



Summary: Broadband Provisions in the American Recovery & Reinvestment Act (U.S. Senate and U.S. House of Representatives Economic Stimulus Proposals)

The Broadband Data Improvement Act (P.L. 110-385) was passed unanimously by the 110th Congress. The effort to secure funding for the State Broadband Data and Development Grant Program (created by the Broadband Data Improvement Act) in economic stimulus legislation has included direct advocacy, coalition building, and grassroots outreach to Congress from a broad coalition of interested parties.

The work of this coalition has resulted in resounding success – allocation in both the U.S. House of Representatives and U.S. Senate’s economic stimulus bills (both titled the American Recovery and Reinvestment Act) of \$350 million to the National Telecommunications and Information Administration (NTIA) to implement the Broadband Data Improvement act. H.R. 1, the American Recovery and Reinvestment Act’s provisions state specifically: “to establish the State Broadband Data and Development Grant Program . . . for the development and implementation of statewide initiatives to identify and track the availability and adoption of broadband services within each State, and to develop and maintain a nationwide broadband inventory map. . .”

The House report that accompanies the American Recovery & Reinvestment Act also cites Connected Nation’s study “The Economic Impact of Stimulating Broadband Nationally”, which projects an annual economic benefit of \$134 billion if broadband adoption in each state is raised by seven percentage points.

There have been questions raised in the telecommunications sector regarding the new authorization and mandate for NTIA to create a national broadband map in addition to aggregating the statewide broadband inventory maps that will result from the State Broadband Data and Development Grant Program. Also, the Department of Commerce still must begin and complete the regulatory process to implement relevant provisions of the Broadband Data Improvement Act.

Acknowledging that work remains before the stimulus bill is finalized, the commitment to public-private partnerships based on the Connected Nation model demonstrated at these first steps in the stimulus bill’s development is a very encouraging sign.

Broadband Infrastructure Grants

In addition to the \$350 million for public-private partnership driven broadband initiatives and broadband mapping activity, the House bill and Senate bills allocate significant amounts of funding for grants to fund investment in broadband infrastructure across the country.

The approach taken by the House of Representatives and Senate do differ however, in key areas. In addition to differing amounts, for example, the Senate's stimulus bill contains directives for other uses of funds that speak to other needs in federal broadband activity. In addition, the Senate's bill contains an expansion of business investment tax credits for qualified broadband expenditures designed to spur expanded high-speed Internet availability in rural, unserved and underserved areas.

Infrastructure Grant Programs Carry New Requirements and Regulation

Both versions of the American Recovery & Reinvestment Act makes clear that the primary focus of its broadband provisions, in addition to the already known economic benefits/job creation from expanded broadband access and adoption, is to identify unserved/underserved areas and close availability gaps. Another clear priority is rapid disbursement and use of the available funding, with a requirement in the House bill that applicant states identify within 75 days of enactment their unserved & underserved areas and priorities for purposes of the infrastructure grant funds, and the Senate bill stating the expectation that funds be disbursed quickly.

Additionally, funds used by the RUS and NTIA programs must adhere to "open-access" rules. Under the House's bill the FCC is required under the stimulus bill to define within 45 days of enactment the terms "unserved"; "underserved"; and "open-access".

Other Broadband Proposals and Reaction to the American Recovery & Reinvestment Act's Broadband Provisions

One omission in the House stimulus bill's approach to broadband investment was use of the federal tax code, and the lack of tax-related incentives in the House bill led to some voiced concern about the overall package's ability to rapidly stimulate broadband growth or jobs. While the Senate's bill did contain tax incentives, a counter-argument to tax incentives has been that tax-credits or similar incentives would not sufficiently ensure investment in unserved or underserved areas.

The open-access requirements (and lack of clarity in the requirements) in the bills also have inspired both "cheers" and "jeers" from analysts. Open-access requirements have been and remain a flash-point for debate in the telecom sector, and their inclusion in the coming stimulus bill brings with it long-existing arguments that could present obstacles to the intention to create immediate impact.

Conclusion: Hope for Consensus Abounds and Need for Action Remains

On January 28, 2009, the U.S. House of Representatives passed H.R. 1, with the Senate scheduled to take up its bill, S. 336 on Monday, February 2, 2009. Several steps in the legislative process remain and there are many opportunities for consensus to be reached. One thing is clear: the Obama administration and Congress both intend to use the federal stimulus bill to accelerate broadband across America.

Summary of Broadband Stimulus Components

Below is a side-by-side comparison of the broadband related provisions in the stimulus bills currently before the U.S. Senate and U.S. House of Representatives:

Program	House	Senate	Comments
Broadband NTIA – Broadband Grants	<p>\$2.83 billion</p> <ul style="list-style-type: none"> • \$456,250,000 for basic broadband grants in unserved areas – 5mbps down/1mbps up • \$1,368,750,000 for advanced broadband grants in underserved areas – 45mbps down/15mbps up • \$750 million for advanced wireless broadband grants in underserved areas – 3mbps down/1mbps up 	<p>\$8.19 billion</p> <ul style="list-style-type: none"> • 50% of funds must be spent on projects in rural areas. • Funds may be transferred to USDA RUS if Sec. Commerce determines necessary • Funds may be transferred to the FCC for purposes of devising a national broadband plan and other mandates in Sec. 201 of Senate Stimulus 	<ul style="list-style-type: none"> • Senate funds as part of overall \$9 million to NTIA Broadband Technology Opportunities Program (TOP) • House bill requires that 50% of funds be allocated by end of FY2009, and that each state intending to participate in the program shall submit a “Priorities Report” no later than 75 days after enactment indicating priority areas for each type of grant, with area not allowed to comprise more than 20% of state • House bill requires the FCC to define “unserved” and “underserved” within 45 days of enactment • Applicants to House bill must submit cost study by geographic area, engineering plans and build out schedule • House bill requires that NTIA target at least one grant per state, give weight to projects identified in state priority reports and also projects that enhance public safety/emergency response, or where providers have a 20% match • Senate bill “expects” that grants for deployment will target both wireline and wireless broadband projects in unserved and underserved areas • Senate bill “expects” that funds will be spent for projects that can commence quickly, and “expects” that funds be dispensed in a “timely fashion” and requires a 20% match • Eligible entities for all grants in Senate bill are state & local govts; non-profits, or public-private partnerships

Program	House	Senate	Comments
NTIA – State Broadband Data & Deployment Grant Program and/or national broadband inventory map	\$350 million	\$350 million	<ul style="list-style-type: none"> • House bill specifies that funds are to be used to implement the grant program created by Sec. 106 of P.L. 110-385 and to create and maintain a national broadband inventory map • Senate bill specifies that funds are to be used pursuant to P.L. 110-385 and to create a national broadband inventory map, and funds are routed through NTIA Broadband TOP grants. • Senate funds may be routed to FCC for development of national broadband policy
NTIA – Increasing Sustained Broadband Adoption	\$0	\$250 million	<ul style="list-style-type: none"> • As part of NTIA Broadband TOP grants
NTIA – Upgrade Technology at Public Computing Centers	\$0	\$200 million	<ul style="list-style-type: none"> • As part of NTIA Broadband TOP grants
Broadband Related Tax Provisions		Broadband investment tax credit tiers for expenditures between 12/31/08 – 1/1/11	<ul style="list-style-type: none"> • 10% tax credit for current generation broadband in rural and underserved areas (5mbps down/1mbps up wireline or 3 mbps down/768 kbps up wireless) • 20% tax credit for current generation broadband in unserved areas (5mbps down/1mbps up wireline or 3mbps down/768 kbps up wireless) • 20% tax credit for next-generation broadband in rural, underserved, and unserved areas (100mbps down/20mbps up) • Provides definitions for unserved areas, underserved areas, rural areas, and saturated markets

Program	House	Senate	Comments
USDA Rural Utilities Service Distance Learning, Telemedicine, and Broadband Grant Program	\$2. 83 billion	\$200 million - for distance learning and telemedicine projects	<ul style="list-style-type: none"> • House funds for grants, loans, or loan guarantees • House requires 50% of funds must be allocated by end of FY2009 • House funds for “open access” infrastructure in any area where at least 75% of the service area is in a rural area without sufficient access to high speed broadband service to facilitate rural economic development – as determined by the Secretary of Agriculture • House bill prevents double dipping in tandem with NTIA funds
Broadband Policy – Open Access	Funds must adhere to “open access” requirements as defined by the FCC 45 days after stimulus enactment	Gives NTIA authority to impose grant conditions regarding interconnection and nondiscrimination requirements that apply to facilities funded in part by the \$9 billion, regardless of who operates the facilities	
Total:	\$6 billion	\$9.2 billion	