

## COMMITTEE AMENDMENT

[STAFF WORKING DRAFT]

July 17, 2007

Purpose: To revise the bill to reflect comments received after the bill was introduced.

**IN THE COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION—110TH Cong., 1ST Sess.**

**S. 1492**, 110TH Congress, 1ST Session

JULY 19, 2007

INTENDED to be proposed by Mr. \_\_\_\_\_

Viz: Strike out all after the enacting clause and insert the following:

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.

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

5           (3) Improving Federal data on the deployment  
6           and adoption of broadband service will assist in the  
7           development of broadband technology across all re-  
8           gions of the Nation.

9           (4) The Federal Government should also recog-  
10          nize and encourage complementary state efforts to  
11          improve the quality and usefulness of broadband  
12          data and should encourage and support the partner-  
13          ship of the public and private sectors in the contin-  
14          ued growth of broadband services and information  
15          technology for the residents and businesses of the  
16          Nation.

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

18          (a) IMPROVING FCC BROADBAND DATA.—Within  
19          120 days after the date of enactment of this Act, the Fed-  
20          eral Communications Commission shall issue an order in  
21          WC docket No. 07-38 which shall, at a minimum—

22                (1) revise or update, if determined necessary,  
23                the existing definitions of advanced telecommuni-  
24                cations capability, or broadband;

1           (2) identify tiers of broadband service, among  
2 those used by the Commission in collecting Form  
3 477 data, in which a substantial majority of the con-  
4 nections in such tier provide consumers with an in-  
5 formation transfer rate capable of reliably transmit-  
6 ting full-motion, high definition video; and

7           (3) revise its Form 477 reporting requirements  
8 as necessary to enable the Commission to identify  
9 actual numbers of broadband connections subscribed  
10 to by residential and business customers, separately,  
11 either within a relevant census tract from the most  
12 recent decennial census, a 9-digit postal zip code, or  
13 a 5-digit postal zip code, as the Commission deems  
14 appropriate.

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

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

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

1           (2) by redesignating subsection (c) as sub-  
2           section (e);

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

5           “(c) MEASUREMENT OF EXTENT OF DEPLOY-  
6           MENT.—In determining under subsection (b) whether ad-  
7           vanced telecommunications capability is being deployed to  
8           all Americans in a reasonable and timely fashion, the  
9           Commission shall consider data collected through Form  
10          477 reporting requirements.

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

20                 “(1) the population;

21                 “(2) the population density; and

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

23           (4) by inserting “an evolving level of” after  
24           “technology,” in paragraph (1) of subsection (e), as  
25           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 and to consider factors affecting speed  
4           that may be outside the control of a broadband pro-  
5           vider;

6           (3) to compare, using comparable metrics and  
7           standards, the availability and quality of broadband  
8           offerings in the United States with the availability  
9           and quality of broadband offerings in other industri-  
10          alized nations, including countries that are members  
11          of the Organization for Economic Cooperation and  
12          Development; and

13          (4) to distinguish between complementary and  
14          substitutable broadband offerings in evaluating de-  
15          ployment and penetration.

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

1 penetration of comparable broadband service at com-  
2 parable rates across all regions of the Nation.

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

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

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

17 (1) a survey of broadband speeds available to  
18 small businesses;

19 (2) a survey of the cost of broadband speeds  
20 available to small businesses;

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

23 (4) any policy recommendations that may im-  
24 prove small businesses access to comparable

1 broadband services at comparable rates in all regions  
2 of the Nation.

3 **SEC. 6. ENCOURAGING STATE INITIATIVES TO IMPROVE**  
4 **BROADBAND.**

5 (a) PURPOSES.—The purposes of any grant under  
6 subsection (b) are—

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

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

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

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

20 (b) ESTABLISHMENT OF STATE BROADBAND DATA  
21 AND DEVELOPMENT GRANT PROGRAM.—

22 (1) IN GENERAL.—The Secretary of Commerce  
23 shall award grants, taking into account the results  
24 of the peer review process under subsection (d), to  
25 eligible entities for the development and implementa-



1           tion of statewide initiatives to identify and track the  
2           availability and adoption of broadband services with-  
3           in each State.

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

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

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

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

16          (3) agree to comply with confidentiality require-  
17          ments in subsection (h)(2) of this section.

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; and

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

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 service utilized  
9 by the Commission to reflect different speed tiers,  
10 including information transfer rates identified under  
11 section 3(a)(2) of this Act, to promote greater con-  
12 sistency of data among the States;

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

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

23 (B) which shall—

24 (i) benchmark technology use across  
25 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 areas and areas in which broadband pene-  
11 tration is significantly below the national average,  
12 through the use of local demand aggregation, map-  
13 ping analysis, and the creation of market intelligence  
14 to improve the business case for providers to deploy;

15 (7) to establish programs to improve computer  
16 ownership and Internet access for unserved areas  
17 and areas in which broadband penetration is signifi-  
18 cantly below the national average;

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

22 (9) to facilitate information exchange regarding  
23 the use and demand for broadband services between  
24 public and private sectors; and

1           (10) to create within each State a geographic  
2           inventory map of broadband service, including the  
3           availability of broadband service connections meeting  
4           information transfer rates identified by the Commis-  
5           sion under section 3(a)(2) of this Act, which shall—

6                   (A) identify gaps in such service through a  
7                   method of geographic information system map-  
8                   ping of service availability at the census block  
9                   level among residential or business customers;  
10                  and

11                   (B) provide a baseline assessment of state-  
12                   wide broadband deployment in terms of house-  
13                   holds with high-speed availability.

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

20           (g) REPORTING.—The Secretary of Commerce  
21           shall—

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

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

7           (h) ACCESS TO AGGREGATE DATA.—

8           (1) IN GENERAL.—Subject to paragraph (2),  
9 the Commission shall provide eligible entities access,  
10 in electronic form, to aggregate data collected by the  
11 Commission based on the Form 477 submissions of  
12 broadband service providers.

13           (2) LIMITATION.—Notwithstanding any provi-  
14 sion of Federal or State law to the contrary, an eli-  
15 gible entity shall treat any matter that is a trade se-  
16 cret, commercial or financial information, or privi-  
17 leged or confidential, as a record not subject to pub-  
18 lic disclosure except as otherwise mutually agreed to  
19 by the broadband service provider and the eligible  
20 entity. This paragraph applies only to information  
21 submitted by the Commission or a broadband pro-  
22 vider to carry out the provisions of this Act and  
23 shall not otherwise limit or affect the rules gov-  
24 erning public disclosure of information collected by

1 any Federal or State entity under any other Federal  
2 or State law or regulation.

3 (i) DEFINITIONS.—In this section:

4 (1) COMMISSION.—The term “Commission”  
5 means the Federal Communications Commission.

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

12 (3) NONPROFIT ORGANIZATION.—The term  
13 “nonprofit organization” means an organization—

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

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

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

1 (D) that has a board of directors a major-  
2 ity of which is not composed of individuals who  
3 are also employed by, or otherwise associated  
4 with, any Federal, State, or local government or  
5 any Federal, State, or local agency; and

6 (E) that has a board of directors which  
7 does not include any member that is employed  
8 either by a broadband service provider or by  
9 any other company in which a broadband serv-  
10 ice provider owns a controlling or attributable  
11 interest.

12 (i) AUTHORIZATION OF APPROPRIATIONS.—There  
13 are authorized to be appropriated to carry out this section  
14 \$40,000,000 for each of fiscal years 2008 through 2012.

15 (j) NO REGULATORY AUTHORITY.—Nothing in this  
16 section shall be construed as giving any public or private  
17 entity established or affected by this Act any regulatory  
18 jurisdiction or oversight authority over providers of  
19 broadband services or information technology.

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