

ALERT

Congress Provides Nearly \$7 Billion in New Broadband Funding in the Latest COVID-19 Stimulus Legislation

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The historic \$900 billion coronavirus (COVID-19) relief package deal that the President signed into law this past weekend – the second largest economic stimulus legislation ever produced by Congress – includes \$7 billion in new funding for broadband-related purposes. Most of these funds will go to new programs seeking to narrow the digital divide by targeting resources to traditionally underserved communities. Additionally, a separate \$1.4 trillion omnibus appropriations legislation to fund the government through Fiscal Year 2021, includes numerous telecom-related provisions. Altogether, the massive \$2.3 trillion coronavirus relief and government funding deal passed by Congress this week ensures a frantic start to 2021 for a new administration already eager to set a different course for the federal agencies and our nation. The Federal Communications Commission (FCC or Commission) and National Telecommunications Information Administration (NTIA), which are each tasked with implementing many of these initiatives, will be at the center of this activity to start the new year.

This alert highlights the key provisions contained in the \$7 billion broadband section of the COVID-19 relief package as passed by both the House and the Senate.

Section 901 – Amendments to the Secure and Trusted

Communications Network Reimbursement Program: The Secure and Trusted Communications Networks Act of 2019, which was signed into law in March of this year, requires certain telecommunications service providers to “rip and replace” equipment in their networks that poses “unacceptable risks” to U.S. national security. It established a

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reimbursement program authorizing the FCC to reimburse carriers for costs associated with replacing any equipment or services determined to be a national security threat, but did not actually appropriate the funds necessary to reimburse these impacted carriers. Section 901 now provides \$1.9 billion in rip and replace funding for carriers with up to 10 million subscribers, while creating a prioritization scheme by which carriers with 2 million or less subscribers are first in line to receive the reimbursements, followed by public or private non-commercial educational institutions providing their own facilities-based educational broadband service, followed by all other affected entities approved to receive the payments.

Section 902 – Connecting Minority Communities: This section provides \$285 million for a new Connecting Minority Communities Pilot Program, to be administered by the NTIA, to provide grants to an historically black college or university (HBCU), a Tribal College or University (TCU), a Minority-serving institution, or their respective consortiums for the purchase of broadband internet access service or any eligible equipment, or to hire and train information technology personnel. The eligible equipment includes any device capable of providing access to or connecting to broadband internet access service. Within six months, NTIA is directed to establish an Office of Minority Broadband Initiatives which must (1) collaborate with Federal agencies that carry out broadband internet access service support programs; (2) collaborate with state and local governments and HBCU, TCU, and minority-serving institutions to promote broadband access, adoption, digital literacy, and professional development; and (3) assume any functions carried out under the Minority Broadband Initiative of the NTIA. The NTIA is required to submit an annual report detailing the work of the new office in expanding access to broadband at HBCU, TCU, minority-serving institutions, and their surrounding communities and identifying barriers to providing access to broadband. When making grants under the Pilot Program, the NTIA is required to coordinate with other federal agencies to prevent multiple expenditures of federal funds for the same purpose.

Section 903 – FCC COVID-19 Telehealth Program: This section provides \$249.95 million in funds for the FCC's COVID-19 Telehealth Program. The Commission is required to issue a Public Notice within 10 days from the enactment of the bill to seek comments on the metrics the FCC must use to evaluate applications for funding and how the Commission should treat applications filed during the prior rounds for awards. The section also directs the FCC to ensure that no less than one applicant in each of the 50 states and the District of Columbia has received funding from the program since its inception. The FCC is required to allow prior applicants the opportunity to update or amend their applications, and the FCC must provide each applicant with information on the status of the application, a rationale for the final funding decision for the application, after making that decision, and, in the case of a denial, issue notice to the applicant of the intent to deny, provide the applicant a 10-day window to submit any supplementary information that the applicant determines relevant, and consider any such supplementary information in making any final decision with respect to the application.

Section 904 – Benefit for Broadband Service During Emergency Period Relating To COVID-19: This section creates a new \$3.2 billion Emergency Broadband Benefit Program for the unemployed or qualifying low-income households. Details about the program can be found [here](#).

Section 905 – Grants for Broadband Connectivity: This section creates a \$1 billion Tribal Broadband Connectivity Grants Program to expand access to and adoption of broadband service on Tribal land or remote learning, telework, or telehealth resources during the COVID-19 pandemic. The grants are to be used for broadband infrastructure deployment, affordable broadband programs, distance learning, telehealth, digital inclusion efforts, and broadband adoption activities. Funds are to be expended within a year except for construction of broadband infrastructure under certain circumstances. For new construction of broadband infrastructure, an eligible entity is required to prioritize projects that deploy broadband to unserved households.

This section also creates a separate Broadband Infrastructure Deployment Grant to be administered by the NTIA for grants to public-private partnerships for the deployment of fixed broadband service that provides 25/3 Mbps broadband service and latency sufficient to support real-time, interactive applications in an eligible service area. An eligible service area means a census block in which broadband is not available at one or more households or businesses in the census block, as determined by the maps created by the Broadband Deployment Accuracy and Technological Availability (DATA) Act. The FCC is required annually to provide to NTIA any data collected by the Broadband DATA Act. In awarding grants under this subsection, the NTIA is directed to prioritize applications in the following order: (1) projects designed to provide broadband service to the greatest number of households in an eligible service area; (2) projects designed to provide broadband service in an eligible service area that is rural; (3) projects that are the most cost-effective, prioritizing such projects in areas that are the most rural; and (4) projects that provide a minimum of 100/20 Mbps broadband service. Grant funds are to be expended within one year, except that the NTIA may extend the period for infrastructure projects if certain conditions are met. The NTIA is prohibited from requiring a provider of broadband service that is part of a covered private-public partnership to be designated as an eligible telecommunications carrier (ETC) as a condition of receiving a grant under this program. The NTIA must issue a notice inviting eligible entities and covered partnerships to submit applications for grants between 30 to 60 days after the date of enactment of the bill. Grant funds may not be used to purchase or support any communications equipment or service that may pose a national security threat, as defined by the Secure and Trusted Communications Networks Act of 2019.

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