



Infrastructure Investment and Jobs Act Broadband Provisions

Updated November 15, 2021

On November 15, President Biden signed the bipartisan [Infrastructure Investment and Jobs Act](#) (IIJA) into law, the nation's largest public works investment in a generation. The historic \$1.2 trillion package includes \$550 billion in new spending on the nation's transportation systems, energy infrastructure, and broadband.

Of particular interest for SAHF and its members is the \$65 billion for broadband deployment, affordability, and adoption programs. These provisions would provide SAHF members and the affordable housing industry with significant resources to bridge the digital divide in communities across the country. Below are the broadband provisions most relevant for affordable housing providers:

Broadband Benefit: \$14.2 billion

Extends and amends the [Emergency Broadband Benefit Program](#) (established under the *Consolidated Appropriations Act of 2021* which allocated \$3.2 billion to provide eligible low-income households with a monthly discount of up to \$50 on their internet service) with \$14.2 billion in additional funding which places the program on longer-term footing.

- Changes the program name to the “Affordable Connectivity Program” (ACP)
- Households can apply their benefit to any plan of the participating internet service provider (ISP)
- The ACP benefit is reduced to a \$30/month discount from \$50/month discount
- Households currently receiving EBB will transition to the new program on December 31, 2021
- Eligibility is increased from 135% of the federal poverty line (FPL) under EBB to 200% FPL
- Maintains automatic eligibility for participation in federal assistance programs under EBB (Lifeline, Medicaid, SNAP, SSI, Veteran's Benefit, Public Housing, free and reduced school lunch), and adds participation in the nutrition program for Women, Infants and Children (WIC)
- Directs FCC to issue rules to protect consumers enrolled in the ACP by forbidding ISPs from inappropriate upselling or down selling by a participating provider, engaging in requirements to opt-in to long-term contracts as a condition to receive service; or restricting the ability of a consumer to switch internet service offerings.

SAHF advocated Congress to expand automatic eligibility to residents of federally assisted multifamily housing properties, however given the rushed nature of negotiations in the Senate and the House not opening the bill for amendments, this was not included. SAHF will continue to work with its members, FCC, HUD, and affordable housing partners to lower barriers for participation among eligible residents.

The transition period from EBB to ACP will begin on December 31, 2021, and EBB participants will continue to receive \$50/month for 60 days before the benefit is reduced to \$30/month. Given the program changes, the FCC is expected to issue initial rulemaking before the end of the year with more detailed guidance.

Broadband Infrastructure Grants for States, DC, Puerto Rico & Territories: \$42.5 billion

Establishes the “Broadband Equity, Access, and Deployment Program.” This is a new grant program the National Telecommunications and Information Administration (NTIA) will manage. The deployment funds will be issued as block grants to states with rules defined by the NTIA.

- \$100M to each state and \$100M divided among US territories



- Unserved/Underserved service infrastructure projects¹
- 10% of funds reserved for projects in high-cost areas²
- Deployment grant recipients (ISPs) must provide network speeds of at least 100/20 mbps and offer a ‘low-cost’ or affordable plan for consumers
- States can use funds from these grants to competitively award subgrants for the following uses, prioritizing subgrants for projects in high-poverty areas and considering the speeds of service:
 - Programs to provide affordable internet-capable devices
 - ***Installing internet and Wi-Fi infrastructure or providing reduced-cost broadband within multi-family buildings***, with priority given to those with a substantial share of unserved households or in a geographic area where the percentage of individuals with a household income at or below 150% FPL is higher than the national percentage of such individuals.

SAHF is encouraged that installation of broadband infrastructure in multifamily buildings is an eligible use of funds. SAHF will provide further comment during rulemaking to ensure members are able to utilize these funds effectively.

Digital Equity Act Provisions

Establishes “State Digital Equity Capacity Grant Program” and authorizes \$1.44 billion over five years to promote digital equity, digital inclusion activities, and build state capacity for adoption efforts. The legislation specifically says that in establishing the program, Commerce should consult with HUD. Also establishes “Digital Equity Competitive Grant Program” and authorizes \$1.25 billion over 5 years to achieve same goals as state program.

- ***Eligible entities for both programs include nonprofits (potential subgrantees under State program)***, including partnerships with foundations, local educational agency, community anchor institution, or entities determined to be in the public interest can use funds for at least one of the following activities:
 - To develop and implement digital inclusion activities that benefit covered populations³ (at or below 150% FPL).
 - To facilitate the adoption of broadband by covered populations to provide educational and employment opportunities to those populations.
 - To implement training programs for covered populations that cover basic, advanced, and applied skills, or other workforce development programs.
 - To make available equipment, instrumentation, networking capability, hardware and software, or digital network technology for broadband services to covered populations at low or no cost.
 - To construct, upgrade, expend, or operate new or existing public access computing centers for covered populations through community anchor institutions.
 - Entity has 4 years to expend grant amount

¹ Defined in bill as projects in which not less than 80% of locations are unserved areas (with no access to broadband service or lacks access to reliable broadband service with speeds of 25/3 mbps or greater) or underserved locations (areas that lack access to broadband service with speeds less than 100/20 mbps).

² Defined in bill as unserved area where cost of building out broadband service is higher based on i) remote location, ii) lack of population density, iii) unique topography, iv) high rate of poverty, v) other factors as determined by FCC.

³ Defined in bill as individuals in covered households (at or below 150% FML), aging individuals, veterans, individuals with disabilities, individuals with a language barrier, individuals who are members of a racial or ethnic minority group, individuals living in rural areas.



The Digital Equity Act portion of IIJA offers housing providers with the unique opportunity to use funds as they see fit to address affordability and adoption barriers to connectivity at their properties. As nonprofits, SAHF members will have the opportunity to directly apply for funding to support digital inclusion activities at their properties and collaborate with their state broadband office or relevant state agency as states develop digital equity plans.

Private Activity Bonds (\$600 million):

Based off the [Rural Broadband Financing Flexibility Act](#), sponsored by Senators Hassan (D-NH) and Capito (R-WV), this provision allows states to issue PABs, specifically for projects in rural areas where a majority of households do not have access to broadband. By adding broadband projects as a qualified use for PABs, Congress hopes to attract capital and businesses in areas that otherwise may not be attractive to investment. IIJA would also exempt 75 percent of PABs issued for non-government-owned qualified broadband projects and 100 percent of PABs issued for government-owned qualified broadband projects from each state’s private activity bond volume cap.

Given the use of PABs for affordable housing, there may be concern from the industry that adding broadband as a new qualified use could create more competition under a state’s annual PAB cap. It’s important to note that that this provision is for \$600 million in national bond authority over 8 years, and that 75-100% of the projects would be exempt from the cap (meaning that no more than \$150 million over 8 years would be potentially under the PAB cap). For context, each year, each state receives \$110 multiplied by the state population or a small state minimum of approximately [\\$325 million](#) in bond cap authority. SAHF will monitor this provision but is pleased to see the Housing Credit’s bond test lower from 50% to 25% included in the current version of the Build Back Better bill, as this is an extremely meaningful way to produce more housing with PABs.

“Qualified Broadband Projects” under this subsection are more restrictive than in the broadband grants section and are defined as being in one or more “unserved” census block groups *and* resulting in internet access to residential locations, commercial locations, or a combination of those at speeds no less than 100/20, (as long as before the project, 90% of the location was not served by the ISP or the ISP didn’t provide the minimum standard).

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