

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

MEMORANDUM

January 28, 2018

To: Subcommittee on Communications and Technology Democratic Members and Staff
Fr: Committee on Energy and Commerce Democratic Staff
Re: Hearing on “Closing the Digital Divide: Broadband Infrastructure Solutions.”

On **Tuesday, January 30, 2018 at 10:00 a.m. in room 2322 of the Rayburn House Office Building**, the Subcommittee on Communications and Technology will hold a hearing titled “Closing the Digital Divide: Broadband Infrastructure Solutions.”

I. BACKGROUND

Broadband service is an increasingly necessary component of everyday life. The most recent data from the Federal Communications Commission (FCC) indicates that ten percent of Americans lack internet access at speeds of 25 Mbps download/3 Mbps upload.¹ Over ten million Americans living in urban areas lack access to broadband at these speeds, and over 23 million Americans living in rural areas similarly lack such access.²

An FCC staff report estimates a \$40 billion investment is necessary to deploy fixed broadband service to 98 percent of the United States.³ Projected costs rise to \$80 billion to reach 100 percent of the population.⁴

¹ Federal Communications Commission, *2016 Broadband Progress Report*, GN Docket No 15-191, FCC16-6, at ¶ 79 (rel. Jan 29, 2017).

² *Id.*

³ Federal Communications Commission, *Improving the Nation’s Digital Infrastructure* (Jan. 17, 2017) (apps.fcc.gov/edocs_public/attachmatch/DOC-343135A1.pdf).

⁴ *Id.*

II. LEGISLATIVE PROPOSALS

The following bills were noticed by the majority for this legislative hearing on Tuesday, January 23, 2018:

- A. Rep. Bilirakis (R-FL) introduced H. Res. 687, expressing the sense of the House that taxes and other regulatory requirements should be manipulated at every level of government to maximize the benefits of broadband deployment.
- B. Rep. Hudson (R-NC) introduced H. Res. 689, expressing the sense of the House to prioritize infrastructure funding in states that have streamlined siting requirements for wireless small cell deployments.
- C. Rep. Lance (R-NJ) introduced H. Res. 690, expressing the sense of the House that federal funds should be spent only in unserved and not underserved areas.
- D. Rep. Latta (R-OH) introduced H. Res. 691, expressing the sense of the House for any broadband infrastructure legislation to treat broadband and communications facilities in a competitive and technologically neutral manner.
- E. Rep. Flores (R-TX) introduced H. Res. 701, expressing the sense of the House that environmental and historic reviews of broadband facilities should be narrowly tailored and proportional to lands physically impacted by the deployment of such facilities.
- F. Ranking Member Pallone (D-NJ) is the lead Democratic sponsor of H.R. 2479, the Leading Infrastructure for Tomorrow's America Act (LIFT America Act). The LIFT America Act authorizes \$40 billion for deployment of secure and resilient broadband. The bill divides these funds between a \$30 billion federal reverse auction to build out to unserved areas, and a \$10 billion fund for states to use. If a state has no unserved areas, it may use the funds to build out to underserved areas, schools, or libraries. Additionally, if a state has no unserved areas, it may also use funds to deploy Next Generation 9-1-1.
- G. Rep. Tonko (D-NY) and Rep. Lance (R-NJ) introduced H.R. 3994, the ACCESS BROADBAND Act. This bill would streamline management of federal broadband resources across multiple agencies at the National Telecommunications and Information Administration (NTIA), creating an Office of Internet Connectivity and Growth to simplify processes for small businesses and local economic developers.
- H. Rep. Lujan (D-NM) introduced H.R. 4287, the Broadband Infrastructure Finance and Innovation Act (BIFIA). Under BIFIA, public-private partnerships may apply for low-interest secured loans, lines of credit, or loan guarantees to build out broadband. The bill also includes provisions to ensure the federal government takes on lowered credit risks from project borrowers and affords discretion to the Assistant Secretary to streamline application processes for smaller projects.
- I. Rep. Walters (R-CA) introduced H.R. 4795, the Communications Facilities Deployment on Federal Property Act, reinforcing requirements to complete

drafting of common forms and master contracts, as well as to set common fees for broadband deployment on federal property or infrastructure. (The Transportation and Infrastructure Committee received the primary referral for H.R. 4795. The Energy and Commerce Committee received a sequential referral.)

- J.** Rep. Collins (R-NY) introduced H.R. 4798, the Inventory of Assets for Communications Facilities Act, which creates a database of existing federal government infrastructure and real property that could be used to deploy broadband. (The Transportation and Infrastructure Committee received the primary referral for H.R. 4798. The Energy and Commerce Committee received a sequential referral.)
- K.** Rep. Kinzinger (R-IL) introduced H.R. 4802, the Streamlining and Expediting Approval for Communications Technologies Act, requiring that covered agencies track and streamline applications to deploy communications facilities on federal property. (The Transportation and Infrastructure Committee received the primary referral for H.R. 4802. The Energy and Commerce Committee received a sequential referral.)
- L.** Rep. Johnson (R-OH) and Rep. Guthrie (R-KY) introduced H.R. 4810, the MAPPING NOW Act, which directs NTIA to reassert its role in publishing the National Broadband Map. The map has not been updated since its funding ran out in 2014. This bill provides no additional funding to update or resume work on the map.
- M.** Rep. Costello (R-PA) introduced the H.R. 4813, the WIFI STUDY ACT, which calls for a Government Accountability Office (GAO) study to evaluate the role of one spectrum band for potential unlicensed use.
- N.** Rep. Eshoo (D-CA) introduced H.R. 4814, the Community Broadband Act, to empower local communities to ensure their residents have broadband access by preserving the right to provide community-owned service to consumers.
- O.** Rep. Long (R-MO) introduced H.R. 4817, the PEERING Act, which would authorize NTIA to make grants to build internet exchange facilities. There is no funding or authorizing language in the bill. Instead, the bill redirects funding from the FCC's programs that support schools, libraries, and rural health facilities to allow those institutions to purchase capacity from internet exchange facilities.
- P.** Rep. Cramer (R-ND) introduced H.R. 4832, the RESTORED Act, to permit companies eligible under the Universal Service Fund's High-Cost program to elect up to a seven-month advance payment for restoration of services in Presidentially-declared disaster areas. (Notably, the FCC has taken these actions with respect to Puerto Rico and the U.S. Virgin Islands following this year's hurricane season.)⁵

⁵ Federal Communications Commission, *Connect America Fund*, Order, WC Docket No. 10-90, FCC 17-129, at ¶ 3 (Rel. Oct. 4, 2017).

- Q.** Rep. Shimkus (R-IL) introduced H.R. 4842, the Streamlining Permitting to Enable Efficient Deployment of Broadband Infrastructure Act, to exempt broadband facilities from environmental and historic preservation reviews on federal property having certain meets-and-bounds, or for facilities sited on property with a properly-sited facility somewhere on the grounds. The bill would also exempt the expansion of broadband facilities from environmental and historic preservation reviews if the expansion of the broadband facility is no more than 30 feet in any direction.
- R.** Rep. Olson (R-TX) introduced H.R. 4845, the Connecting Communities Post Disasters Act, to provide a five-year categorical exclusion from environmental and historical reviews for communications facilities in Presidentially-declared disaster areas.
- S.** Rep. Matsui (D-CA) and Rep. Brooks (R-IN) introduced H.R. 4847, the Broadband Deployment Streamlining Act, which directs the Secretaries of the Interior and Agriculture to streamline application processes for siting communications facilities on public lands. The bill would also institute a firm shot clock by which applications must be granted or denied for all federal wireless siting and require a GAO report evaluating the accuracy and reliability of data collected for the National Broadband Map.
- T.** Rep. Eshoo (D-CA) and Rep. McKinley (R-WV) introduced H.R. 4858, the CLIMB ONCE Act, to ensure that federal laws cannot impede the ability of states and localities to implement “climb once” policies if they choose to, and directs the FCC to establish best practices and model policies that states and local governments may use to shape their own one-touch-make-ready implementation.

III. ADDITIONAL BROADBAND INFRASTRUCTURE LEGISLATION

The following bills were added to this legislative hearing on Friday, January 26, 2018:

- U.** Rep. Loebsack (D-IA) introduced, and Rep. Costello (R-PA) has cosponsored, H.R. 1546, the Rural Wireless Access Act, which would require the FCC to use more consistent, robust, and efficient methods to collect more reliable mobile service coverage data. The resulting data could be used by the FCC to inform its decisions concerning where to spend money to increase deployment and better target federal resources.
- V.** Rep. Ruiz (D-CA) introduced H.R. 1581, the Tribal Digital Access Act, which adds “Indian Country”—including parts of the country that need help the most—to the list of areas that should receive federal funding and support for broadband access.
- W.** Rep. Welch (D-VT) and Rep. McKinley (R-WV) introduced H.R. 2903, the Rural Reasonable and Comparable Wireless Access Act. This bill requires the FCC to establish a national standard for whether broadband in rural areas is reasonably comparable to broadband in urban areas.

- X. Rep. Rush (D-IL) and Rep. Clarke (D-NY) introduced H.R. 4876, the Connecting Broadband Deserts Act, to require the FCC to study the deployment of broadband in urban broadband deserts, as well as the extent to which digital redlining is occurring. The bill would require the FCC to take immediate action to accelerate advanced telecommunications capability in these areas by eliminating infrastructure investment barriers and promoting competition.
- Y. Rep. Loebsack (D-IA) and Rep. Latta (R-OH) introduced H.R. 4881, the Precision Agriculture Connectivity Act, which requires the FCC to form a task force to address connectivity and technological impediments to precision agriculture. Under the direction of the FCC and in collaboration with U.S. Department of Agriculture, the task force will identify existing broadband coverage gaps and recommend policies to promote the rapid, expanded deployment of fixed and mobile high-speed broadband internet service on croplands and ranchlands.

IV. WITNESSES

The following witnesses have been invited to testify:

Ms. Shirley Bloomfield

CEO

NTCA—The Rural Broadband Association

Mr. Brad Gillen

Executive Vice President

CTIA

Ms. Joanne S. Hovis

President

CTC Technology & Energy

Ms. Elin Swanson Katz

Consumer Counsel

State of Connecticut

Mr. Matthew Polka

President and CEO

American Cable Association

Mr. Scott Slesinger

Legislative Director

Natural Resources Defense Council

Mr. Jonathan Spalter

President and CEO

USTelecom