

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO THE COMMITTEE PRINT DATED JANUARY
19, 2009
OFFERED BY MR. WAXMAN OF CALIFORNIA**

Strike the text of the Committee Print dated January 19, 2009, and insert the following:

1 GENERAL PROVISIONS, THIS SUBTITLE
2 **SEC. 3101. INVENTORY OF BROADBAND SERVICE CAPA-**
3 **BILITY AND AVAILABILITY.**

4 (a) ESTABLISHMENT.—To provide a comprehensive
5 nationwide inventory of existing broadband service capa-
6 bility and availability, the National Telecommunications
7 and Information Administration (“NTIA”) shall develop
8 and maintain a broadband inventory map of the United
9 States that identifies and depicts the geographic extent
10 to which broadband service capability is deployed and
11 available from a commercial provider or public provider
12 throughout each State.

13 (b) PUBLIC AVAILABILITY AND INTERACTIVITY.—
14 Not later than 2 years after the date of enactment of this
15 Act, the NTIA shall make the broadband inventory map
16 developed and maintained pursuant to this section acces-

1 sible by the public on a World Wide Web site of the NTIA
2 in a form that is interactive and searchable.

3 **SEC. 3102. WIRELESS AND BROADBAND DEPLOYMENT**
4 **GRANT PROGRAMS.**

5 (a) GRANTS AUTHORIZED.—

6 (1) IN GENERAL.—The National Telecommuni-
7 cations and Information Administration (“NTIA”)
8 is authorized to carry out a program to award
9 grants to eligible entities for the non-recurring costs
10 associated with the deployment of broadband infra-
11 structure in rural, suburban, and urban areas, in ac-
12 cordance with the requirements of this section.

13 (2) PROGRAM WEBSITE.—The NTIA shall de-
14 velop and maintain a website to make publicly avail-
15 able information about the program described in
16 paragraph (1), including—

17 (A) each prioritization report submitted by
18 a State under subsection (b);

19 (B) a list of eligible entities that have ap-
20 plied for a grant under this section, and the
21 area or areas the entity proposes to serve; and

22 (C) the status of each such application,
23 whether approved, denied, or pending.

24 (b) STATE PRIORITIES.—

1 (1) PRIORITIES REPORT SUBMISSION.—Not
2 later than 75 days after the date of enactment of
3 this section, each State intending to participate in
4 the program under this section shall submit to the
5 NTIA a report indicating the geographic areas of
6 the State which—

7 (A) for the purposes of determining the
8 need for Wireless Deployment Grants under
9 subsection (c), the State considers to have the
10 greatest priority for—

11 (i) wireless voice service in unserved
12 areas; and

13 (ii) advanced wireless broadband serv-
14 ice in underserved areas; and

15 (B) for the purposes of determining the
16 need for Broadband Deployment Grants under
17 subsection (d), the State considers to have the
18 greatest priority for—

19 (i) basic broadband service in
20 unserved areas; and

21 (ii) advanced broadband service in un-
22 derserved areas.

23 (2) LIMITATION.—The unserved and under-
24 served areas identified by a State in the report re-
25 quired by this subsection shall not represent, in the

1 aggregate, more than 20 percent of the population
2 or of the geographic area of such State.

3 (c) WIRELESS DEPLOYMENT GRANTS.—

4 (1) AUTHORIZED ACTIVITY.—The NTIA shall
5 award Wireless Deployment Grants in accordance
6 with this subsection from amounts authorized for
7 Wireless Deployment Grants by this subtitle to eligi-
8 ble entities to deploy necessary infrastructure for the
9 provision of wireless voice service or advanced wire-
10 less broadband service to end users in designated
11 areas.

12 (2) GRANT DISTRIBUTION.—The NTIA shall
13 seek to distribute grants, to the extent possible, so
14 that 25 percent of the grants awarded under this
15 subsection shall be awarded to eligible entities for
16 providing wireless voice service to unserved areas
17 and 75 percent of grants awarded under this sub-
18 section shall be awarded to eligible entities for pro-
19 viding advanced wireless broadband service to under-
20 served areas.

21 (d) BROADBAND DEPLOYMENT GRANTS.—

22 (1) AUTHORIZED ACTIVITY.—The NTIA shall
23 award Broadband Deployment Grants in accordance
24 with this subsection from amounts authorized for
25 Broadband Deployment Grants by this subtitle to el-

1 eligible entities to deploy necessary infrastructure for
2 the provision of basic broadband service or advanced
3 broadband service to end users in designated areas.

4 (2) GRANT DISTRIBUTION.—The NTIA shall
5 seek to distribute grants, to the extent possible, so
6 that 25 percent of the grants awarded under this
7 subsection shall be awarded to eligible entities for
8 providing basic broadband service to unserved areas
9 and 75 percent of grants awarded under this sub-
10 section shall be awarded to eligible entities for pro-
11 viding advanced broadband service to underserved
12 areas.

13 (e) GRANT REQUIREMENTS.—The NTIA shall—

14 (1) adopt rules to protect against unjust enrich-
15 ment; and

16 (2) ensure that grant recipients—

17 (A) meet buildout requirements;

18 (B) maximize use of the supported infra-
19 structure by the public;

20 (C) operate basic and advanced broadband
21 service networks on an open access basis;

22 (D) operate advanced wireless broadband
23 service on a wireless open access basis; and

24 (E) adhere to the principles contained in
25 the Federal Communications Commission's

1 broadband policy statement (FCC 05-151,
2 adopted August 5, 2005).

3 (f) APPLICATIONS.—

4 (1) SUBMISSION.—To be considered for a grant
5 awarded under subsection (e) or (d), an eligible enti-
6 ty shall submit to the NTIA an application at such
7 time, in such manner, and containing such informa-
8 tion and assurances as the NTIA may require. Such
9 an application shall include—

10 (A) a cost-study estimate for serving the
11 particular geographic area to be served by the
12 entity;

13 (B) a proposed build-out schedule to resi-
14 dential households and small businesses in the
15 area;

16 (C) for applicants for Wireless Deployment
17 Grants under subsection (e), a build-out sched-
18 ule for geographic coverage of such areas; and

19 (D) any other requirements the NTIA
20 deems necessary.

21 (2) SELECTION.—

22 (A) NOTIFICATION.—The NTIA shall no-
23 tify each eligible entity that has submitted a
24 complete application whether the entity has

1 been approved or denied for a grant under this
2 section in a timely fashion.

3 (B) GRANT DISTRIBUTION CONSIDER-
4 ATIONS.—In awarding grants under this sec-
5 tion, the NTIA shall, to the extent practical—

6 (i) award not less than one grant in
7 each State;

8 (ii) give substantial weight to whether
9 an application is from an eligible entity to
10 deploy infrastructure in an area that is an
11 area—

12 (I) identified by a State in a re-
13 port submitted under subsection (b);
14 or

15 (II) in which the NTIA deter-
16 mines there will be a significant
17 amount of public safety or emergency
18 response use of the infrastructure;
19 and

20 (iii) consider whether an application
21 from an eligible entity to deploy infrastruc-
22 ture in an area—

23 (I) will, if approved, increase the
24 affordability of, or subscribership to,

1 service to the greatest population of
2 underserved users in the area;

3 (II) will, if approved, enhance
4 service for health care delivery, edu-
5 cation, or children to the greatest pop-
6 ulation of underserved users in the
7 area;

8 (III) contains concrete plans for
9 enhancing computer ownership or
10 computer literacy in the area;

11 (IV) is from a recipient of more
12 than 20 percent matching grants from
13 State, local, or private entities for
14 service in the area and the extent of
15 such commitment; and

16 (V) will, if approved, result in
17 unjust enrichment because the eligible
18 entity has applied for, or intends to
19 apply for, support for the non-recur-
20 ring costs through another Federal
21 program for service in the area.

22 (g) COORDINATION AND CONSULTATION.—The
23 NTIA shall coordinate with the Federal Communications
24 Commission and shall consult with other appropriate Fed-
25 eral agencies in implementing this section.

1 (h) REPORT REQUIRED.—The NTIA shall submit an
2 annual report to the Committee on Energy and Commerce
3 of the House of Representatives and the Committee on
4 Commerce, Science, and Transportation of the Senate for
5 5 years assessing the impact of the grants funded under
6 this section on the basis of the objectives and criteria de-
7 scribed in subsection (f)(2)(B)(iii).

8 (i) RULEMAKING AUTHORITY.—The NTIA shall have
9 the authority to prescribe such rules as necessary to carry
10 out the purposes of this section.

11 (j) DEFINITIONS.—For the purpose of this section—

12 (1) the term “advanced broadband service”
13 means a service delivering data to the end user
14 transmitted at a speed of at least 45 megabits per
15 second downstream and at least 15 megabits per
16 second upstream;

17 (2) the term “advanced wireless broadband
18 service” means a wireless service delivering to the
19 end user data transmitted at a speed of at least 3
20 megabits per second downstream and at least 1
21 megabit per second upstream over an end-to-end
22 internet protocol wireless network;

23 (3) the term “basic broadband service” means
24 a service delivering data to the end user transmitted

1 at a speed of at least 5 megabits per second down-
2 stream and at least 1 megabit per second upstream;

3 (4) the term “eligible entity” means—

4 (A) a provider of wireless voice service, ad-
5 vanced wireless broadband service, basic
6 broadband service, or advanced broadband serv-
7 ice, including a satellite carrier that provides
8 any such service;

9 (B) a State or unit of local government, or
10 agency or instrumentality thereof, that is or in-
11 tends to be a provider of any such service; and

12 (C) any other entity, including construc-
13 tion companies, tower companies, backhaul
14 companies, or other service providers, that the
15 NTIA authorizes by rule to participate in the
16 programs under this section, if such other enti-
17 ty is required to provide access to the supported
18 infrastructure on a neutral, reasonable basis to
19 maximize use;

20 (5) the term “State” includes the District of
21 Columbia and the territories and possessions;

22 (6) the term “underserved area” shall be de-
23 fined by the Federal Communications Commission
24 not later than 45 days after the date of enactment
25 of this section;

1 (7) the term “unserved area” shall be defined
2 by the Federal Communications Commission not
3 later than 45 days after the date of enactment of
4 this section;

5 (8) the term “wireless voice service” means the
6 provision of two-way, real-time, voice communica-
7 tions using a mobile service;

8 (9) the term “open access” shall be defined by
9 the Federal Communications Commission not later
10 than 45 days after the date of enactment of this sec-
11 tion; and

12 (10) the term “wireless open access” shall be
13 defined by the Federal Communications Commission
14 not later than 45 days after the date of enactment
15 of this section.

