

116TH CONGRESS
1ST SESSION

S. _____

To improve the collection and distribution of broadband availability data.

IN THE SENATE OF THE UNITED STATES

Mr. BENNET introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To improve the collection and distribution of broadband availability data.

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 Trans-
5 parency and Accountability Act of 2019”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—In this Act—

8 (1) the term “affordable broadband service”—

9 (A) except as provided in subparagraph

10 (B), with respect to a covered household, means

11 broadband service at the baseline speed with an

1 annual cost of not more than 1.5 percent of the
2 annual median household income for the county
3 in which the covered household is located; and

4 (B) with respect to a covered household lo-
5 cated in a county in which the annual median
6 household income exceeds the annual median
7 household income for the United States, means
8 broadband service at the baseline speed with an
9 annual cost of not more than 1.5 percent of the
10 annual median household income for the United
11 States;

12 (2) the term “annual median household in-
13 come” means annual median household income as
14 reported by the Bureau of the Census;

15 (3) the term “baseline speed”, with respect to
16 broadband service, means the highest download and
17 upload speeds available to a majority of urban sub-
18 scribers to broadband service, as determined by the
19 Commission;

20 (4) the term “Broadband Map” means the map
21 developed and maintained by the Commission under
22 section 4;

23 (5) the term “broadband service”—

24 (A) subject to subsection (b), has the
25 meaning given the term “advanced tele-

1 communications capability” in section 706 of
2 the Telecommunications Act of 1996 (47
3 U.S.C. 1302); and

4 (B) does not include mobile service or sat-
5 ellite-based service;

6 (6) the term “Commission” means the Federal
7 Communications Commission;

8 (7) the term “county”, in the case of a State
9 that does not have a local county system of govern-
10 ance, means an equivalent political subdivision as
11 determined by the Commission, consistent with State
12 law;

13 (8) the term “covered entity” means an entity
14 that—

15 (A) is required to report data to the Com-
16 mission under the Form 477 Program; and

17 (B) provides broadband service;

18 (9) the term “covered household”—

19 (A) means a household; and

20 (B) includes a farm, a ranch, a business,
21 and a public facility, without regard to whether
22 any such entity serves as a residence;

23 (10) the term “Form 477 Program” means the
24 program carried out by the Commission under sub-

1 part V of part 1 of title 47, Code of Federal Regula-
2 tions, or any successor regulation;

3 (11) the term “has access to broadband serv-
4 ice”, with respect to a covered household, means af-
5 fordable broadband service—

6 (A) is being provided to the covered house-
7 hold; or

8 (B) could be provided to the covered
9 household not later than 10 days after the date
10 on which the covered household chooses to sub-
11 scribe to such service, if the household so choos-
12 es;

13 (12) the term “qualified technology”—

14 (A) means a technology that delivers
15 broadband service at not less than the baseline
16 speed; and

17 (B) does not include any technology—

18 (i) used to provide broadband service
19 to fewer than 5 percent of urban sub-
20 scribers to broadband service in the United
21 States; or

22 (ii) that is experimental or specula-
23 tive, until a provider of the technology has
24 proven through consumer choices to be a

1 competitor in the marketplace, as deter-
2 mined by the Commission; and

3 (13) the term “State” has the meaning given
4 the term in section 3 of the Communications Act of
5 1934 (47 U.S.C. 153).

6 (b) UPDATES TO DEFINITION OF BROADBAND SERV-
7 ICE.—Not less frequently than once every 2 years, the
8 Commission shall update the definition of the term
9 “broadband service”.

10 **SEC. 3. COLLECTION OF DATA.**

11 (a) FORM 477 PROGRAM.—

12 (1) COLLECTION OF MORE GRANULAR DATA.—

13 In collecting data from a covered entity under the
14 Form 477 Program, the Commission shall require
15 the covered entity to report data for each covered
16 household in a census block.

17 (2) DATA COLLECTION.—

18 (A) TYPES OF DATA.—In collecting data
19 from a covered entity under the Form 477 Pro-
20 gram, the Commission shall require the covered
21 entity to report data that reflects the average
22 speed and other characteristics of broadband
23 service, including—

24 (i) price and affordability, including,
25 with respect to price, the total monthly

1 price charged to a covered household for
2 each distinct broadband service plan or tier
3 of standalone broadband service, net of any
4 promotional discount, including mandatory
5 equipment charges, usage-based fees, and
6 fees for early termination of required con-
7 tracts;

8 (ii) latency, including latency—

9 (I) internal to the network, as
10 measured on the backbone; and

11 (II) from the backbone out to the
12 entire internet routing table, reported
13 as an average based on a measure-
14 ment of latency against 10 anchor
15 sites selected by the Commission from
16 among the most popular websites in
17 the United States;

18 (iii) denials of service and the reason
19 for such denials, such as—

20 (I) insufficient bandwidth capac-
21 ity to serve additional customers; or

22 (II) the inability to reach a loca-
23 tion; and

24 (iv) the type of broadband technology
25 available.

1 (B) CHARACTERISTICS OF BROADBAND
2 SERVICE AS ADVERTISED, AS AGREED TO, AND
3 AS DELIVERED.—In collecting data from a cov-
4 ered entity under the Form 477 Program, the
5 Commission shall require the covered entity to
6 report data that measures the characteristics of
7 broadband service reported under subparagraph
8 (A)—

9 (i) as advertised by the covered entity;
10 (ii) as subscribed to by the consumer;

11 and

12 (iii) that the covered entity actually
13 delivers to subscribers during high-volume
14 hours, which shall be defined by the Com-
15 mission based on the type of broadband
16 service usage in a particular area, includ-
17 ing whether the usage is primarily—

18 (I) commercial or industrial; or

19 (II) residential.

20 (3) UPDATES TO REPORTING REQUIRE-
21 MENTS.—

22 (A) IN GENERAL.—Not less frequently
23 than once every 3 years, the Commission shall
24 update the reporting requirements for covered
25 entities under the Form 477 Program.

1 (B) RULE OF CONSTRUCTION.—Nothing in
2 subparagraph (A) shall be construed to author-
3 ize the Commission to collect less granular data
4 than is required under this subsection.

5 (b) GOVERNMENT SOURCES.—The Commission shall
6 collect data relating to broadband service from—

7 (1) each Federal agency that has such data, in-
8 cluding the Department of Agriculture; and

9 (2) each State or local governmental entity that
10 is willing to share such data.

11 (c) CONSOLIDATION OF DATA.—

12 (1) IN GENERAL.—The Commission shall con-
13 solidate all data relating to broadband service that
14 is collected under the Form 477 Program or under
15 subsection (b) into a single database.

16 (2) USAC.—The Commission may enter into a
17 contract with the Universal Service Administrative
18 Company to administer the database described in
19 paragraph (1).

20 **SEC. 4. DISTRIBUTION OF DATA.**

21 (a) AVAILABILITY OF DATA.—Subject to subsection
22 (b), the Commission shall make all data relating to
23 broadband service collected under the Form 477 Program
24 or from governmental entities under section 3(b) available
25 in native electronic format to—

1 (1) other Federal agencies;

2 (2) a broadband office, public utility commis-
3 sion, broadband mapping program, or other
4 broadband program of a State, in the case of data
5 pertaining to the needs of that State;

6 (3) a unit of local government, in the case of
7 data pertaining to the needs of that locality;

8 (4) a nonprofit organization; and

9 (5) an individual conducting research for non-
10 commercial purposes.

11 (b) PROTECTION OF DATA.—

12 (1) IN GENERAL.—The Commission may not
13 share any data described in subsection (a) with an
14 entity or individual described in that subsection un-
15 less the Commission has determined that the receiv-
16 ing entity or individual has the capability and intent
17 to protect any personally identifiable information
18 contained in the data.

19 (2) DETERMINATION OF PERSONALLY IDENTIFI-
20 FABLE INFORMATION.—The Commission—

21 (A) shall define the term “personally iden-
22 tifiable information”, for purposes of paragraph
23 (1), through notice and comment rulemaking;
24 and

1 (B) may not share any data under sub-
2 section (a) before completing the rulemaking
3 under subparagraph (A) of this paragraph.

4 (3) BALANCING ACCESS AND PROTECTION.—If
5 the Commission is unable to determine under para-
6 graph (1) that an entity or individual requesting ac-
7 cess to data under subsection (a) has the capability
8 to protect personally identifiable information con-
9 tained in the data, the Commission shall make as
10 much of the data available as possible in a format
11 that does not compromise personally identifiable in-
12 formation, through methods such as anonymization.

13 (c) MAP.—

14 (1) IN GENERAL.—The Commission, in coordi-
15 nation with the Secretary of Commerce, the Sec-
16 retary of Agriculture, and State and local stake-
17 holders, shall develop and maintain a searchable,
18 interactive, and comprehensive nationwide inventory
19 map of existing broadband service capability and
20 availability in the United States that depicts the ge-
21 ographic extent to which broadband service is de-
22 ployed and available from a commercial provider or
23 public provider throughout each State.

24 (2) PARAMETERS.—Not later than 180 days
25 after the date of enactment of this Act, the Commis-

1 sion shall establish parameters for, and make avail-
2 able to the public, the map required under para-
3 graph (1).

4 (3) REVISIONS.—Not less frequently than every
5 2 years, the Commission shall revise the parameters
6 established under paragraph (2).

7 (4) REPLACEMENT OF PRIOR MAPS.—The map
8 developed by the Commission under paragraph (1)
9 shall replace any broadband deployment map main-
10 tained by the Commission before the date of enact-
11 ment of this Act.

12 (d) GRADATED OR TIERED MAPPING.—

13 (1) IN GENERAL.—In producing the Broadband
14 Map, the Commission shall—

15 (A) create, at a minimum—

16 (i) a map that indicates the percent-
17 age of covered households in each census
18 block that have access to broadband service
19 at the baseline speed during peak usage
20 hours;

21 (ii) a map that indicates the percent-
22 age of covered households in each census
23 block that have access to broadband service
24 delivered using a qualified technology;

1 (iii) a map that layers the types of
2 telecommunications technology available to
3 deliver broadband service in each census
4 block; and

5 (iv) a map that indicates the relative
6 affordability of broadband service in each
7 census block; and

8 (B) enable users of the Broadband Map
9 to—

10 (i) layer the maps described in sub-
11 paragraph (A); and

12 (ii) filter the maps described in sub-
13 paragraph (A) by broadband provider.

14 (2) TIERS.—The Commission shall display the
15 percentage of covered households in a census block
16 that have access to broadband service or technology
17 under paragraph (1) by reference to one of the fol-
18 lowing tiers:

19 (A) Less than 20 percent.

20 (B) Not less than 20 percent and less than
21 40 percent.

22 (C) Not less than 40 percent and less than
23 60 percent.

24 (D) Not less than 60 percent and less than
25 80 percent.

1 (E) Not less than 80 percent and less than
2 90 percent.

3 (F) Not less than 90 percent and less than
4 95 percent.

5 (G) Not less than 95 percent.

6 (e) UPDATES.—Not later than 180 days after col-
7 lecting data relating to broadband service under the Form
8 477 Program, the Commission, in consultation with the
9 Secretary of Agriculture, the Secretary of Commerce, and
10 State and local stakeholders, shall—

11 (1) update the Broadband Map with the data,
12 and with any data collected from a governmental en-
13 tity under section 3(b) since the last update to the
14 Broadband Map; and

15 (2) make the data described in paragraph (1)
16 available under subsection (a).

17 **SEC. 5. REPORT ON BROADBAND LAST-MILE TECH-**
18 **NOLOGIES.**

19 Section 706 of the Telecommunications Act of 1996
20 (47 U.S.C. 1302) is amended—

21 (1) by redesignating subsection (d) as sub-
22 section (e);

23 (2) in subsection (e), as so redesignated, in the
24 matter preceding paragraph (1), by striking “sub-
25 section” and inserting “section”; and

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

3 “(d) BROADBAND LAST-MILE TECHNOLOGIES.—

4 “(1) DEFINITIONS.—In this subsection—

5 “(A) the term ‘broadband service’ has the
6 meaning given the term ‘advanced telecommuni-
7 cations capability’ in subsection (e);

8 “(B) the terms ‘covered entity’ and ‘cov-
9 ered household’ have the meanings given those
10 terms in section 2 of the Broadband Trans-
11 parency and Accountability Act of 2019; and

12 “(C) the term ‘last-mile technology’ means
13 the technology used to transmit broadband
14 service from the backbone network into a cov-
15 ered household.

16 “(2) ANNUAL REPORT.—As part of the inquiry
17 required under subsection (b), the Commission shall
18 report on the number of covered households that
19 subscribe to broadband service, categorized by the
20 type of last-mile technology, as reported by covered
21 entities under the Form 477 Program and by gov-
22 ernmental entities under section 3(b) of the
23 Broadband Transparency and Accountability Act of
24 2019.

1 “(3) TECHNOLOGY CATEGORIES.—In reporting
2 the information under paragraph (2), the Commis-
3 sion shall indicate whether the type of last-mile tech-
4 nology is—

5 “(A) fiber;

6 “(B) hybrid fiber coax;

7 “(C) copper-based service;

8 “(D) copper-fiber hybrid service;

9 “(E) spectrum-based service;

10 “(F) mobile service;

11 “(G) satellite-based service; and

12 “(H) any other type of technology that the
13 Commission determines appropriate.

14 “(4) GEOGRAPHIC CATEGORIES.—

15 “(A) IN GENERAL.—In reporting the infor-
16 mation under paragraph (2), the Commission
17 shall categorize a covered household whose
18 broadband service is provided using a particular
19 type of last-mile technology according to wheth-
20 er the covered household is in a census block
21 that is—

22 “(i) urban;

23 “(ii) suburban; or

24 “(iii) rural, insular, or high-cost.

1 “(B) DEFINITIONS.—The Commission, in
2 consultation with the Bureau of the Census,
3 shall define the terms ‘insular’ and ‘high-cost’,
4 with respect to census blocks, for purposes of
5 subparagraph (A).

6 “(5) TRIBAL LAND.—Nothing in this subsection
7 shall be construed to authorize the Commission to
8 exclude covered households located on Tribal land
9 from the information reported under paragraph (2),
10 including the categorization under paragraph (3).”.

11 **SEC. 6. MAP ACCOUNTABILITY.**

12 (a) VERIFICATION PROCESS.—

13 (1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of this Act, the Commission
15 shall conduct a rulemaking to establish a process to
16 use data relating to broadband service capability and
17 availability in the United States (referred to in this
18 section as “coverage data”) that is reported by con-
19 sumers, businesses, and State and local governments
20 to verify the data used in the Broadband Map.

21 (2) TIME PERIOD FOR VERIFICATION.—The
22 Commission, and any other Federal agency, may not
23 use a new version of the Broadband Map to dis-
24 tribute support for broadband service unless the
25 Commission has used the process established under

1 paragraph (1) for a period of not less than 60 days
2 to verify the data used in the new Broadband Map.

3 (3) SOURCES OF COVERAGE DATA.—The Com-
4 mission shall include in the process established
5 under paragraph (1) a mechanism to incorporate
6 coverage data obtained from—

7 (A) any reputable application through
8 which consumers report coverage data, as deter-
9 mined by the Commission;

10 (B) State, local, or Tribal government enti-
11 ties that are primarily responsible for mapping
12 or tracking broadband service capability and
13 availability for a State, unit of local govern-
14 ment, or Indian Tribe, as applicable; and

15 (C) any other source that the Commission
16 determines appropriate.

17 (b) CHALLENGE PROCESS.—

18 (1) IN GENERAL.—Not later than 1 year after
19 the date of enactment of this Act, the Commission
20 shall establish, in addition to the process established
21 under subsection (a), an evidence-based process by
22 which a consumer, business, or State or local gov-
23 ernment may challenge data used in the Broadband
24 Map.

1 (2) RESPONSIBILITY OF COVERED ENTITIES.—

2 In carrying out the evidence-based challenge process
3 under paragraph (1), the Commission shall require
4 the covered entity that reported the data being chal-
5 lenged through the process to bear the burden of
6 proving that the data is accurate.

7 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be construed to affect any determination made
9 by the Commission before the date of enactment of this
10 Act with respect to the distribution of support for
11 broadband service.

12 **SEC. 7. APPLICABILITY OF OTHER LAWS.**

13 (a) OMB REVIEW.—Notwithstanding any other pro-
14 vision of law, any rulemaking or information collection
15 conducted by the Commission under this Act or an amend-
16 ment made by this Act shall be exempt from review by
17 the Office of Management and Budget.

18 (b) PAPERWORK REDUCTION ACT.—Chapter 35 of
19 title 44, United States Code (commonly known as the “Pa-
20 perwork Reduction Act”), shall not apply to any rule-
21 making or information collection conducted by the Com-
22 mission under this Act or an amendment made by this
23 Act.