the
12 total amount of the grant.

13 (d) PEER REVIEW; NONDISCLOSURE.—

14 (1) IN GENERAL.—The Secretary shall by regu-
15 lation require appropriate technical and scientific
16 peer review of applications made for grants under
17 this section.

18 (2) REVIEW PROCEDURES.—The regulations re-
19 quired under paragraph (1) shall require that any
20 technical and scientific peer review group—

21 (A) be provided a written description of
22 the grant to be reviewed;

23 (B) provide the results of any review by
24 such group to the Secretary of Commerce; and

1 (C) certify that such group will enter into
2 voluntary nondisclosure agreements as nec-
3 essary to prevent the unauthorized disclosure of
4 confidential and proprietary information pro-
5 vided by broadband service providers in connec-
6 tion with projects funded by any such grant.

7 (e) USE OF FUNDS.—A grant awarded to an eligible
8 entity under subsection (b) shall be used—

9 (1) to provide a baseline assessment of
10 broadband service deployment in each State;

11 (2) to identify and track—

12 (A) areas in each State that have low lev-
13 els of broadband service deployment;

14 (B) the rate at which residential and busi-
15 ness users adopt broadband service and other
16 related information technology services; and

17 (C) possible suppliers of such services;

18 (3) to identify barriers to the adoption by indi-
19 viduals and businesses of broadband service and re-
20 lated information technology services, including
21 whether or not—

22 (A) the demand for such services is absent;

23 and

24 (B) the supply for such services is capable
25 of meeting the demand for such services;

1 (4) to identify the speeds of broadband connec-
2 tions made available to individuals and businesses
3 within the State, and, at a minimum, to rely on the
4 data rate benchmarks for broadband and second
5 generation broadband identified by the Federal Com-
6 munications Commission to promote greater consist-
7 ency of data among the States;

8 (5) to create and facilitate in each county or
9 designated region in a State a local technology plan-
10 ning team—

11 (A) with members representing a cross sec-
12 tion of the community, including representatives
13 of business, telecommunications labor organiza-
14 tions, K–12 education, health care, libraries,
15 higher education, community-based organiza-
16 tions, local government, tourism, parks and
17 recreation, and agriculture; and

18 (B) which shall—

19 (i) benchmark technology use across
20 relevant community sectors;

21 (ii) set goals for improved technology
22 use within each sector; and

23 (iii) develop a tactical business plan
24 for achieving its goals, with specific rec-

1 ommendations for online application devel-
2 opment and demand creation;

3 (6) to work collaboratively with broadband serv-
4 ice providers and information technology companies
5 to encourage deployment and use, especially in
6 unserved and underserved areas, through the use of
7 local demand aggregation, mapping analysis, and the
8 creation of market intelligence to improve the busi-
9 ness case for providers to deploy;

10 (7) to establish programs to improve computer
11 ownership and Internet access for unserved and un-
12 derserved populations;

13 (8) to collect and analyze detailed market data
14 concerning the use and demand for broadband serv-
15 ice and related information technology services;

16 (9) to facilitate information exchange regarding
17 the use and demand for broadband services between
18 public and private sectors; and

19 (10) to create within each State a geographic
20 inventory map of broadband service, and where fea-
21 sible second generation broadband service, which
22 shall—

23 (A) identify gaps in such service through a
24 method of geographic information system map-

1 ping of service availability at the census block
2 level; and

3 (B) provide a baseline assessment of state-
4 wide broadband deployment in terms of house-
5 holds with high-speed availability.

6 (f) PARTICIPATION LIMIT.—For each State, an eligi-
7 ble entity may not receive a new grant under this section
8 to fund the activities described in subsection (d) within
9 such State if such organization obtained prior grant
10 awards under this section to fund the same activities in
11 that State in each of the previous 4 consecutive years.

12 (g) REPORTING.—The Secretary of Commerce
13 shall—

14 (1) require each recipient of a grant under sub-
15 section (b) to submit a report on the use of the
16 funds provided by the grant; and

17 (2) create a web page on the Department of
18 Commerce web site that aggregates relevant infor-
19 mation made available to the public by grant recipi-
20 ents, including, where appropriate, hypertext links to
21 any geographic inventory maps created by grant re-
22 cipients under subsection (e)(10).

23 (h) DEFINITIONS.—In this section:

24 (1) ELIGIBLE ENTITY.—The term “eligible en-
25 tity” means a non-profit organization that is se-

1 lected by a State to work in partnership with State
2 agencies and private sector partners in identifying
3 and tracking the availability and adoption of
4 broadband services within each State.

5 (2) NONPROFIT ORGANIZATION.—The term
6 “nonprofit organization” means an organization—

7 (A) described in section 501(c)(3) of the
8 Internal Revenue Code of 1986 and exempt
9 from tax under section 501(a) of such Code;

10 (B) no part of the net earnings of which
11 inures to the benefit of any member, founder,
12 contributor, or individual;

13 (C) that has an established competency
14 and proven record of working with public and
15 private sectors to accomplish widescale deploy-
16 ment and adoption of broadband services and
17 information technology; and

18 (D) the board of directors of which is not
19 composed of a majority of individuals who are
20 also employed by, or otherwise associated with,
21 any Federal, State, or local government or any
22 Federal, State, or local agency.

23 (i) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section
25 \$40,000,000 for each of fiscal years 2008 through 2012.

1 (j) NO REGULATORY AUTHORITY.—Nothing in this
2 section shall be construed as giving any public or private
3 entity established or affected by this Act any regulatory
4 jurisdiction or oversight authority over providers of
5 broadband services or information technology.

○