



Infrastructure Investment and Jobs Act: Broadband Funding Summary - [HR 3684](#),

- Specifically on broadband (\$65 billion total), the Act:
 - o Sets aside \$42.5 billion for a new Broadband Equity, Access and Deployment (BEAD) program, which will be allocated across each state and administered through NTIA;
 - o \$2.75 billion for digital inclusion efforts. On the adoption side, the legislation includes the “Digital Equity Act of 2021” which creates \$1.5 billion “State Digital Equity Capacity Grant Program” – where money will be split into two pots: \$60 million for states to create Digital Equity plans and \$1.44 billion (\$240 million in FY2022; \$300 million each year FY2023-26) to assist with the implementation of such plans;
 - o Another \$1.25 billion total that will fund the Digital Equity Competitive Grant Program (or \$250 million per year for fiscal years 2022-2026). This money will not go to digital equity programs as defined by the State Digital Equity Capacity Grant Program mentioned above. Funds must be spent on items like digital inclusion activities, computer training, devices and public computing centers at anchor institutions;
 - o \$2 billion for the Tribal Broadband Connectivity Program;
 - o Establishes a \$1 billion grant program to support deployments of middle mile infrastructure;
 - o Builds on the Emergency Broadband Benefit (EBB) Program by investing \$14.2 billion in a newly named Affordable Connectivity Program (ACP), which is more than 4 times the funding level provided to EBB in the Consolidated Appropriations Act, 2021; and
 - o Sets aside \$2 billion for the USDA’s ReConnect Loan and Grant Program.

DIVISION F—BROADBAND TITLE I—BROADBAND GRANTS FOR STATES, DISTRICT OF COLUMBIA, PUERTO RICO, AND TERRITORIES

BROADBAND EQUITY, ACCESS, AND DEPLOYMENT PROGRAM (TITLE I, Section 60102) - (\$42.5 billion grant program, NTIA)

The centerpiece of the overall broadband funding initiative, the “Broadband Equity, Access and Deployment Program” tasks NTIA to administer a \$42.5 billion grant program for which “eligible entity” is defined as “a State.” It directs NTIA to issue a Notice of Funding Opportunity within 180 days after the bill is enacted, establishing a process for States to submit a letter of intent, a single initial proposal, and a single final proposal for funding.

Funding Allocation- Each State would receive a minimum of \$100 million. The remainder of the \$40 billion would be allocated in accordance with a formula that considers the number of unserved and high-cost locations in the State, as compared to other States. Twenty percent of the allocated amount would be released upon approval of the State’s initial proposal, with the remaining 80 percent released upon approval of the State’s final proposal. Funding is available to States for planning and administrative expenses.

If a State fails to submit an application for funds by the applicable deadline, a political subdivision or consortium of political subdivisions may submit an application in its place.

Definition- UNSERVED LOCATION—The term “unserved location” means a broadband-serviceable location, as determined in accordance with the broadband DATA maps, that—

A key element in the implementation of the program is broadband mapping taking place at the FCC. The FCC is in the process of updating its current broadband maps with more detailed and precise information on the availability of fixed and mobile broadband services.

- The Broadband DATA Act, signed into law in March 2020, requires the FCC to change the way broadband data is collected, verified, and reported. Specifically, the FCC must collect and disseminate granular broadband service availability data (broadband maps) from wired, fixed-wireless, satellite, and mobile broadband providers. To do this, the FCC is required to establish the Broadband Serviceable Location Fabric (a dataset of geocoded information for all broadband service locations, atop which broadband maps are overlaid) as the vehicle for reporting broadband service availability data. Additionally, the FCC must put forth specified requirements for service availability data collected from broadband providers, and it must create a challenge process to enable the submission of independent data challenging the accuracy of FCC broadband maps. Bottom line is: the new broadband maps needed for the Broadband Equity, Access, and Deployment Program must be completed for determining unserved/underserved locations. Those new maps are not expected to be completed until late 2022 or early 2023.

Local Coordination Requirements- The Act calls for significant local coordination on the part of the State. A State must submit a “5-year action plan” as part of its initial proposal, which “shall be informed by collaboration with local and regional entities.”

- An initial proposal must, among other things, “identif[y], and outline[] steps to support, local and regional broadband planning processes or ongoing efforts to deploy broadband or close the digital divide” and “describe[] coordination with local governments, along with local and regional broadband planning processes.”
- In addition, NTIA “shall establish local coordination requirements for eligible entities to follow, to the greatest extent practicable.” States must allow an opportunity for political subdivisions to submit plans for consideration by the State, and to comment on the State’s initial and final proposals.
- In awarding subgrants, States “may not exclude cooperatives, nonprofit organizations, public-private partnerships, private companies, public or private utilities, public utility districts, or local governments from eligibility for such grant funds.”

Use of Funds- A State may use grant funds “to competitively award subgrants” for:

- Unserved service projects and underserved service projects.
 1. An “unserved location” lacks access to reliable broadband service offered with speed of not less than 25Mbps/3Mbps. “Unserved service projects” are projects serving areas in which not less than 80% of locations are unserved.

2. An “underserved location” lacks access to reliable broadband service offered with speed of not less than 100Mbps/20 Mbps. “Underserved service projects” serve areas in which not less than 80% of locations are underserved.
- Connecting eligible community anchor institutions. An “eligible” community anchor institution is defined as one that lacks access to gigabit service.
 1. Notably, the definition of “community anchor institution” includes “public housing organization or community support organization....” This suggests that support could be available for some urban areas that lack gigabit connectivity.
 - Data collection, broadband mapping, and planning;
 - Installing broadband infrastructure or providing reduced-cost service within a multi-family residential building, with priority given to a building that “has a substantial share” of unserved households or that is in a designated poverty area; and
 - Broadband adoption, including programs to provide affordable devices.

Funding Prioritization- Subgrant awards are to be funded in accordance with the following prioritization:

- Unserved service projects;
- Underserved service projects (after the State certifies that it will ensure universal coverage of all unserved locations); and
- Eligible community anchor institutions (after prioritizing underserved service projects).

As another element of prioritization, a State “shall give priority to projects based on” deployment of a broadband network to persistent poverty counties or high-poverty areas; the speeds of the proposed broadband service; and the expediency of project completion.

Importantly, it also prioritizes broadband projects that (1) provide broadband service that meets speed, latency, reliability, consistency in quality of service, and related criteria as the Assistant Secretary shall determine; and (2) ensures that the network built by the project can easily scale speeds over time to— (i) meet the evolving connectivity needs of households and businesses; and (ii) support the deployment of 5G, successor wireless technologies, and other advanced services.

Broadband Service Standards- A subgrantee for the deployment of a broadband network must provide broadband service at a speed of not less than 100Mbps/20Mbps, with sufficiently low latency “to allow reasonably foreseeable, real-time, interactive applications.”

- Funded broadband networks must offer at least one low-cost broadband service option for eligible subscribers.
- The network must be deployed and service commenced no later than four years after the date of the subgrant.

Subgrants- The program authorizes a State to *only* use grant funds to competitively award subgrants involving a permitted use of the funds (in addition to planning and administrative expenses). States are directed to ensure that subgrantees have the financial, managerial, technical and operational capability

to carry out the activities contemplated in the subgrant. Subgrantees must also comply with various obligations, including quality-of-service and broadband reliability and resilience “best practices,” as defined by NTIA.

Matching Requirement- A State must provide, or must require a subgrantee to provide, a matching contribution equivalent to at least 25 percent of project costs. NTIA may waive the matching contribution requirement and the match requirement does not apply in high-cost areas.

In general, the match must be derived from non-Federal funds. However, the Act specifically provides that matching funds *may* come from a Federal regional commission or authority, as well as the CARES Act, the Consolidated Appropriations Act of 2021, or the American Rescue Plan Act of 2021, if the funds were for the purpose of deployment of broadband service.

The match “may include in-kind contributions.”

Relation to Other Public Funding. The Act explicitly *allows* a subgrant to be made to “an entity that has received amounts from the Federal Government or a State or local government for the purpose of expanding access to broadband service.” Grant funds made available to States must “supplement, and not supplant,” amounts that the State would otherwise make available for broadband purposes.

Report on Future of Universal Service Fund (Sec. 60104)- Title I of the Act also directs the FCC to commence a proceeding within 30 days, and provide a report within 270 days, evaluating the implications of the Act on how the FCC “should achieve universal service goals for broadband.” Notably, the term “universal service fund” is not used in Section other than in the section title.

TITLE III—DIGITAL EQUITY ACT OF 2021

DIGITAL EQUITY ACT OF 2021 (Title III, Sec. 60301) - (\$1.3 billion over five years, NTIA)

On the adoption side, the legislation includes the “Digital Equity Act of 2021.” The Digital Equity Act creates a “State Digital Equity Capacity Grant Program” and a “Digital Equity Competitive Grant Program.”

- The **State Digital Equity Capacity Grant Program**- purpose of which is to promote the achievement of digital equity, support digital inclusion activities, and build capacity for efforts by States relating to the adoption of broadband by residents of those States. Authorizes \$60 million for planning grants to be made available to States for the development of State Digital Equity Plans and:
 - \$240,000,000 for fiscal year 2022; and \$300,000,000 for each of fiscal years 2023 through 2026 to support the implementation of State Digital Equity Plans and digital inclusion activities.
 - In general, beginning in the first fiscal year that begins after the date of enactment of this Act, the Assistant Secretary shall in accordance with the requirements of this paragraph, award planning grants to States for the purpose of developing the State Digital Equity Plans of those States under this subsection.

 - The **Digital Equity Competitive Grant Program**- purpose of which is to award grants to support efforts to achieve digital equity, promote digital inclusion activities, and spur greater adoption of broadband among covered populations. \$250,000,000 for each of the first 5 fiscal years in which funds are made available to a wide variety of public-sector and not-for-profit entities. Funds may be used for a range of digital inclusion and broadband adoption activities.
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TITLE IV—ENABLING MIDDLE MILE BROADBAND INFRASTRUCTURE

ENABLING MIDDLE MILE BROADBAND INFRASTRUCTURE (TITLE IV, Sec. 60401) - (\$1 billion for fiscal years 2022 through 2026, NTIA)

Title IV of the Act would establish a much smaller grant program to support the development of middle-mile infrastructure. It directs NTIA to make grants available “on a technology-neutral, competitive basis to eligible entities for the construction, improvement, or acquisition of middle mile infrastructure.”

Funds to remain available through September 30, 2026, for competitive grants as authorized under section 60401 of division F of this Act: Provided, that the Secretary of Commerce shall issue notices of funding opportunity not later than 180 days after the date of enactment of this Act and provided further, that the Secretary of Commerce shall make awards not later than 270 days after issuing the notices of funding opportunity required.

The program has two stated purposes:

- “to encourage expansion of middle mile infrastructure to reduce the cost of connecting unserved and underserved areas to the backbone of the internet (commonly referred to as the ‘last mile’) and
- “to promote broadband connection resiliency through the creation of alternative network connection paths that can be designed to prevent single points of failure on a broadband network.”

“Middle Mile Infrastructure.” The term “middle mile infrastructure”:

- “means any broadband infrastructure that does not connect directly to an end-user location, including an anchor institution; and
- includes – leased dark fiber, interoffice transport, backhaul, carrier-neutral internet exchange facilities, carrier-neutral submarine cable landing stations, undersea cables, transport connectivity to data centers, special access transport, and other similar services; and
- wired or private wireless infrastructure, including microwave capacity, radio tower access, and other services or infrastructure for a private wireless broadband network, such as towers, fiber, and microwave links.”

Eligible Entities- For the middle mile grant program, an “eligible entity” includes “a State, political subdivision of a State, Tribal government, technology company, electric utility, utility cooperative, public utility district, telecommunications company, telecommunications cooperative, nonprofit foundation, nonprofit corporation, nonprofit institution, nonprofit association, regional planning counsel [sic], Native entity, or economic development authority”; or a partnership of two or more such entities.

Prioritization- An eligible entity must agree to prioritize (A) “connecting middle mile infrastructure to last mile infrastructure that provide or plan to provide broadband service to households in unserved areas; (B) connecting non-contiguous trust lands, or [sic] (C) the offering of wholesale broadband service at reasonable rates on a carrier neutral basis.”

Buildout must be completed within five years, although an extension may be available.

Interconnection and Nondiscrimination Requirement- An entity that receives a middle mile grant using fiber optic technology “shall offer interconnection in perpetuity, where technically feasible without exceeding current or reasonably anticipated capacity limitations, on reasonable rates and terms to be negotiated with requesting parties.”

Federal Share Limited to 70 Percent- The amount of a middle mile grant may not exceed 70% of the total project cost.

TITLE V—BROADBAND AFFORDABILITY

AFFORDABLE CONNECTIVITY PROGRAM (TITLE V, Section 60502) - (\$14.2 billion grant program, FCC)

Extension and Modification of Emergency Broadband Benefit Program- originally adopted as a COVID-relief measure. It renames the program the “Affordable Connectivity Program,” and provides requirement to allow customers to apply Affordable Connectivity Benefit to any internet service offering.

- The benefit is reduced from \$50 per month to \$30 per month.
- Eligibility is expanded. Before with EBB, people could be eligible if they made up to 135 percent above the federal poverty line. That’s increased to 200 percent. Provisions about COVID-related unemployment are removed, and now households are eligible if any household member receives assistance through SNAP or WIC. That’s in addition to the same eligibility requirements that are being held over from the original program, which include receiving a Pell Grant or having a child who receives free or reduced-cost school lunch.
- Internet service providers are now required to allow customers to apply the benefit to any internet service offering they have.

In general, a participating provider:

- “(i) shall allow an eligible household to apply the affordable connectivity benefit to any internet service offering of the participating provider at the same terms available to households that are not eligible households
- “(ii) may not require the eligible household to submit to a credit check in order to apply the affordable connectivity benefit to an internet service offering of the participating provider.
- Nonpayment- Nothing shall prevent a participating provider from terminating the provision of broadband internet access service to a subscriber after 90 days of nonpayment.

Participating providers- When a customer subscribes to, or renews a subscription to, an internet service offering of a participating provider, the participating provider shall notify the customer about the existence of the Affordable Connectivity Program and how to enroll in the Program.

Federal Agencies- The Commission shall collaborate with relevant Federal agencies, including to ensure relevant Federal agencies update their System of Records Notices, to ensure that a household that participates in any program that qualifies the household for the Affordable Connectivity Program is provided information about the Program, including how to enroll in the Program.