H. R. 4229

[Report No. 116–]

To require the Federal Communications Commission to issue rules relating to the collection of data with respect to the availability of broadband services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2019

Mr. LOEBSACK (for himself, Mr. LATTA, Mr. MCEACHIN, and Mr. LONG) introduced the following bill; which was referred to the Committee on Energy and Commerce

DECEMBER --, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on September 6, 2019]
A BILL

To require the Federal Communications Commission to issue rules relating to the collection of data with respect to the availability of broadband services, and for other purposes.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Broadband Deployment Accuracy and Technological Availability Act” or the “Broadband DATA Act”.

SEC. 2. BROADBAND DATA.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following:

“TITLE VIII—BROADBAND DATA

SEC. 801. DEFINITIONS.

“In this title:

“(1) BROADBAND INTERNET ACCESS SERVICE.—The term ‘broadband internet access service’ has the meaning given the term in section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation.

“(2) BROADBAND MAP.—The term ‘Broadband Map’ means the map created by the Commission under section 802(c)(1)(A).

“(3) CELL EDGE PROBABILITY.—The term ‘cell edge probability’ means the likelihood that the minimum threshold download and upload speeds with respect to broadband internet access service will be met or exceeded at a distance from a base station that is
intended to indicate the ultimate edge of the coverage area of a cell.

“(4) CELL LOADING.—The term ‘cell loading’ means the percentage of the available air interface resources of a base station that are used by consumers with respect to broadband internet access service.

“(5) CLUTTER.—The term ‘clutter’ means a natural or man-made surface feature that affects the propagation of a signal from a base station.

“(6) FABRIC.—The term ‘Fabric’ means the Broadband Serviceable Location Fabric established under section 802(b)(1)(B).

“(7) FORM 477.—The term ‘Form 477’ means Form 477 of the Commission relating to local telephone competition and broadband reporting.

“(8) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given the term ‘Indian tribe’ in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

“(9) MOBILITY FUND PHASE II.—The term ‘Mobility Fund Phase II’ means the second phase of the proceeding to provide universal service support from the Mobility Fund (WC Docket No. 10–90; WT Docket No. 10–208).
“(10) PROPAGATION MODEL.—The term ‘propagation model’ means a mathematical formulation for the characterization of radio wave propagation as a function of frequency, distance, and other conditions.

“(11) PROVIDER.—The term ‘provider’ means a provider of fixed or mobile broadband internet access service.

“(12) QUALITY OF SERVICE.—The term ‘quality of service’ means information regarding offered download and upload speeds and latency of a provider’s broadband internet access service as determined by and to the extent otherwise collected by the Commission.

“(13) SHAPEFILE.—The term ‘shapefile’ means a digital storage format containing geospatial or location-based data and attribute information—

“(A) regarding the availability of broadband internet access service; and

“(B) that can be viewed, edited, and mapped in geographic information system software.

“(14) STANDARD BROADBAND INSTALLATION.—The term ‘standard broadband installation’—

“(A) means the initiation by a provider of fixed broadband internet access service in an
area where the provider has not previously offered that service, with no charges or delays attributable to the extension of the network of the provider; and

“(B) includes the initiation of fixed broadband internet access service through routine installation that can be completed not later than 10 business days after the date on which the service request is submitted.

"SEC. 802. BROADBAND MAPS.

“(a) Rules.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this title, the Commission shall issue rules that shall—

“(A) require the collection and dissemination of granular data, as determined by the Commission—

“(i) relating to the availability and quality of service of terrestrial fixed, fixed wireless, satellite, and mobile broadband internet access service; and

“(ii) that the Commission shall use to compile the maps created under subsection (c)(1) (referred to in this section as ‘cov-
verage maps’), which the Commission shall make publicly available; and

“(B) establish—

“(i) processes through which the Commission can verify the accuracy of data submitted under subsection (b)(2);

“(ii) processes and procedures through which the Commission, and, as necessary, other entities or persons submitting non-public or competitively sensitive information under this title, can protect the security, privacy, and confidentiality of such non-public or competitively sensitive information, including—

“(I) information contained in the Fabric;

“(II) the dataset created under subsection (b)(1)(A) supporting the Fabric; and

“(III) the data submitted under subsection (b)(2);

“(iii) the challenge process described in subsection (b)(5); and

“(iv) the process described in section 803(b).
“(2) OTHER DATA.—In issuing the rules under paragraph (1), the Commission shall develop a proc-
cess through which the Commission can collect verified data for use in the coverage maps from—

“(A) State, local, and Tribal governmental entities that are primarily responsible for mapping or tracking broadband internet access serv-

ice coverage for a State, unit of local govern-

ment, or Indian Tribe, as applicable;

“(B) third parties, including industry anal-

ysis, mapping, or tracking of broadband internet access service coverage and quality of service, if the Commission determines that it is in the pub-

clic interest to use such data in—

“(i) the development of the coverage maps; or

“(ii) the verification of data submitted under subsection (b); and

“(C) other Federal agencies.

“(3) UPDATES.—The Commission shall revise the rules issued under paragraph (1) to—

“(A) reflect changes in technology;

“(B) ensure the accuracy of propagation models, as further provided in subsection (b)(3); and
“(C) improve the usefulness of the coverage maps.

“(b) CONTENT OF RULES.—

“(1) ESTABLISHMENT OF A SERVICEABLE LOCATION FABRIC REGARDING FIXED BROADBAND.—

“(A) DATASET.—

“(i) IN GENERAL.—The Commission shall create a common dataset of all locations in the United States where fixed broadband internet access service can be installed, as determined by the Commission.

“(ii) CONTRACTING.—

“(I) IN GENERAL.—Subject to subclauses (II) and (III), the Commission may only contract with an entity with expertise with respect to geographic information systems (referred to in this subsection as ‘GIS’) to create and maintain the dataset under clause (i).

“(II) APPLICATION OF THE FEDERAL ACQUISITION REGULATION.—A contract into which the Commission enters under subclause (I) shall in all respects comply with applicable provi-
sions of the Federal Acquisition Regulation.

“(III) LIMITATIONS.—With respect to a contract into which the Commission enters under subclause (I)—

“(aa) the entity with which the Commission contracts shall be selected through a competitive bid process that is transparent and open;

“(bb) the contract shall be for a term of not longer than 5 years, after which the Commission may enter into a new contract—

“(AA) with an entity, and for the purposes, described in clause (i); and

“(BB) that complies with the requirements under subclause (II) and this subclause; and

“(cc) the contract shall prohibit the entity with which the Commission contracts (and require such entity to include in
any contract with any other entity with which such entity contracts a provision prohibiting such other entity from selling, leasing, or otherwise disclosing for monetary consideration any personally identifiable information to any entity other than for purposes authorized under this title.

“(B) FABRIC.—The rules issued by the Commission under subsection (a)(1) shall establish the Broadband Serviceable Location Fabric, which shall—

“(i) contain geocoded information for each location identified under subparagraph (A)(i);

“(ii) serve as the foundation upon which all data relating to the availability of fixed broadband internet access service collected under paragraph (2)(A) shall be reported and overlaid;

“(iii) be compatible with commonly used GIS software; and

“(iv) at a minimum, be updated every 6 months by the Commission.
“(C) IMPLEMENTATION PRIORITY.—The Commission shall prioritize implementing the Fabric for rural and insular areas of the United States.

“(2) COLLECTION OF INFORMATION.—The rules issued by the Commission under subsection (a)(1) shall include uniform standards for the reporting of broadband internet access service data that the Commission shall collect—

“(A) from each provider of terrestrial fixed, fixed wireless, or satellite broadband internet access service, which shall include data that—

“(i) documents the areas where the provider—

“(I) has actually built out the broadband network infrastructure of the provider such that the provider is able to provide that service; and

“(II) could provide that service, as determined by identifying where the provider is capable of performing a standard broadband installation, if applicable;

“(ii) includes information regarding download and upload speeds, at various
thresholds established by the Commission, and, if applicable, latency with respect to broadband internet access service that the provider makes available;

“(iii) can be georeferenced to the GIS data in the Fabric;

“(iv) the provider shall report as—

“(I) with respect to providers of fixed wireless broadband internet access service—

“(aa) propagation maps and propagation model details that—

“(AA) satisfy standards that are similar to those applicable to providers of mobile broadband internet access service under subparagraph (B) with respect to propagation maps and propagation model details, taking into account material differences between fixed wireless and mobile broadband internet access service; and
“(BB) reflect the speeds and latency of the service provided by the provider; or
“(bb) a list of addresses or locations that constitute the service area of the provider, except that the Commission—
“(AA) may only permit, and not require, a provider to report the data using that means of reporting; and
“(BB) in the rules issued under subsection (a)(1), shall provide a method for using that means of reporting with respect to Tribal areas; and
“(II) with respect to providers of terrestrial fixed and satellite broadband internet access service—
“(aa) polygon shapefiles; or
“(bb) a list of addresses or locations that constitute the service area of the provider, except that the Commission—
“(AA) may only permit, and not require, a provider to report the data using that means of reporting; and

“(BB) in the rules issued under subsection (a)(1), shall provide a method for using that means of reporting with respect to Tribal areas; and

“(v) the Commission determines is appropriate with respect to certain technologies in order to ensure that the Broadband Map is granular and accurate; and

“(B) from each provider of mobile broadband internet access service, which shall include propagation maps, and propagation model details, that indicate the current (as of the date on which the information is collected) fourth generation Long-Term Evolution (commonly referred to as ‘4G LTE’) mobile broadband internet access service coverage of the provider, which shall—
“(i) take into consideration the effect of clutter; and

“(ii) satisfy—

“(I) the requirements of having—

“(aa) a download speed of not less than 5 megabits per second and an upload speed of not less than 1 megabit per second with a cell edge probability of not less than 90 percent; and

“(bb) cell loading of not less than 50 percent; and

“(II) any other parameter that the Commission determines to be necessary to create a map under subsection (c)(1)(C) that is more precise than the map produced as a result of the submissions under the Mobility Fund Phase II information collection.

“(3) UPDATE OF REPORTING STANDARDS FOR MOBILE BROADBAND INTERNET ACCESS SERVICE.—

For the purposes of paragraph (2)(B), if the Commission determines that the reporting standards under that paragraph are insufficient to collect accurate propagation maps and propagation model details
with respect to future generations of mobile broadband internet access service technologies, the Commission shall immediately commence a rule-making to adopt new reporting standards with respect to those technologies that—

“(A) shall be the functional equivalent of the standards required under paragraph (2)(B); and

“(B) allow for the collection of propagation maps and propagation model details that are as accurate and granular as, or more accurate and granular than, the maps and model details collected by the Commission under paragraph (2)(B).

“(4) CERTIFICATION AND VERIFICATION.—With respect to a provider that submits information to the Commission under paragraph (2)—

“(A) the provider shall include in each submission a certification from a corporate officer of the provider that the officer has examined the information contained in the submission and that, to the best of the officer’s actual knowledge, information, and belief, all statements of fact contained in the submission are true and correct; and
“(B) the Commission shall verify the accuracy and reliability of the information in accordance with measures established by the Commission.

“(5) CHALLENGE PROCESS.—

“(A) IN GENERAL.—In the rules issued under subsection (a)(1), and subject to subparagraph (B), the Commission shall establish a user-friendly challenge process through which consumers, State, local, and Tribal governmental entities, and other entities or persons may submit coverage data to the Commission to challenge the accuracy of—

“(i) the coverage maps;

“(ii) any information submitted by a provider regarding the availability of broadband internet access service; or

“(iii) the information included in the Fabric.

“(B) CONSIDERATIONS; VERIFICATION; RESPONSE TO CHALLENGES.—In establishing the challenge process required under subparagraph (A), the Commission shall—

“(i) consider—
“(I) the types of information that an entity or person submitting a challenge should provide to the Commission in support of the challenge;

“(II) the appropriate level of granularity for the information described in subclause (I);

“(III) the need to mitigate the time and expense incurred by, and the administrative burdens placed on, entities or persons in—

“(aa) challenging the accuracy of a coverage map; and

“(bb) responding to challenges described in item (aa);

“(IV) the costs to consumers and providers resulting from a misallocation of funds because of a reliance on outdated or otherwise inaccurate information in the coverage maps;

“(V) any lessons learned from the challenge process established under Mobility Fund Phase II, as determined
from comments solicited by the Commission; and

“(VI) the need for user-friendly challenge submission formats that will promote participation in the challenge process;

“(ii) include a process for verifying the data submitted through the challenge process in order to ensure the reliability of that data;

“(iii) allow providers to respond to challenges submitted through the challenge process; and

“(iv) develop an online mechanism, which—

“(I) shall be integrated into the coverage maps;

“(II) allows for an entity or person described in subparagraph (A) to submit a challenge under the challenge process;

“(III) makes challenge data available in both geographic information system and non-geographic information system formats; and
“(IV) clearly identifies the areas in which broadband internet access service is available, and the upload and download speeds at which that service is available, as reported to the Commission under this section.

“(C) USE OF CHALLENGES.—The rules issued to establish the challenge process under subparagraph (A) shall include—

“(i) a process for the speedy resolution of challenges; and

“(ii) a process for the regular and expeditious updating of the coverage maps and granular data the Commission disseminates as challenges are resolved.

“(D) AUTOMATION TOOL.—Not earlier than 1 year after, and not later than 18 months after, the rules issued under subsection (a)(1) are implemented, the Commission shall, after an opportunity for notice and comment, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that—
“(i) evaluates the challenge process;
and
“(ii) considers whether the Commission should amend its rules to create an automated tool that includes predictive capabilities to identify potential inaccuracies and features that allow a provider of broadband internet access service, the Commission, and the public to visualize the data relating to broadband internet access service that the provider reports in order to improve the accuracy of the data submitted by the provider.

“(6) REFORM OF FORM 477 PROCESS.—
“(A) IN GENERAL.—Not later than 180 days after the date on which the rules issued under subsection (a)(1) take effect, the Commission shall—
“(i) reform the Form 477 broadband deployment service availability collection process of the Commission to achieve the purposes of this title and in a manner that enables the comparison of data and maps produced before the implementation of this title with data and coverage maps produced
after the implementation of this title and maintains the public availability of broadband deployment service availability data; and

“(ii) harmonize reporting requirements and procedures regarding the deployment of broadband internet access service that, as of the date on which the rules issued under subsection (a)(1) take effect, are in effect.

“(B) CONTINUED COLLECTION AND REPORTING.—On and after the date on which the Commission carries out subparagraph (A), the Commission shall continue to collect and publicly report subscription data that the Commission collected through the Form 477 broadband deployment service availability collection process, as in effect on July 1, 2019.

“(c) MAPS.—The Commission shall—

“(1) after consulting with the Federal Geographic Data Committee established by section 753(a) of the Geospatial Data Act of 2018 (43 U.S.C. 2802(a)), create—

“(A) the Broadband Map, which shall depict—
“(i) the extent of the availability of broadband internet access service in the United States, without regard to whether that service is fixed broadband internet access service or mobile broadband internet access service, which shall be based on data collected by the Commission from all providers; and

“(ii) the areas of the United States that remain unserved by providers;

“(B) a map that depicts the availability of fixed broadband internet access service, which shall be based on data collected by the Commission from providers under subsection (b)(2)(A); and

“(C) a map that depicts the availability of mobile broadband internet access service, which shall be based on data collected by the Commission from providers under subsection (b)(2)(B);

“(2) use the maps created under paragraph (1)—

“(A) to determine the areas in which terrestrial fixed, fixed wireless, mobile, and satellite broadband internet access service is and is not available; and
“(B) when making any new award of funding with respect to the deployment of broadband internet access service;

“(3) update the maps created under paragraph (1) not less frequently than biannually using the most recent data collected from providers under subsection (b)(2);

“(4) make available to all Federal agencies, upon request, the maps created under paragraph (1);

“(5) establish a process to make the data collected under subsection (b)(2) available to the National Telecommunications and Information Administration; and

“(6) make public at an appropriate level of granularity—

“(A) the maps created under paragraph (1);

and

“(B) the data collected by the Commission with respect to broadband internet access service availability and quality of service.

“(d) DELAYED EFFECTIVE DATE OF QUALITY OF SERVICE RULES.—Any requirement of a rule relating to quality of service issued under subsection (a)(1) shall take effect not earlier than the date that is 180 days after the date on which the Commission issues such rule.
“SEC. 803. IMPROVING DATA ACCURACY.

“(a) AUDITS.—The Commission shall conduct regular audits of information submitted to the Commission by providers under section 802(b)(2) to ensure that the providers are complying with this title.

“(b) CROWDSOURCING.—

“(1) IN GENERAL.—The Commission shall—

“(A) develop a process through which entities or persons in the United States may submit specific information about the deployment and availability of broadband internet access service in the United States on an ongoing basis so that the information may be used to verify and supplement information provided by providers of broadband internet access service for inclusion in the maps created under section 802(c)(1); and

“(B) update the maps created under section 802(c)(1) on no less than an annual cycle based on the information received through such process.

“(2) COLLABORATION.—As part of the efforts of the Commission to facilitate the ability of entities or persons to submit information under paragraph (1), the Commission shall—

“(A) prioritize the consideration of data provided by data collection applications used by
consumers that the Commission has determined—

“(i) are highly reliable; and

“(ii) have proven methodologies for determining network coverage and network performance; and

“(B) coordinate with the Postmaster General, or the heads of other Federal agencies that operate delivery fleet vehicles, to facilitate the submission of specific information by the United States Postal Service or such other agencies under paragraph (1).

“(c) Technical Assistance to Indian Tribes.—

“(1) In General.—Subject to paragraph (2), the Commission shall hold annual workshops for Tribal governments to provide technical assistance with the collection and submission of data under section 802(a)(2)(A).

“(2) Annual Review.—Each year, the Commission, in consultation with Indian Tribes, shall review the need for continued workshops required under paragraph (1).

“(d) Technical Assistance to Small Service Providers.—The Commission shall establish a process through which a provider that has fewer than 100,000 ac-
tive broadband internet access service connections may re-
quest and receive assistance from the Commission with re-
spect to geographic information system data processing to
ensure that the provider is able to comply with the rules
issued under section 802(a)(1) in a timely and accurate
manner.

“(e) GAO ASSESSMENT OF FABRIC SOURCE DATA.—
“(1) ASSESSMENT.—The Comptroller General of
the United States shall conduct an assessment of key
data sources that are used for purposes of the Fabric
to identify and geocode locations where fixed
broadband internet access service can be installed, in
order to develop recommendations for how the quality
and completeness of such data sources can be im-
proved as data sources for the Fabric. Data sources
to be assessed shall include any sources of relevant
Federal data, including the National Address Data-
base administered by the Department of Transpor-
tation, State- and county-level digitized parcel data,
and property tax record tax attribute recording.

“(2) REPORT.—Not later than 1 year after the
date of the enactment of this title, the Comptroller
General shall submit to the Committee on Energy and
Commerce of the House of Representatives and the
Committee on Commerce, Science, and Transpor-
tation of the Senate a report containing the rec-
ommendations developed in the assessment under
paragraph (1).

“(f) TECHNICAL ASSISTANCE TO CONSUMERS AND
STATE, LOCAL, AND TRIBAL GOVERNMENTAL ENTITIES.—
The Commission shall provide technical assistance to con-
sumers and State, local, and Tribal governmental entities
with respect to the challenge process established under sec-
tion 802(b)(5), which shall include—

“(1) detailed tutorials and webinars; and

“(2) making available staff of the Commission to
provide assistance, as needed, throughout the entirety
of the challenge process.

“SEC. 804. COST.

“(a) LIMITATION.—The Commission may not use
funds from the universal service programs of the Commis-
sion established under section 254, and the regulations
issued under that section, to carry out this title.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is
authorized to be appropriated to the Commission to carry
out this title—

“(1) $25,000,000 for fiscal year 2021; and

“(2) $9,000,000 for each of the fiscal years 2022
through 2028.
“SEC. 805. OTHER PROVISIONS.

“(a) OMB.—Notwithstanding any other provision of law, the initial rulemaking required under section 802(a)(1) shall be exempt from review by the Office of Management and Budget.

“(b) PRA.—Chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’) shall not apply to the initial rulemaking required under section 802(a)(1).

“(c) EXECUTION OF RESPONSIBILITIES.—Except, with respect to an entity that is not the Universal Service Administrative Company, as provided in sections 802(a)(2)(B), 802(b)(1)(A)(ii), and 803(d), the Commission—

“(1) including the offices of the Commission, shall carry out the responsibilities assigned to the Commission under this title; and

“(2) may not delegate any of the responsibilities assigned to the Commission under this title to any third party, including the Universal Service Administrative Company.

“(d) REPORTING.—Each fiscal year, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that summarizes the implementation of this title and associated
enforcement activities conducted during the previous fiscal year.”. 