

H.R. 1

American Recovery and Reinvestment Act of 2009

TITLE I--AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Distance learning, telemedicine, and broadband program

For an additional amount for the cost of broadband loans and loan guarantees, as authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) and for grants (including for technical assistance), \$2,500,000,000: Provided, That the cost of direct and guaranteed loans shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That, notwithstanding title VI of the Rural Electrification Act of 1936, this amount is available for grants, loans and loan guarantees for broadband infrastructure in any area of the United States: Provided further, That at least 75 percent of the area to be served by a project receiving funds from such grants, loans or loan guarantees shall be in a rural area without sufficient access to high speed broadband service to facilitate rural economic development, as determined by the Secretary of Agriculture: Provided further, That priority for awarding such funds shall be given to project applications for broadband systems that will deliver end users a choice of more than one service provider: Provided further, That priority for awarding funds made available under this paragraph shall be given to projects that provide service to the highest proportion of rural residents that do not have access to broadband service: Provided further, That priority shall be given for project applications from borrowers or former borrowers under title II of the Rural Electrification Act of 1936 and for project applications that include such borrowers or former borrowers: Provided further, That priority for awarding such funds shall be given to project applications that demonstrate that, if the application is approved, all project elements will be fully funded: Provided further, That priority for awarding such funds shall be given to project applications for activities that can be completed if the requested funds are provided: Provided further, That priority for awarding such funds shall be given to activities that can commence promptly following approval: Provided further, That no area of a project funded with amounts made available under this paragraph may receive funding to provide broadband service under the Broadband Technology Opportunities Program: Provided further, That the Secretary shall submit a report on planned spending and actual obligations describing the use of these funds not later than 90 days after the date of enactment of this Act, and quarterly thereafter until all funds are obligated, to the Committees on Appropriations of the House of Representatives and the Senate.

TITLE II--COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Broadband technology opportunities program

For an amount for 'Broadband Technology Opportunities Program', \$4,700,000,000: *Provided*, That of the funds provided under this heading, not less than \$4,350,000,000 shall be expended pursuant to division B of this Act, of which: not less than \$200,000,000 shall be available for competitive grants for expanding public computer center capacity, including at community colleges and public libraries; not less than \$250,000,000 shall be available for competitive grants for innovative programs to encourage sustainable adoption of broadband service; and \$10,000,000 shall be transferred to 'Department of Commerce, Office of Inspector General' for the purposes of audits and oversight of funds provided under this heading and such funds shall remain available until expended: *Provided further*, That of the funds provided under this heading, up to \$350,000,000 may be expended pursuant to Public Law 110-385 (47 U.S.C. 1301 note) and for the purposes of developing and maintaining a broadband inventory map pursuant to division B of this Act: *Provided further*, That of the funds provided under this heading, amounts deemed necessary and appropriate by the Secretary of Commerce, in consultation with the Federal Communications Commission (FCC), may be transferred to the FCC for the purposes of developing a national broadband plan or for carrying out any other FCC responsibilities pursuant to division B of this Act, and only if the Committees on Appropriations of the House and the Senate are notified not less than 15 days in advance of the transfer of such funds: *Provided further*, That not more than 3 percent of funds provided under this heading may be used for administrative costs, and this limitation shall apply to funds which may be transferred to the FCC.

TITLE VI--BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

SEC. 6001. BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM.

(a) The Assistant Secretary of Commerce for Communications and Information (Assistant Secretary), in consultation with the Federal Communications Commission (Commission), shall establish a national broadband service development and expansion program in conjunction with the technology opportunities program, which shall be referred to as the Broadband Technology Opportunities Program. The Assistant Secretary shall ensure that the program complements and enhances and does not conflict with other Federal broadband initiatives and programs.

(b) The purposes of the program are to--

(1) provide access to broadband service to consumers residing in unserved areas of the United States;

(2) provide improved access to broadband service to consumers residing in underserved areas of the United States;

(3) provide broadband education, awareness, training, access, equipment, and support to--

(A) schools, libraries, medical and healthcare providers, community colleges and other institutions of higher education, and other community support organizations and entities to facilitate greater use of broadband service by or through these organizations;

(B) organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by low-income, unemployed, aged, and otherwise vulnerable populations; and

(C) job-creating strategic facilities located within a State-designated economic zone, Economic Development District designated by the Department of Commerce, Renewal Community or Empowerment Zone designated by the Department of Housing and Urban Development, or Enterprise Community designated by the Department of Agriculture;

(4) improve access to, and use of, broadband service by public safety agencies; and

(5) stimulate the demand for broadband, economic growth, and job creation.

(c) The Assistant Secretary may consult a State, the District of Columbia, or territory or possession of the United States with respect to--

- (1) the identification of areas described in subsection (b)(1) or (2) located in that State; and
- (2) the allocation of grant funds within that State for projects in or affecting the State.

(d) The Assistant Secretary shall--

- (1) establish and implement the grant program as expeditiously as practicable;
- (2) ensure that all awards are made before the end of fiscal year 2010;
- (3) seek such assurances as may be necessary or appropriate from grantees under the program that they will substantially complete projects supported by the program in accordance with project timelines, not to exceed 2 years following an award; and
- (4) report on the status of the program to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, every 90 days.

(e) To be eligible for a grant under the program, an applicant shall--

- (1)(A) be a State or political subdivision thereof, the District of Columbia, a territory or possession of the United States, an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(b)) or native Hawaiian organization;
 - (B) a nonprofit--
 - (i) foundation,
 - (ii) corporation,
 - (iii) institution, or
 - (iv) association; or
 - (C) any other entity, including a broadband service or infrastructure provider, that the Assistant Secretary finds by rule to be in the public interest. In establishing such rule, the Assistant Secretary shall to the extent practicable promote the purposes of this section in a technologically neutral manner;
- (2) submit an application, at such time, in such form, and containing such information as the Assistant Secretary may require;
 - (3) provide a detailed explanation of how any amount received under the program will be used to carry out the purposes of this section in an efficient and expeditious manner, including a showing that the project would not have been implemented during the grant period without Federal grant assistance;
 - (4) demonstrate, to the satisfaction of the Assistant Secretary, that it is capable of carrying out the project or function to which the application relates in a competent manner in compliance with all applicable Federal, State, and local laws;
 - (5) demonstrate, to the satisfaction of the Assistant Secretary, that it will appropriate (if the applicant is a State or local government agency) or otherwise unconditionally obligate, from non-Federal sources, funds required to meet the requirements of subsection (f);
 - (6) disclose to the Assistant Secretary the source and amount of other Federal or State funding sources from which the applicant receives, or has applied for, funding for activities or projects to which the application relates; and
 - (7) provide such assurances and procedures as the Assistant Secretary may require to ensure that grant funds are used and accounted for in an appropriate manner.

(f) The Federal share of any project may not exceed 80 percent, except that the Assistant Secretary may increase the Federal share of a project above 80 percent if--

- (1) the applicant petitions the Assistant Secretary for a waiver; and
- (2) the Assistant Secretary determines that the petition demonstrates financial need.

(g) The Assistant Secretary may make competitive grants under the program to--

- (1) acquire equipment, instrumentation, networking capability, hardware and software, digital network technology, and infrastructure for broadband services;
- (2) construct and deploy broadband service related infrastructure;
- (3) ensure access to broadband service by community anchor institutions;
- (4) facilitate access to broadband service by low-income, unemployed, aged, and otherwise vulnerable populations in order to provide educational and employment opportunities to members of such populations;
- (5) construct and deploy broadband facilities that improve public safety broadband communications services; and
- (6) undertake such other projects and activities as the Assistant Secretary finds to be consistent with the purposes for which the program is established.

(h) The Assistant Secretary, in awarding grants under this section, shall, to the extent practical--

- (1) award not less than 1 grant in each State;
- (2) consider whether an application to deploy infrastructure in an area--
 - (A) will, if approved, increase the affordability of, and subscribership to, service to the greatest population of users in the area;
 - (B) will, if approved, provide the greatest broadband speed possible to the greatest population of users in the area;
 - (C) will, if approved, enhance service for health care delivery, education, or children to the greatest population of users in the area; and
 - (D) will, if approved, not result in unjust enrichment as a result of support for non-recurring costs through another Federal program for service in the area; and
- (3) consider whether the applicant is a socially and economically disadvantaged small business concern as defined under section 8(a) of the Small Business Act (15 U.S.C. 637).

(i) The Assistant Secretary--

- (1) shall require any entity receiving a grant pursuant to this section to report quarterly, in a format specified by the Assistant Secretary, on such entity's use of the assistance and progress fulfilling the objectives for which such funds were granted, and the Assistant Secretary shall make these reports available to the public;
- (2) may establish additional reporting and information requirements for any recipient of any assistance made available pursuant to this section;
- (3) shall establish appropriate mechanisms to ensure appropriate use and compliance with all terms of any use of funds made available pursuant to this section;
- (4) may, in addition to other authority under applicable law, deobligate awards to grantees that demonstrate an insufficient level of performance, or wasteful or fraudulent spending, as defined in advance by the Assistant Secretary, and award these funds competitively to new or existing applicants consistent with this section; and
- (5) shall create and maintain a fully searchable database, accessible on the Internet at no cost to the public, that contains at least a list of each entity that has applied for a grant under this section, a description of each application, the status

of each such application, the name of each entity receiving funds made available pursuant to this section, the purpose for which such entity is receiving such funds, each quarterly report submitted by the entity pursuant to this section, and such other information sufficient to allow the public to understand and monitor grants awarded under the program.

(j) Concurrent with the issuance of the Request for Proposal for grant applications pursuant to this section, the Assistant Secretary shall, in coordination with the Commission, publish the non-discrimination and network interconnection obligations that shall be contractual conditions of grants awarded under this section, including, at a minimum, adherence to the principles contained in the Commission's broadband policy statement (FCC 05-15, adopted August 5, 2005).

(k)(1) Not later than 1 year after the date of enactment of this section, the Commission shall 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 containing a national broadband plan.

(2) The national broadband plan required by this section shall seek to ensure that all people of the United States have access to broadband capability and shall establish benchmarks for meeting that goal. The plan shall also include--

(A) an analysis of the most effective and efficient mechanisms for ensuring broadband access by all people of the United States;

(B) a detailed strategy for achieving affordability of such service and maximum utilization of broadband infrastructure and service by the public;

(C) an evaluation of the status of deployment of broadband service, including progress of projects supported by the grants made pursuant to this section; and

(D) a plan for use of broadband infrastructure and services in advancing consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, worker training, private sector investment, entrepreneurial activity, job creation and economic growth, and other national purposes.

(3) In developing the plan, the Commission shall have access to data provided to other Government agencies under the Broadband Data Improvement Act (47 U.S.C. 1301 note).

(l) The Assistant Secretary shall develop and maintain a comprehensive nationwide inventory map of existing broadband service capability and availability in the United States that depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State. Not later than 2 years after the date of the enactment of this Act, the Assistant Secretary shall make the broadband inventory map developed and maintained pursuant to this section accessible by the public on a World Wide Web site of the National Telecommunications and Information Administration in a form that is interactive and searchable.

(m) The Assistant Secretary shall have the authority to prescribe such rules as are necessary to carry out the purposes of this section.