

Wicker-1

EHF19680

  
S.L.C.

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.**

**S. 1822**

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.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. WICKER

Viz:

1 Strike all after the enacting clause and insert the following:  
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Broadband Deployment Accuracy and Technological Availability Act" or the  
5  
6 "Broadband DATA Act".

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) BROADBAND INTERNET ACCESS SERVICE.—

10 The term "broadband internet access service" has  
11 the meaning given the term in section 8.1(b) of title

1 47, Code of Federal Regulations, or any successor  
2 regulation.

3 (2) BROADBAND MAP.—The term “Broadband  
4 Map” means the map created by the Commission  
5 under section 3(c)(1)(A).

6 (3) CELL EDGE PROBABILITY.—The term “cell  
7 edge probability” means the likelihood that the min-  
8 imum threshold download and upload speeds with  
9 respect to broadband internet access service will be  
10 met or exceeded at a distance from a base station  
11 that is intended to indicate the ultimate edge of the  
12 coverage area of a cell.

13 (4) CELL LOADING.—The term “cell loading”  
14 means the percentage of the available air interface  
15 resources of a base station that are used by con-  
16 sumers with respect to broadband internet access  
17 service.

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

21 (6) COMMISSION.—The term “Commission”  
22 means the Federal Communications Commission.

23 (7) FABRIC.—The term “Fabric” means the  
24 Broadband Serviceable Location Fabric established  
25 under section 3(b)(1)(B).

1           (8) FORM 477.—The term “Form 477” means  
2 Form 477 of the Commission relating to local tele-  
3 phone competition and broadband reporting.

4           (9) INDIAN TRIBE.—The term “Indian Tribe”  
5 has the meaning given the term “Indian tribe” in  
6 section 4 of the Indian Self-Determination and Edu-  
7 cation Assistance Act (25 U.S.C. 5304).

8           (10) MOBILITY FUND PHASE II.—The term  
9 “Mobility Fund Phase II” means the second phase  
10 of the proceeding to provide universal service sup-  
11 port from the Mobility Fund (WC Docket No. 10-  
12 90; WT Docket No. 10-208).

13           (11) PROPAGATION MODEL.—The term “propa-  
14 gation model” means a mathematical formulation  
15 for the characterization of radio wave propagation as  
16 a function of frequency, distance, and other condi-  
17 tions.

18           (12) PROVIDER.—The term “provider” means a  
19 provider of fixed or mobile broadband internet access  
20 service.

21           (13) SHAPEFILE.—The term “shapefile” means  
22 a digital storage format containing geospatial or lo-  
23 cation-based data and attribute information—

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

1 (B) that can be viewed, edited, and  
2 mapped in geographic information system soft-  
3 ware.

4 (14) STANDARD BROADBAND INSTALLATION.—

5 The term “standard broadband installation”—

6 (A) means the initiation by a provider of  
7 new fixed broadband internet access service  
8 with no charges or delays attributable to the ex-  
9 tension of the network of the provider; and

10 (B) includes the initiation of fixed  
11 broadband internet access service through rou-  
12 tine installation that can be completed not later  
13 than 10 business days after the date on which  
14 the service request is submitted.

15 **SEC. 3. BROADBAND MAPS.**

16 (a) RULES.—

17 (1) IN GENERAL.—Not later than 180 days  
18 after the date of enactment of this Act, the Commis-  
19 sion shall issue final rules that shall—

20 (A) allow for the collection by the Commis-  
21 sion of accurate and granular data, not less fre-  
22 quently than biannually.—

23 (i) relating to the availability of ter-  
24 restrial fixed, fixed wireless, satellite, and

1 mobile broadband internet access service;  
2 and

3 (ii) that the Commission shall use to  
4 compile the maps created under subsection  
5 (c)(1) (referred to in this section as “cov-  
6 erage maps”), which the Commission shall  
7 make publicly available; and

8 (B) establish—

9 (i) processes through which the Com-  
10 mission can verify the accuracy of data  
11 submitted under subsection (b)(2);

12 (ii) processes and procedures through  
13 which the Commission, and, as necessary,  
14 other entities or persons submitting infor-  
15 mation under this Act, can protect the se-  
16 curity, privacy, and confidentiality of—

17 (I) information contained in the  
18 Fabric;

19 (II) the dataset created under  
20 subsection (b)(1) supporting the Fab-  
21 ric ; and

22 (III) the data submitted under  
23 subsection (b)(2);

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

1 (iv) the process described in section  
2 5(b).

3 (2) OTHER DATA.—In issuing the rules under  
4 paragraph (1), the Commission shall develop a pro-  
5 cess through which the Commission can collect  
6 verified data for use in the coverage maps from—

7 (A) State, local, and Tribal governmental  
8 entities that are primarily responsible for map-  
9 ping or tracking broadband internet access  
10 service coverage for a State, unit of local gov-  
11 ernment, or Indian Tribe, as applicable;

12 (B) third parties, if the Commission deter-  
13 mines that it is in the public interest to use  
14 such data in—

15 (i) the development of the coverage  
16 maps; or

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

19 (C) other Federal agencies.

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

22 (A) reflect changes in technology;

23 (B) ensure the accuracy of propagation  
24 models, as further provided in subsection  
25 (b)(3); and

1 (C) improve the usefulness of the coverage  
2 maps.

3 (b) CONTENT OF RULES.—

4 (1) ESTABLISHMENT OF A SERVICEABLE LOCA-  
5 TION FABRIC REGARDING FIXED BROADBAND.—

6 (A) DATASET.—

7 (i) IN GENERAL.—The Commission  
8 shall create a common dataset of all loca-  
9 tions in the United States where fixed  
10 broadband internet access service can be  
11 installed, as determined by the Commis-  
12 sion.

13 (ii) CONTRACTING.—

14 (I) IN GENERAL.—Subject to  
15 subclauses (II) and (III), the Commis-  
16 sion may contract with an entity with  
17 expertise with respect to geographic  
18 information systems (referred to in  
19 this subsection as “GIS”) to create  
20 and maintain the dataset under clause  
21 (i).

22 (II) APPLICATION OF THE FED-  
23 ERAL ACQUISITION REGULATION.—A  
24 contract into which the Commission  
25 enters under subclause (I) shall in all

1 respects comply with applicable provi-  
2 sions of the Federal Acquisition Regu-  
3 lation.

4 (III) LIMITATIONS.—With re-  
5 spect to a contract into which the  
6 Commission enters under subclause  
7 (I)—

8 (aa) the entity with which  
9 the Commission contracts shall  
10 be selected through a competitive  
11 bid process that is transparent  
12 and open; and

13 (bb) the contract shall be for  
14 a term of not longer than 5  
15 years, after which the Commis-  
16 sion may enter into a new con-  
17 tract—

18 (AA) with an entity,  
19 and for the purposes, de-  
20 scribed in clause (i); and

21 (BB) that complies  
22 with the requirements under  
23 subclause (II) and this sub-  
24 clause.

1 (B) FABRIC.—The rules issued by the  
2 Commission under subsection (a)(1) shall estab-  
3 lish the Broadband Serviceable Location Fab-  
4 ric, which shall—

5 (i) contain geocoded information for  
6 each location identified under subpara-  
7 graph (A)(i);

8 (ii) serve as the foundation upon  
9 which all data relating to the availability of  
10 fixed broadband internet access service col-  
11 lected under paragraph (2)(A) shall be re-  
12 ported and overlaid;

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

15 (iv) at a minimum, be updated annu-  
16 ally by the Commission.

17 (C) IMPLEMENTATION PRIORITY.—The  
18 Commission shall prioritize implementing the  
19 Fabric for rural and insular areas of the United  
20 States.

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

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

4 (i) documents the areas where the  
5 provider—

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

10 (II) could provide that service, as  
11 determined by identifying where the  
12 provider is capable of performing a  
13 standard broadband installation, if ap-  
14 plicable;

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

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

23 (iv) the provider shall report as—

1 (I) with respect to providers of  
2 fixed wireless broadband internet ac-  
3 cess service—

4 (aa) propagation maps and  
5 propagation model details that—

6 (AA) satisfy standards  
7 that are similar to those ap-  
8 plicable to providers of mo-  
9 bile broadband internet ac-  
10 cess service under subpara-  
11 graph (B) with respect to  
12 propagation maps and prop-  
13 agation model details, taking  
14 into account material dif-  
15 ferences between fixed wire-  
16 less and mobile broadband  
17 internet access service; and

18 (BB) reflect the speeds  
19 and latency of the service  
20 provided by the provider; or

21 (bb) a list of addresses or lo-  
22 cations that constitute the service  
23 area of the provider, except that  
24 the Commission—

1 (AA) may only permit,  
2 and not require, a provider  
3 to report the data using that  
4 means of reporting; and

5 (BB) in the rules  
6 issued under subsection  
7 (a)(1), shall provide a meth-  
8 od for using that means of  
9 reporting with respect to  
10 Tribal areas; and

11 (II) with respect to providers of  
12 terrestrial fixed and satellite  
13 broadband internet access service—

14 (aa) polygon shapefiles; or

15 (bb) a list of addresses or lo-  
16 cations that constitute the service  
17 area of the provider, except that  
18 the Commission—

19 (AA) may only permit,  
20 and not require, a provider  
21 to report the data using that  
22 means of reporting; and

23 (BB) in the rules  
24 issued under subsection  
25 (a)(1), shall provide a meth-

1                   od for using that means of  
2                   reporting with respect to  
3                   Tribal areas; and

4                   (v) the Commission determines is ap-  
5                   propriate with respect to certain tech-  
6                   nologies in order to ensure that the  
7                   Broadband Map is granular and accurate;  
8                   and

9                   (B) from each provider of mobile  
10                  broadband internet access service, which shall  
11                  include propagation maps, and the propagation  
12                  models on which those maps are based, that in-  
13                  dicate the current (as of the date on which the  
14                  information is collected) fourth generation  
15                  Long-Term Evolution (commonly referred to as  
16                  “4G LTE”) mobile broadband internet access  
17                  service coverage of the provider, which shall—

18                  (i) take into consideration the effect  
19                  of clutter; and

20                  (ii) satisfy—

21                  (I) the requirements of having—

22                          (aa) a download speed of 5  
23                          megabits per second and an  
24                          upload speed of 1 megabit per  
25                          second with a cell edge prob-

1 ability of not less than 90 per-  
2 cent; and

3 (bb) cell loading of 50 per-  
4 cent; and

5 (II) any other parameter that the  
6 Commission determines to be nec-  
7 essary to create a map under sub-  
8 section (e)(1)(C) that is more precise  
9 than the map produced as a result of  
10 the submissions under the Mobility  
11 Fund Phase II information collection.

12 (3) UPDATE OF REPORTING STANDARDS FOR  
13 MOBILE BROADBAND INTERNET ACCESS SERVICE.—  
14 For the purposes of paragraph (2)(B), if the Com-  
15 mission determines that the reporting standards  
16 under that paragraph are insufficient to collect accu-  
17 rate propagation maps and propagation model de-  
18 tails with respect to future generations of mobile  
19 broadband internet access service technologies, the  
20 Commission shall immediately commence a rule  
21 making to adopt new reporting standards with re-  
22 spect to those technologies that—

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

1           (B) allow for the collection of propagation  
2 maps and propagation model details that are as  
3 accurate and granular as, or more accurate and  
4 granular than, the maps and model details col-  
5 lected by the Commission under such paragraph  
6 (2)(B).

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

10           (A) the provider shall include in each sub-  
11 mission a certification from a corporate officer  
12 of the provider that the officer has examined  
13 the information contained in the submission  
14 and that, to the best of the officer's actual  
15 knowledge, information, and belief, all state-  
16 ments of fact contained in the submission are  
17 true and correct; and

18           (B) the Commission shall verify the accu-  
19 racy and reliability of the information in ac-  
20 cordance with measures established by the  
21 Commission.

22           (5) CHALLENGE PROCESS.—

23           (A) IN GENERAL.—In the rules issued  
24 under subsection (a), and subject to subpara-  
25 graph (B), the Commission shall establish a

1 user-friendly challenge process through which  
2 consumers, State, local, and Tribal govern-  
3 mental entities, and other entities may submit  
4 coverage data to the Commission to challenge  
5 the accuracy of—

6 (i) the coverage maps;

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

10 (iii) the information included in the  
11 Fabric.

12 (B) CONSIDERATIONS; VERIFICATION; RE-  
13 SPONSE TO CHALLENGES.—In establishing the  
14 challenge process required under subparagraph  
15 (A), the Commission shall—

16 (i) consider—

17 (I) the types of information that  
18 an entity submitting a challenge  
19 should provide to the Commission in  
20 support of the challenge;

21 (II) the appropriate level of gran-  
22 ularity for the information described  
23 in subclause (I);

24 (III) the need to mitigate the  
25 time and expense incurred by, and the

1 administrative burdens placed on, en-  
2 tities in—

3 (aa) challenging the accu-  
4 racy of a coverage map; and

5 (bb) responding to chal-  
6 lenges described in item (aa);

7 (IV) the costs to consumers and  
8 providers resulting from a  
9 misallocation of funds because of a re-  
10 liance on outdated or otherwise inac-  
11 curate information in the coverage  
12 maps;

13 (ii) include a process for verifying the  
14 data submitted through the challenge proc-  
15 ess in order to ensure the reliability of that  
16 data;

17 (iii) allow providers to respond to  
18 challenges submitted through the challenge  
19 process; and

20 (iv) develop an online mechanism,  
21 which—

22 (I) shall be integrated into the  
23 coverage maps; and

1 (II) allows for an entity described  
2 in subparagraph (A) to submit a chal-  
3 lenge under the challenge process.

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

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

9 (ii) a process for the regular and ex-  
10 peditious updating of the coverage maps as  
11 challenges are resolved.

12 (6) REFORM OF FORM 477 PROCESS.—

13 (A) IN GENERAL.—Not later than 180  
14 days after the date on which the rules issued  
15 under subsection (a) take effect, the Commis-  
16 sion shall—

17 (i) reform the Form 477 broadband  
18 deployment service availability collection  
19 process of the Commission to make the  
20 process consistent with this Act and the  
21 rules issued under this Act; and

22 (ii) remove duplicative reporting re-  
23 quirements and procedures regarding the  
24 deployment of broadband internet access  
25 service that, as of that date, are in effect.

1           (B) CONTINUED COLLECTION AND RE-  
2           PORTING.—On and after the date on which the  
3           Commission carries out subparagraph (A), the  
4           Commission shall continue to collect and pub-  
5           licly report subscription data that the Commis-  
6           sion collected through the Form 477 broadband  
7           deployment service availability process, as in ef-  
8           fect on July 1, 2019.

9           (c) MAPS.—The Commission shall—

10           (1) create—

11           (A) the Broadband Map, which shall de-  
12           pict—

13           (i) the extent of the availability of  
14           broadband internet access service in the  
15           United States, without regard to whether  
16           that service is fixed broadband internet ac-  
17           cess service or mobile broadband internet  
18           access service, which shall be based on col-  
19           lected by the Commission from all pro-  
20           viders; and

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

23           (B) a map that depicts the availability of  
24           fixed broadband internet access service, which  
25           shall be based on data collected by the Commis-

1 sion from providers under subsection (b)(2)(A);  
2 and

3 (C) a map that depicts the availability of  
4 mobile broadband internet access service, which  
5 shall be based on data collected by the Commis-  
6 sion from providers under subsection (b)(2)(B);

7 (2) use the maps created under paragraph  
8 (1)—

9 (A) to determine the areas in which terres-  
10 trial fixed, fixed wireless, mobile, and satellite  
11 broadband internet access service is and is not  
12 available; and

13 (B) when making any new award of fund-  
14 ing with respect to the deployment of  
15 broadband internet access service;

16 (3) update the maps created under paragraph  
17 (1) not less frequently than biannually using the  
18 most recent data collected from providers under sub-  
19 section (b)(2);

20 (4) establish a process requiring the Depart-  
21 ment of Agriculture and the National Telecommuni-  
22 cations and Information Administration to consult  
23 the maps created under paragraph (1) when, as of  
24 the date on which the process is established or on  
25 any future date, distributing funds relating to the

1 deployment of broadband internet access service  
2 under any program administered by the Rural Utili-  
3 ties Service or the Administration, respectively; and

4 (5) establish a process to make the data col-  
5 lected under subsection (b)(2) available to the Na-  
6 tional Telecommunications and Information Adminin-  
7 istration.

8 **SEC. 4. ENFORCEMENT.**

9 (a) IN GENERAL.—It shall be unlawful for a person  
10 or entity to willfully and knowingly, or recklessly, submit  
11 information or data under this Act that is materially inac-  
12 curate or incomplete with respect to the availability of  
13 broadband internet access service.

14 (b) VIOLATIONS.—A violation of this Act shall be  
15 treated as a violation of the Communications Act of 1934  
16 (47 U.S.C. 151 et seq.), and the Commission shall enforce  
17 this Act in the same manner, by the same means, and  
18 with the same jurisdiction, powers, and duties as though  
19 all applicable terms and provisions of that Act were incor-  
20 porated into and made a part of this Act.

21 **SEC. 5. IMPROVING DATA ACCURACY.**

22 (a) AUDITS.—The Commission shall conduct regular  
23 audits of information submitted to the Commission by pro-  
24 viders under section (3)(b)(2) to ensure that the providers  
25 are complying with this Act.

1 (b) CROWDSOURCING.—

2 (1) IN GENERAL.—The Commission shall de-  
3 velop a process through which persons in the United  
4 States may submit specific information about the de-  
5 ployment and availability of broadband internet ac-  
6 cess service in the United States so that the infor-  
7 mation may be used to verify and supplement infor-  
8 mation provided by providers of broadband internet  
9 access service for inclusion in the maps created  
10 under section 3(c)(1).

11 (2) COLLABORATION.—As part of the efforts of  
12 the Commission to facilitate the ability of persons to  
13 submit information under paragraph (1), the Com-  
14 mission shall issue guidance and other information  
15 as appropriate to ensure that the information sub-  
16 mitted is uniform and consistent with the data sub-  
17 mitted by providers under section 3(b)(2).

18 (c) TECHNICAL ASSISTANCE TO INDIAN TRIBES.—

19 (1) IN GENERAL.—Subject to paragraph (2),  
20 the Commission shall hold workshops for Tribal gov-  
21 ernments in each of the 12 Bureau of Indian Affairs  
22 regions to provide technical assistance with the col-  
23 lection and submission of data under section 3(a)(2).

24 (2) ANNUAL REVIEW.—Each year, the Commis-  
25 sion, in consultation with Indian Tribes, shall review

1 the need for continued workshops required under  
2 paragraph (1).

3 (d) TECHNICAL ASSISTANCE TO SMALL SERVICE  
4 PROVIDERS.—The Commission shall establish a process  
5 through which a provider that has fewer than 100,000 ac-  
6 tive broadband internet access service connections may re-  
7 quest and receive assistance from the Commission with re-  
8 spect to geographic information system data processing to  
9 ensure that the provider is able to comply with the require-  
10 ments under section 3(b) in a timely and accurate manner.

11 **SEC. 6. COST.**

12 (a) IN GENERAL.—Beginning with the first full fiscal  
13 year after the date of enactment of this Act, the Commis-  
14 sion shall include in the budget submission of the Commis-  
15 sion to the President under sections 1105(a) and 1108  
16 of title 31, United States Code, amounts sufficient to en-  
17 sure the proper and continued functioning of the respon-  
18 sibilities of the Commission under this Act.

19 (b) COST OF FABRIC.—

20 (1) USF.—The Commission may not use funds  
21 from the universal service programs of the Commis-  
22 sion established under section 254 of the Commu-  
23 nications Act of 1934 (47 U.S.C. 254), and the reg-  
24 ulations issued under that section, to pay for any  
25 costs associated with this Act.

1           (2) OTHER FUNDS.—The Commission may re-  
2       cover costs associated with this Act under section 9  
3       of the Communications Act of 1934 (47 U.S.C. 9)  
4       to the extent provided for in an appropriation Act,  
5       as required under subsection (a) of that section.

6 **SEC. 7. OTHER PROVISIONS.**

7       (a) OMB.—Notwithstanding any other provision of  
8       law, the initial rule making required under section 3(a)(1)  
9       shall be exempt from review by the Office of Management  
10      and Budget.

11      (b) PRA.—Chapter 35 of title 44, United States  
12      Code (commonly known as the “Paperwork Reduction  
13      Act”) shall not apply to the initial rule making required  
14      under section 3(a)(1).

15      (c) EXECUTION OF RESPONSIBILITIES.—Except as  
16      provided in section 3(b)(1)(A)(ii), the Commission—

17           (1) including the offices of the Commission,  
18      shall carry out the responsibilities assigned to the  
19      Commission under this Act; and

20           (2) may not delegate any of the responsibilities  
21      assigned to the Commission under this Act to any  
22      third party, including the Universal Service Adminis-  
23      trative Company.

24      (d) REPORTING.—Each fiscal year, the Commission  
25      shall submit to the Committee on Commerce, Science, and

1 Transportation of the Senate and the Committee on En-  
2 ergy and Commerce of the House of Representatives a re-  
3 port that summarizes the implementation of this Act and  
4 associated enforcement activities conducted during the  
5 previous fiscal year.