Advocates for Rural Broadband

Summary of Key Broadband Provisions in the Infrastructure Investment and Jobs Act

(Text Citations are based on copy of the bill found here: https://w-t-a.org/wp-content/uploads/2021/11/Final-Text-IIJA-11.6.21.pdf)

Division F – Broadband (pg. 754)

Broadband Equity, Access, and Deployment Program (pg. 2022)

Creates a $42.45 billion grant program at NTIA. NTIA will provide funding to states, who will then subgrant funding to entities to build networks, connect anchor institutions, conduct mapping, collect data, provide broadband equipment and reduced cost broadband to multi-family residential buildings, create broadband adoption programs, and more. NTIA shall establish and release a notice of the program within 180 days of passage.

Definitions
Unserved Location: lacking 25/3 Mbps broadband service
Unserved Project: 80% of the locations are unserved

Underserved Location: has broadband with speeds between 25/3 Mbps and 100/20 Mbps
Underserved Project: 80% of locations are unserved or underserved

Eligible Anchor Institution: one lacking Gigabit service

High-Cost Area: An unserved area where the cost of building broadband networks is higher than the average cost of other unserved areas due to topography, population density, poverty, and remoteness.

Priority Broadband Project: a project that can scale speeds over time to: 1) meet the evolving connectivity needs of households and businesses; and 2) support the deployment of 5G, successor wireless technologies, and other advanced services.

Distribution Formula:
- $100 million will be made available to each state/territory
- 10% of funding is reserved for high-cost areas and is distributed to states and territories in proportion to number of eligible locations in high-cost areas
- remaining funding will be distributed to states/territories based on number of unserved locations

Pgs. 759-766 describe the process by which a state/territory applies for funding from NTIA.

FCC Broadband Maps will be used to determine unserved/underserved status and funding shall not be dispersed to states prior to maps being released.

Broadband Network Deployment Details (pg. 768):
Priority of awards: 1) unserved, 2) underserved, 3) unserved anchor institutions

Priority Broadband Projects are given priority over other projects within the above three categories.

Projects are given priority within the above three categories based on service to high-poverty counties, speed of broadband service, expediency of completion of project, and a demonstrated commitment to federal and state employment law.

Obligations of Recipients of Funding (starting on pg. 771)
Subgrantees must provide broadband service:
- at a speed of at least 100/20 Mbps
- with latency that is sufficiently low to allow reasonably foreseeable, real-time, interactive applications
- with network outages that do not exceed, on average, 48 hours over any 365-day period
- to each customer served by the project that desires broadband service
- with one low-cost service option (defined by state, with approval from NTIA)
- within four years

Waivers to the buildout timeline may be given by the state/territory if a plan is in place to use the funds, or construction Is underway, or there are extenuating circumstances.

Underground fiber or conduit must have conduit access points at "regular and short" intervals.

Challenge Process (pg. 769)
States/territories must conduct a "transparent, evidence-based, and expeditious challenge process" during which interested entities can submit data to challenge a determination made by the state/territory that a particular area has been incorrectly classified. NTIA may amend the challenge process a state/territory puts into place and may alter the classification of a particular area.

Reporting (starting on pg. 773)
NTIA, states/territories, and recipients of funding have various reporting requirements.

Matching Requirement (pg. 770)
There is a 25% matching requirement except in High-Cost Areas. The matching requirement can be reduced or waived by NTIA for particular cases. The match cannot come from federal sources, except for funding from the FFCR Act, CARES Act, CAA, or ARP Act.

Receipt of other federal or state funding shall not impact the ability of a subgrantee to receive support from this program, but that other funding shall be used to supplement rather than supplant previous funding.

Rate regulation by NTIA is prohibited.

All entities (private companies, municipalities, cooperatives, not-for-profits, etc.) are eligible to receive funding from states/territories and none are given preference.

Tribal Connectivity (pg. 780)
Provides an additional $2 billion to the NTIA Tribal Broadband Connectivity Program (pg. 925), which was created by the Consolidated Appropriations Act (CAA). The IIJA extends this program beyond the

COVID emergency, allow recipients 18 months to commit funds rather than 180 days and 4 years to spend funds rather than 1 year, and allows unused funds to go to other entities rather than revert to the treasury.

Middle Mile (pg. 803)
Creates a $1 billion NTIA program to fund middle mile projects. Middle mile means "any broadband infrastructure that does not connect directly to an end-user location, including an anchor institution."

Priority will be given to applicants that satisfy two or more of the following conditions:
1) Adoption of fiscally sustainable middle mile strategies
2) Commitment to offering non-discriminatory interconnect to terrestrial and wireless last mile broadband providers and any other party making a bona fide request
3) Identification of specific terrestrial and wireless last mile broadband providers that have expressed written interest in interconnecting with middle mile infrastructure planned to be deployed by the eligible entity and demonstrated sustainable business plans or adequate funding sources with respect to the interconnect
4) Identification of supplemental investments or in-kind support (such as waived franchise or permitting fees) that will accelerate the completion of the planned project
5) Demonstration that the middle mile infrastructure will benefit national security interests of the U.S.

Recipients of funds must agree to prioritize: "connecting middle mile infrastructure to last mile networks that provide or plan to provide broadband service to households in unserved areas; connecting non-contiguous trust lands; or the offering of wholesale broadband service at reasonable rates on a carrier-neutral basis."

Projects must be completed within five years.

Federal share must not exceed 70% of project costs.

Recipients 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.

Broadband Affordability (pg. 810)
Renames the EBB Program the Affordability Connectivity Program and extends it beyond the COVID emergency. $14.2 billion is appropriated for this fund.

Allows ACP benefit to be applied to any service offering and prohibits credit checks in order to apply for benefit. Participating providers must run public relations campaign to raise awareness of ACP and the benefits of internet access.

The current $50 EBB subsidy is reduced to $30 (there is 60-day phase-in so that customers don't see an immediate reduction). The current $75 Tribal subsidy remains.

Report on USF (pg. 777)

Within 270 days, the FCC shall report to Congress "on the options of the FCC for improving its effectiveness in achieving the universal service goals for broadband in light of this Act and the amendments made by this Act, and other legislation that addresses those goals."

Division J – Appropriations

USDA Funding (pg. 922)
$1.926 billion for the ReConnect Program
  Amendments made to the current program:
- 50% of the locations to be funded by a project must be in an area without 25/3
- 10% of the funding shall be set aside for areas where 90% of the locations don't have 25/3
- To the extent possible, recipients must build out to 100/20 Mbps
- Funding can be used for pole attachment fees for rural electric polls
- Funds can be transferred from Broadband Loan and Grant Program to ReConnect if demand is there.

$74 million for Broadband Loan/Grant Program
$2 million for Distance Learning and Telemedicine Program