

Calendar No. 441110TH CONGRESS
1ST SESSION**S. 1492****[Report No. 110–204]**

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, Mr. KERRY, Mr. NELSON of Florida, Mr. OBAMA, Mr. CARPER, Mrs. BOXER, Mr. ROCKEFELLER, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

OCTOBER 24, 2007

Reported by Mr. INOUE with an amendment

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

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Broadband Data Im-
3 provement Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) The deployment and adoption of broadband
7 technology has resulted in enhanced economic devel-
8 opment and public safety for communities across the
9 Nation; improved health care and educational oppor-
10 tunities; and a better quality of life for all Ameri-
11 cans.

12 (2) Continued progress in the deployment and
13 adoption of broadband technology is vital to ensur-
14 ing that our Nation remains competitive and con-
15 tinues to create business and job growth.

16 (3) Improving Federal data on the deployment
17 and adoption of broadband service will assist in the
18 development of broadband technology across all re-
19 gions of the Nation.

20 (4) The Federal Government should also recog-
21 nize and encourage complementary state efforts to
22 improve the quality and usefulness of broadband
23 data and should encourage and support the partner-
24 ship of the public and private sectors in the contin-
25 ued growth of broadband services and information

1 technology for the residents and businesses of the
 2 Nation.

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

4 (a) **IMPROVING FCC BROADBAND DATA.**—Within
 5 120 days after the date of enactment of this Act, the Fed-
 6 eral Communications Commission shall issue an order in
 7 WC docket No. 07–38 which shall, at a minimum—

8 (1) revise or update, if determined necessary,
 9 the existing definitions of advanced telecommuni-
 10 cations capability, or broadband;

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

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

19 (b) **EXCEPTION.**—The Commission shall exempt an
 20 entity from the reporting requirements of subsection
 21 (a)(3) if the Commission determines that a compliance by
 22 that entity with the requirements is cost prohibitive, as
 23 defined by the Commission.

1 (c) IMPROVING SECTION 706 INQUIRY.—Section 706
 2 of the Telecommunications Act of 1996 (47 U.S.C. 157
 3 nt) is amended—

4 (1) by striking “regularly” in subsection (b)
 5 and inserting “annually”;

6 (2) by redesignating subsection (c) as sub-
 7 section (c); and

8 (3) by inserting after subsection (b) the fol-
 9 lowing:

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

16 “(d) DEMOGRAPHIC INFORMATION FOR UNSERVED
 17 AREAS.—As part of the inquiry required by subsection (b),
 18 the Commission shall, using 5-digit postal zip code plus
 19 4-digit location information, compile a list of geographical
 20 areas that are not served by any provider of advanced tele-
 21 communications capability (as defined by section
 22 706(c)(1) of the Telecommunications Act of 1996 (47
 23 U.S.C. 157 nt)) and to the extent that data from the Cen-
 24 sus Bureau is available, determine, for each such unserved
 25 area—

1 “(1) the population;

2 “(2) the population density; and

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

4 (4) by inserting “an evolving level of” after
5 “technology,” in paragraph (1) of subsection (c), as
6 redesignated.

7 (d) IMPROVING CENSUS DATA ON BROADBAND.—

8 The Secretary of Commerce, in consultation with the Fed-
9 eral Communications Commission, shall expand the Amer-
10 ican Community Survey conducted by the Bureau of the
11 Census to elicit information for residential households, in-
12 cluding those located on native lands, to determine wheth-
13 er persons at such households own or use a computer at
14 that address, whether persons at that address subscribe
15 to Internet service and, if so, whether such persons sub-
16 scribe to dial-up or broadband Internet service at that ad-
17 dress.

18 **SEC. 4. STUDY ON ADDITIONAL BROADBAND METRICS AND**
19 **STANDARDS.**

20 (a) IN GENERAL.—The Comptroller General shall
21 conduct a study to consider and evaluate additional
22 broadband metrics or standards that may be used by in-
23 dustry and the Federal Government to provide users with
24 more accurate information about the cost and capability
25 of their broadband connection, and to better compare the

1 deployment and penetration of broadband in the United
 2 States with other countries. At a minimum, such study
 3 shall consider potential standards or metrics that may be
 4 used—

5 (1) to calculate the average price per megabyte
 6 of broadband offerings;

7 (2) to reflect the average actual speed of
 8 broadband offerings compared to advertised poten-
 9 tial speeds;

10 (3) to compare the availability and quality of
 11 broadband offerings in the United States with the
 12 availability and quality of broadband offerings in
 13 other industrialized nations, including countries that
 14 are members of the Organization for Economic Co-
 15 operation and Development; and

16 (4) to distinguish between complementary and
 17 substitutable broadband offerings in evaluating de-
 18 ployment and penetration.

19 (b) REPORT.—Not later than one year after the date
 20 of enactment of this Act, the Comptroller General shall
 21 submit a report to the Senate Committee on Commerce,
 22 Science, and Transportation and the House of Represent-
 23 atives Committee on Energy and Commerce on the results
 24 of the study, with recommendations for how industry and
 25 the Federal Communications Commission can use such

1 metrics and comparisons to improve the quality of
 2 broadband data and to better evaluate the deployment and
 3 penetration of comparable broadband service at com-
 4 parable rates across all regions of the Nation.

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

7 (a) **IN GENERAL.**—The Small Business Administra-
 8 tion Office of Advocacy shall conduct a study evaluating
 9 the impact of broadband speed and price on small busi-
 10 nesses.

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

19 (1) a survey of broadband speeds available to
 20 small businesses;

21 (2) a survey of the cost of broadband speeds
 22 available to small businesses;

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

1 (4) any policy recommendations that may im-
 2 prove small businesses access to comparable
 3 broadband services at comparable rates in all regions
 4 of the Nation.

5 **SEC. 6. ENCOURAGING STATE INITIATIVES TO IMPROVE**
 6 **BROADBAND.**

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

9 (1) to ensure that all citizens and businesses in
 10 a State have access to affordable and reliable
 11 broadband service;

12 (2) to achieve improved technology literacy, in-
 13 creased computer ownership, and home broadband
 14 use among such citizens and businesses;

15 (3) to establish and empower local grassroots
 16 technology teams in each State to plan for improved
 17 technology use across multiple community sectors;
 18 and

19 (4) to establish and sustain an environment
 20 ripe for broadband services and information tech-
 21 nology investment.

22 (b) **ESTABLISHMENT OF STATE BROADBAND DATA**
 23 **AND DEVELOPMENT GRANT PROGRAM.**—

24 (1) **IN GENERAL.**—The Secretary of Commerce
 25 shall award grants, taking into account the results

1 of the peer review process under subsection (d), to
 2 eligible entities for the development and implementa-
 3 tion of statewide initiatives to identify and track the
 4 availability and adoption of broadband services with-
 5 in each State.

6 ~~(2) COMPETITIVE BASIS.~~—Any grant under
 7 subsection (b) shall be awarded on a competitive
 8 basis.

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

11 ~~(1)~~ submit an application to the Secretary of
 12 Commerce, at such time, in such manner, and con-
 13 taining such information as the Secretary may re-
 14 quire; and

15 ~~(2)~~ contribute matching non-Federal funds in
 16 an amount equal to not less than 20 percent of the
 17 total amount of the grant.

18 ~~(d) PEER REVIEW; NONDISCLOSURE.~~—

19 ~~(1) IN GENERAL.~~—The Secretary shall by regu-
 20 lation require appropriate technical and scientific
 21 peer review of applications made for grants under
 22 this section.

23 ~~(2) REVIEW PROCEDURES.~~—The regulations re-
 24 quired under paragraph (1) shall require that any
 25 technical and scientific peer review group—

1 (A) be provided a written description of
2 the grant to be reviewed;

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

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

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

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

15 (2) to identify and track—

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

18 (B) the rate at which residential and busi-
19 ness users adopt broadband service and other
20 related information technology services; and

21 (C) possible suppliers of such services;

22 (3) to identify barriers to the adoption by indi-
23 viduals and businesses of broadband service and re-
24 lated information technology services, including
25 whether or not—

1 (A) the demand for such services is absent;
2 and

3 (B) the supply for such services is capable
4 of meeting the demand for such services;

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

12 (5) to create and facilitate in each county or
13 designated region in a State a local technology plan-
14 ning team—

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

22 (B) which shall—

23 (i) benchmark technology use across
24 relevant community sectors;

- 1 (ii) set goals for improved technology
- 2 use within each sector; and
- 3 (iii) develop a tactical business plan
- 4 for achieving its goals; with specific rec-
- 5 ommendations for online application devel-
- 6 opment and demand creation;
- 7 (6) to work collaboratively with broadband serv-
- 8 ice providers and information technology companies
- 9 to encourage deployment and use, especially in
- 10 unserved and underserved areas; through the use of
- 11 local demand aggregation; mapping analysis; and the
- 12 creation of market intelligence to improve the busi-
- 13 ness case for providers to deploy;
- 14 (7) to establish programs to improve computer
- 15 ownership and Internet access for unserved and un-
- 16 derserved populations;
- 17 (8) to collect and analyze detailed market data
- 18 concerning the use and demand for broadband serv-
- 19 ice and related information technology services;
- 20 (9) to facilitate information exchange regarding
- 21 the use and demand for broadband services between
- 22 public and private sectors; and
- 23 (10) to create within each State a geographic
- 24 inventory map of broadband service; and where fea-

1 sible second generation broadband service, which
2 shall—

3 (A) identify gaps in such service through a
4 method of geographic information system map-
5 ping of service availability at the census block
6 level; and

7 (B) provide a baseline assessment of state-
8 wide broadband deployment in terms of house-
9 holds with high-speed availability.

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

16 (g) REPORTING.—The Secretary of Commerce
17 shall—

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

21 (2) create a web page on the Department of
22 Commerce web site that aggregates relevant infor-
23 mation made available to the public by grant recipi-
24 ents, including, where appropriate, hypertext links to

1 any geographic inventory maps created by grant re-
 2 cipients under subsection (c)(10).

3 ~~(h) DEFINITIONS.—In this section:~~

4 ~~(1) ELIGIBLE ENTITY.—The term “eligible en-~~
 5 ~~tity” means a non-profit organization that is se-~~
 6 ~~lected by a State to work in partnership with State~~
 7 ~~agencies and private sector partners in identifying~~
 8 ~~and tracking the availability and adoption of~~
 9 ~~broadband services within each State.~~

10 ~~(2) NONPROFIT ORGANIZATION.—The term~~
 11 ~~“nonprofit organization” means an organization—~~

12 ~~(A) described in section 501(c)(3) of the~~
 13 ~~Internal Revenue Code of 1986 and exempt~~
 14 ~~from tax under section 501(a) of such Code;~~

15 ~~(B) no part of the net earnings of which~~
 16 ~~inures to the benefit of any member, founder,~~
 17 ~~contributor, or individual;~~

18 ~~(C) that has an established competency~~
 19 ~~and proven record of working with public and~~
 20 ~~private sectors to accomplish widescale deploy-~~
 21 ~~ment and adoption of broadband services and~~
 22 ~~information technology; and~~

23 ~~(D) the board of directors of which is not~~
 24 ~~composed of a majority of individuals who are~~
 25 ~~also employed by, or otherwise associated with,~~

1 any Federal, State, or local government or any
2 Federal, State, or local agency.

3 ~~(i) AUTHORIZATION OF APPROPRIATIONS.—There~~
4 are authorized to be appropriated to carry out this section
5 \$40,000,000 for each of fiscal years 2008 through 2012.
6 ~~(j) NO REGULATORY AUTHORITY.—Nothing in this~~
7 section shall be construed as giving any public or private
8 entity established or affected by this Act any regulatory
9 jurisdiction or oversight authority over providers of
10 broadband services or information technology.

11 **SECTION 1. SHORT TITLE.**

12 *This Act may be cited as the “Broadband Data Im-*
13 *provement Act”.*

14 **SEC. 2. FINDINGS.**

15 *The Congress finds the following:*

16 (1) *The deployment and adoption of broadband*
17 *technology has resulted in enhanced economic develop-*
18 *ment and public safety for communities across the*
19 *Nation, improved health care and educational oppor-*
20 *tunities, and a better quality of life for all Americans.*

21 (2) *Continued progress in the deployment and*
22 *adoption of broadband technology is vital to ensuring*
23 *that our Nation remains competitive and continues to*
24 *create business and job growth.*

1 (3) *Improving Federal data on the deployment*
 2 *and adoption of broadband service will assist in the*
 3 *development of broadband technology across all re-*
 4 *gions of the Nation.*

5 (4) *The Federal Government should also recog-*
 6 *nize and encourage complementary state efforts to im-*
 7 *prove the quality and usefulness of broadband data*
 8 *and should encourage and support the partnership of*
 9 *the public and private sectors in the continued growth*
 10 *of broadband services and information technology for*
 11 *the residents and businesses of the Nation.*

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

13 (a) *IMPROVING FCC BROADBAND DATA.*—*Within 120*
 14 *days after the date of enactment of this Act, the Federal*
 15 *Communications Commission shall issue an order in WC*
 16 *docket No. 07–38 which shall, at a minimum—*

17 (1) *revise or update, if determined necessary, the*
 18 *existing definitions of advanced telecommunications*
 19 *capability, or broadband;*

20 (2) *identify tiers of broadband service, among*
 21 *those used by the Commission in collecting Form 477*
 22 *data, in which a substantial majority of the connec-*
 23 *tions in such tier provide consumers with an infor-*
 24 *mation transfer rate capable of reliably transmitting*
 25 *full-motion, high definition video; and*

1 (3) *revise its Form 477 reporting requirements*
 2 *as necessary to enable the Commission to identify ac-*
 3 *tual numbers of broadband connections subscribed to*
 4 *by residential and business customers, separately, ei-*
 5 *ther within a relevant census tract from the most re-*
 6 *cent decennial census, a 9-digit postal zip code, or a*
 7 *5-digit postal zip code, as the Commission deems ap-*
 8 *propriate.*

9 (b) *EXCEPTION.—The Commission shall exempt an en-*
 10 *tity from the reporting requirements of subsection (a)(3) if*
 11 *the Commission determines that a compliance by that enti-*
 12 *ty with the requirements is cost prohibitive, as defined by*
 13 *the Commission.*

14 (c) *IMPROVING SECTION 706 INQUIRY.—Section 706 of*
 15 *the Telecommunications Act of 1996 (47 U.S.C. 157 nt) is*
 16 *amended—*

17 (1) *by striking “regularly” in subsection (b) and*
 18 *inserting “annually”;*

19 (2) *by redesignating subsection (c) as subsection*
 20 *(e);*

21 (3) *by inserting after subsection (b) the fol-*
 22 *lowing:*

23 “(c) *MEASUREMENT OF EXTENT OF DEPLOYMENT.—*
 24 *In determining under subsection (b) whether advanced tele-*
 25 *communications capability is being deployed to all Ameri-*

1 *cans in a reasonable and timely fashion, the Commission*
 2 *shall consider data collected through Form 477 reporting*
 3 *requirements.*

4 “(d) *DEMOGRAPHIC INFORMATION FOR UNSERVED*
 5 *AREAS.*—*As part of the inquiry required by subsection (b),*
 6 *the Commission shall compile a list of geographical areas*
 7 *that are not served by any provider of advanced tele-*
 8 *communications capability (as defined by section 706(c)(1)*
 9 *of the Telecommunications Act of 1996 (47 U.S.C. 157 nt))*
 10 *and to the extent that data from the Census Bureau is avail-*
 11 *able, determine, for each such unserved area—*

12 “(1) *the population;*

13 “(2) *the population density; and*

14 “(3) *the average per capita income.”; and*

15 “(4) *by inserting “an evolving level of” after*
 16 *“technology, as” in paragraph (1) of subsection (e), as*
 17 *redesignated.*

18 “(d) *IMPROVING CENSUS DATA ON BROADBAND.*—*The*
 19 *Secretary of Commerce, in consultation with the Federal*
 20 *Communications Commission, shall expand the American*
 21 *Community Survey conducted by the Bureau of the Census*
 22 *to elicit information for residential households, including*
 23 *those located on native lands, to determine whether persons*
 24 *at such households own or use a computer at that address,*
 25 *whether persons at that address subscribe to Internet service*

1 *and, if so, whether such persons subscribe to dial-up or*
 2 *broadband Internet service at that address.*

3 **SEC. 4. STUDY ON ADDITIONAL BROADBAND METRICS AND**
 4 **STANDARDS.**

5 *(a) IN GENERAL.—The Comptroller General shall con-*
 6 *duct a study to consider and evaluate additional broadband*
 7 *metrics or standards that may be used by industry and the*
 8 *Federal Government to provide users with more accurate*
 9 *information about the cost and capability of their*
 10 *broadband connection, and to better compare the deploy-*
 11 *ment and penetration of broadband in the United States*
 12 *with other countries. At a minimum, such study shall con-*
 13 *sider potential standards or metrics that may be used—*

14 *(1) to calculate the average price per megabit per*
 15 *second of broadband offerings;*

16 *(2) to reflect the average actual speed of*
 17 *broadband offerings compared to advertised potential*
 18 *speeds and to consider factors affecting speed that*
 19 *may be outside the control of a broadband provider;*

20 *(3) to compare, using comparable metrics and*
 21 *standards, the availability and quality of broadband*
 22 *offerings in the United States with the availability*
 23 *and quality of broadband offerings in other industri-*
 24 *alized nations, including countries that are members*

1 *of the Organization for Economic Cooperation and*
 2 *Development; and*

3 *(4) to distinguish between complementary and*
 4 *substitutable broadband offerings in evaluating de-*
 5 *ployment and penetration.*

6 *(b) REPORT.—Not later than one year after the date*
 7 *of enactment of this Act, the Comptroller General shall sub-*
 8 *mit a report to the Senate Committee on Commerce,*
 9 *Science, and Transportation and the House of Representa-*
 10 *tives Committee on Energy and Commerce on the results*
 11 *of the study, with recommendations for how industry and*
 12 *the Federal Communications Commission can use such*
 13 *metrics and comparisons to improve the quality of*
 14 *broadband data and to better evaluate the deployment and*
 15 *penetration of comparable broadband service at comparable*
 16 *rates across all regions of the Nation.*

17 **SEC. 5. STUDY ON THE IMPACT OF BROADBAND SPEED AND**
 18 **PRICE ON SMALL BUSINESSES.**

19 *(a) IN GENERAL.—The Small Business Administra-*
 20 *tion Office of Advocacy shall conduct a study evaluating*
 21 *the impact of broadband speed and price on small busi-*
 22 *nesses.*

23 *(b) REPORT.—Not later than one year after the date*
 24 *of enactment of this Act, the Office shall submit a report*
 25 *to the Senate Committee on Commerce, Science, and Trans-*

1 *portation, the Senate Committee on Small Business and*
 2 *Entrepreneurship, the House of Representatives Committee*
 3 *on Energy and Commerce, and the House of Representatives*
 4 *Committee on Small Business on the results of the study,*
 5 *including—*

6 (1) *a survey of broadband speeds available to*
 7 *small businesses;*

8 (2) *a survey of the cost of broadband speeds*
 9 *available to small businesses;*

10 (3) *a survey of the type of broadband technology*
 11 *used by small businesses; and*

12 (4) *any policy recommendations that may im-*
 13 *prove small businesses access to comparable*
 14 *broadband services at comparable rates in all regions*
 15 *of the Nation.*

16 **SEC. 6. ENCOURAGING STATE INITIATIVES TO IMPROVE**
 17 **BROADBAND.**

18 (a) *PURPOSES.—The purposes of any grant under sub-*
 19 *section (b) are—*

20 (1) *to ensure that all citizens and businesses in*
 21 *a State have access to affordable and reliable*
 22 *broadband service;*

23 (2) *to achieve improved technology literacy, in-*
 24 *creased computer ownership, and home broadband use*
 25 *among such citizens and businesses;*

1 (3) *to establish and empower local grassroots*
 2 *technology teams in each State to plan for improved*
 3 *technology use across multiple community sectors;*
 4 *and*

5 (4) *to establish and sustain an environment ripe*
 6 *for broadband services and information technology in-*
 7 *vestment.*

8 (b) *ESTABLISHMENT OF STATE BROADBAND DATA*
 9 *AND DEVELOPMENT GRANT PROGRAM.—*

10 (1) *IN GENERAL.—The Secretary of Commerce*
 11 *shall award grants, taking into account the results of*
 12 *the peer review process under subsection (d), to eligi-*
 13 *ble entities for the development and implementation*
 14 *of statewide initiatives to identify and track the*
 15 *availability and adoption of broadband services with-*
 16 *in each State.*

17 (2) *COMPETITIVE BASIS.—Any grant under sub-*
 18 *section (b) shall be awarded on a competitive basis.*

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

21 (1) *submit an application to the Secretary of*
 22 *Commerce, at such time, in such manner, and con-*
 23 *taining such information as the Secretary may re-*
 24 *quire;*

1 (2) *contribute matching non-Federal funds in an*
 2 *amount equal to not less than 20 percent of the total*
 3 *amount of the grant; and*

4 (3) *agree to comply with confidentiality require-*
 5 *ments in subsection (h)(2) of this section.*

6 (d) *PEER REVIEW; NONDISCLOSURE.—*

7 (1) *IN GENERAL.—The Secretary shall by regula-*
 8 *tion require appropriate technical and scientific peer*
 9 *review of applications made for grants under this sec-*
 10 *tion.*

11 (2) *REVIEW PROCEDURES.—The regulations re-*
 12 *quired under paragraph (1) shall require that any*
 13 *technical and scientific peer review group—*

14 (A) *be provided a written description of the*
 15 *grant to be reviewed; and*

16 (B) *provide the results of any review by*
 17 *such group to the Secretary of Commerce.*

18 (C) *certify that such group will enter into*
 19 *voluntary nondisclosure agreements as necessary*
 20 *to prevent the unauthorized disclosure of con-*
 21 *fidential and proprietary information provided*
 22 *by broadband service providers in connection*
 23 *with projects funded by any such grant.*

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

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

3 (2) to identify and track—

4 (A) areas in each State that have low levels
5 of broadband service deployment;

6 (B) the rate at which residential and busi-
7 ness users adopt broadband service and other re-
8 lated information technology services; and

9 (C) possible suppliers of such services;

10 (3) to identify barriers to the adoption by indi-
11 viduals and businesses of broadband service and re-
12 lated information technology services, including
13 whether or not—

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

15 and

16 (B) the supply for such services is capable
17 of meeting the demand for such services;

18 (4) to identify the speeds of broadband connec-
19 tions made available to individuals and businesses
20 within the State, and, at a minimum, to rely on the
21 data rate benchmarks for broadband service utilized
22 by the Commission to reflect different speed tiers, in-
23 cluding information transfer rates identified under
24 section 3(a)(2) of this Act, to promote greater consist-
25 ency of data among the States;

1 (5) to create and facilitate in each county or des-
2 ignated region in a State a local technology planning
3 team—

4 (A) with members representing a cross sec-
5 tion of the community, including representatives
6 of business, telecommunications labor organiza-
7 tions, K–12 education, health care, libraries,
8 higher education, community-based organiza-
9 tions, local government, tourism, parks and
10 recreation, and agriculture; and

11 (B) which shall—

12 (i) benchmark technology use across
13 relevant community sectors;

14 (ii) set goals for improved technology
15 use within each sector; and

16 (iii) develop a tactical business plan
17 for achieving its goals, with specific rec-
18 ommendations for online application devel-
19 opment and demand creation;

20 (6) to work collaboratively with broadband serv-
21 ice providers and information technology companies
22 to encourage deployment and use, especially in
23 unserved areas and areas in which broadband pene-
24 tration is significantly below the national average,
25 through the use of local demand aggregation, map-

1 *ping analysis, and the creation of market intelligence*
 2 *to improve the business case for providers to deploy;*

3 *(7) to establish programs to improve computer*
 4 *ownership and Internet access for unserved areas and*
 5 *areas in which broadband penetration is significantly*
 6 *below the national average;*

7 *(8) to collect and analyze detailed market data*
 8 *concerning the use and demand for broadband service*
 9 *and related information technology services;*

10 *(9) to facilitate information exchange regarding*
 11 *the use and demand for broadband services between*
 12 *public and private sectors; and*

13 *(10) to create within each State a geographic in-*
 14 *ventory map of broadband service, including the*
 15 *availability of broadband service connections meeting*
 16 *information transfer rates identified by the Commis-*
 17 *sion under section 3(a)(2) of this Act, which shall—*

18 *(A) identify gaps in such service through a*
 19 *method of geographic information system map-*
 20 *ping of service availability at the census block*
 21 *level among residential or business customers;*
 22 *and*

23 *(B) provide a baseline assessment of state-*
 24 *wide broadband deployment in terms of house-*
 25 *holds with high-speed availability.*

1 (f) *PARTICIPATION LIMIT.*—*For each State, an eligible*
 2 *entity may not receive a new grant under this section to*
 3 *fund the activities described in subsection (d) within such*
 4 *State if such organization obtained prior grant awards*
 5 *under this section to fund the same activities in that State*
 6 *in each of the previous 4 consecutive years.*

7 (g) *REPORTING.*—*The Secretary of Commerce shall—*

8 (1) *require each recipient of a grant under sub-*
 9 *section (b) to submit a report on the use of the funds*
 10 *provided by the grant; and*

11 (2) *create a web page on the Department of*
 12 *Commerce web site that aggregates relevant informa-*
 13 *tion made available to the public by grant recipients,*
 14 *including, where appropriate, hypertext links to any*
 15 *geographic inventory maps created by grant recipi-*
 16 *ents under subsection (e)(10).*

17 (h) *ACCESS TO AGGREGATE DATA.*—

18 (1) *IN GENERAL.*—*Subject to paragraph (2), the*
 19 *Commission shall provide eligible entities access, in*
 20 *electronic form, to aggregate data collected by the*
 21 *Commission based on the Form 477 submissions of*
 22 *broadband service providers.*

23 (2) *LIMITATION.*—*Notwithstanding any provi-*
 24 *sion of Federal or State law to the contrary, an eligi-*
 25 *ble entity shall treat any matter that is a trade secret,*

1 *commercial or financial information, or privileged or*
 2 *confidential, as a record not subject to public disclo-*
 3 *sure except as otherwise mutually agreed to by the*
 4 *broadband service provider and the eligible entity.*
 5 *This paragraph applies only to information sub-*
 6 *mitted by the Commission or a broadband provider to*
 7 *carry out the provisions of this Act and shall not oth-*
 8 *erwise limit or affect the rules governing public dis-*
 9 *closure of information collected by any Federal or*
 10 *State entity under any other Federal or State law or*
 11 *regulation.*

12 (i) *DEFINITIONS.—In this section:*

13 (1) *COMMISSION.—The term “Commission”*
 14 *means the Federal Communications Commission.*

15 (2) *ELIGIBLE ENTITY.—The term “eligible enti-*
 16 *ty” means a non-profit organization that is selected*
 17 *by a State to work in partnership with State agencies*
 18 *and private sector partners in identifying and track-*
 19 *ing the availability and adoption of broadband serv-*
 20 *ices within each State.*

21 (3) *NONPROFIT ORGANIZATION.—The term “non-*
 22 *profit organization” means an organization—*

23 (A) *described in section 501(c)(3) of the In-*
 24 *ternal Revenue Code of 1986 and exempt from*
 25 *tax under section 501(a) of such Code;*

1 (B) no part of the net earnings of which in-
 2 ures to the benefit of any member, founder, con-
 3 tributor, or individual;

4 (C) that has an established competency and
 5 proven record of working with public and pri-
 6 vate sectors to accomplish widescale deployment
 7 and adoption of broadband services and infor-
 8 mation technology;

9 (D) that has a board of directors a majority
 10 of which is not composed of individuals who are
 11 also employed by, or otherwise associated with,
 12 any Federal, State, or local government or any
 13 Federal, State, or local agency; and

14 (E) that has a board of directors which does
 15 not include any member that is employed either
 16 by a broadband service provider or by any other
 17 company in which a broadband service provider
 18 owns a controlling or attributable interest.

19 (j) *AUTHORIZATION OF APPROPRIATIONS.*—There are
 20 authorized to be appropriated to carry out this section
 21 \$40,000,000 for each of fiscal years 2008 through 2012.

22 (k) *NO REGULATORY AUTHORITY.*—Nothing in this
 23 section shall be construed as giving any public or private
 24 entity established or affected by this Act any regulatory ju-

- 1 *jurisdiction or oversight authority over providers of*
- 2 *broadband services or information technology.*

Calendar No. 441

110TH CONGRESS
1ST Session

S. 1492

[Report No. 110-204]

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.

OCTOBER 24, 2007

Reported with an amendment