



Insight

Ensuring Broadband Deployment Subsidies Solve the Access Gap

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Executive Summary

- Congress created the \$42.5 billion Broadband Equity, Access, and Deployment (BEAD) program to connect Americans who still lack access to high-speed, broadband internet access service, and both federal and state regulators are currently developing and implementing plans to distribute these funds.
- Despite the significant investment, the BEAD program alone does not provide enough funding to achieve universal access to broadband services; a roughly equivalent amount of private capital must be invested to fully connect all Americans.
- To encourage private investment in the BEAD program, Congress and the Biden Administration should narrowly focus the BEAD program on the goal of universal access to broadband and implement a broader regulatory regime that incentivizes private investment in broadband networks.

Introduction

Congress created the [Broadband, Equity, Access, and Deployment \(BEAD\) program](#) in the Infrastructure Investment and Jobs Act to provide high-speed broadband access to all unserved Americans. The program is designed for states to develop their own plans to subsidize the deployment of broadband to their unserved communities, and states are currently undergoing the process of developing and implementing plans to distribute these funds. While Congress designed the program specifically to bridge the access gap, the National Telecommunications and Information Administration (NTIA), in implementing the program, has expanded its focus to other policy goals unrelated to expanding access to the unserved, including middle-class affordability and the preference for union labor and municipally run broadband providers.

NTIA's focus on these wider policy goals will add unnecessary risk and costs to broadband deployment, thus disincentivizing broadband providers from participating in the program and investing the necessary private capital to achieve the program's actual goal of universal access. While BEAD provides \$42.5 billion to subsidize the deployment of broadband to unserved areas, the [estimated cost](#) for deploying fiber to connect all unserved Americans is approximately \$85 billion, or about \$6,000 per home, according to Jonathan Chaplin of New Street Research. With an average BEAD subsidy of only about \$3,000 per home, the private sector would have to provide an additional investment of more than \$40 billion to achieve the program's goal. Federal and state policies on BEAD and broadband deployment more broadly should be tailored so as not to discourage private investment.

To ensure the program succeeds in connecting unserved Americans to high-speed broadband, Congress should carefully oversee how states and the NTIA implement the program and more broadly embrace a regulatory regime that incentivizes investment in broadband networks as these policies affect whether providers will put forward capital for deployment. First, the NTIA should narrowly focus on the BEAD program's goal of providing broadband access to all unserved Americans. Second, the Biden Administration should refrain from

imposing Title II, utility-style regulation of the industry – a policy the [Federal Communications Commission \(FCC\)](#) recently proposed – which would decrease broadband investment generally. Finally, regulators can take proactive steps to lower costs and otherwise make private investment more appealing, such as limiting pole attachment fees and refunding the Affordable Connectivity Program (ACP) to support Americans who cannot afford broadband access.

Implementation of BEAD

Congress designed the BEAD program to incentivize providers to build out infrastructure to areas, such as rural communities with few homes, that would not be economically attractive for private broadband investment without attendant federal investment. The Biden Administration, tasked with implementation of the program, has gone beyond the direction of Congress to consider unrelated policy goals that will inherently add costs and risks to private investment, potentially limiting the success of the program.

For example, the NTIA, [requires states to craft](#) “a middle-class affordability plan to ensure that all consumers have access to affordable high-speed internet,” an affordability/adoption objective. Such an objective would likely hamper the goals of increasing access as it would use the limited BEAD funds for purposes other than connecting unserved households.

Similarly, the NTIA made clear a [strong preference for municipally run broadband providers](#) rather than relying on providers with the experience and infrastructure to deploy and operate a broadband network profitably. Instead, the NTIA and state governments should ensure BEAD funds prioritize the larger providers with the resources and experience to provide coverage rather than [unproven projects and businesses](#) that may fail to build out fully to unserved Americans and increase the costs of deployment.

Finally, the NTIA’s Notice of Funding opportunity [requires states](#) to coordinate with unions and pressures states into developing plans that prioritize the use of union labor. The resultant higher labor costs will inevitably increase the total cost of deployment. For areas that truly lack service to broadband, higher labor costs can prevent a firm from making the necessary investment to connect consumers.

Title II Classification

The NTIA’s implementation of BEAD will have a significant effect on broadband access in the United States, but other policies could harm efforts to bring universal broadband coverage to Americans. Most concerning among these is the Biden Administration’s proposal to regulate broadband as a utility, adding significant risk to any new deployment and limiting the potential private-sector investment needed for universal coverage.

The FCC announced in September a [Notice of Proposed Rulemaking](#) that would reclassify broadband as a Title II telecommunications service, a regulatory designation for utility voice telephony. [Title II of the Communications Act](#) grants the FCC broad authority to regulate different aspects of a telecommunications service, such as setting rates, limiting the collection and use of consumer data, and requiring providers to allow rivals to access infrastructure.

Utility regulation of broadband would negatively impact the private-sector investment needed to connect the remaining unserved areas in the country. [Previous American Action Forum research](#) found that in the United States, utility-style regulation of telecommunications companies resulted in an investment loss of \$7.1 billion from 1996–2005. When the FCC reclassified broadband as a Title II telecommunications service in 2015, the

policy, and threat of regulation leading up to it, resulted in an [investment loss of \\$150–200 billion](#). With the FCC potentially returning to a Title II regime, broadband investment will once again diminish.

For areas that lack a business case for deployment, the added risk and uncertainty stemming from utility regulation will limit potential returns on investment, thus reducing the incentives for business to invest. As a result, only those areas with a stronger business case for investment will get connected, leaving millions of Americans still without access to high-speed broadband.

Access to Infrastructure

While poorly designed regulatory policy can limit investment and providers participating in BEAD, there are steps Congress, the Biden Administration, and state legislators can take to make the investment more appealing to providers. For example, when [broadband providers deploy infrastructure](#), they must acquire access to the public rights-of-way and go through permitting and zoning reviews and myriad other local processes before they can dig trenches or string wire. The FCC has [taken steps in recent years to streamline the review processes](#), especially for wireless facilities, but more could be done to limit the costs of deployment.

Primarily, broadband providers need [to attach their equipment to utility poles](#), normally owned by the local phone company or electric utility. Due to limitations placed by local regulators, these poles may be the only option for new entrants, and thus federal law [governs the rates that investor-owned utilities](#) can charge for attachments. Many states reverse-preempt the FCC, however, meaning states regulate pole attachments rather than the FCC, and the law only applies to investor-owned utilities rather than municipally owned utilities or electric cooperatives.

For example, [co-op owned poles attachments rates are 125 percent higher](#) than those regulated by the FCC. In real numbers, that is a cost of \$144.36 per mile, a large portion of which is an annual, recurring fee. If a provider needs to invest an average of \$3,000 per home, the additional costs charged by an electric co-op for allowing a broadband provider to attach to wires to the co-op's poles could significantly delay a return on investment for the most rural areas, sometimes by years, depending on how many miles the wiring must go to reach a community or individual property. If, for example, a provider charges a consumer \$30 per month for a low-income plan and a rural property needs three miles of wiring to connect, the consumer would need to subscribe for 15 months before the additional costs for the single year would be recouped by the provider. As the margins are already small, these types of costs can result in some communities failing to get coverage, even with BEAD support.

These costs are compounded when a pole must be replaced. Under current law, when a pole must be replaced to accommodate an attachment from a broadband provider, the [broadband provider in many situations must pay the entire cost of the replacement](#). This is the case even if the pole would need to be replaced soon regardless of the new attachment. Further, the pole owner retains the entire benefit of the replacement. These costs can be prohibitive for new builds, especially for the most rural areas BEAD is targeting.

To incentivize investment, Congress should consider legislation that limits fees for pole attachments and access to rights-of-way, as well as streamlines the review process. States should also limit or waive these fees for projects receiving BEAD funding when feasible.

Affordable Connectivity Program

Finally, Congress can help ensure BEAD's success by providing low-income consumers assistance in paying for broadband, thereby incentivizing deployment as a larger penetration rate results in a larger return on investment.

ACP, created during the pandemic, provides a \$30 broadband subsidy. Unlike [previous attempts to subsidize the cost of broadband](#), ACP takes a market-based approach, giving consumers a voucher-like benefit to spend on the plan of their choice. Further, ACP lacks many of the onerous requirements on providers that other programs, such as [Lifeline](#) (a low-income support mechanism through the FCC's Universal Service Fund), which helps to increase provider participation and competition.

Unless Congress reauthorizes funding for ACP, the program will expire next year. Congress can improve the outlook of the BEAD program by extending ACP funding, though to pass through Congress it will likely need [reforms designed to ensure the benefit is going to those that truly need the support](#) and otherwise reduce potential [enrollment fraud](#). These reforms could include reductions to eligibility, decreasing the size of the benefit, and imposing stricter oversight and reporting requirements to ensure the funds go to appropriate recipients.

Conclusion

Congress designed the BEAD program as a solution to the access gap in the United States. To achieve that goal, however, private investment must match the \$42.5 billion provided by Congress. Without policies in place that promote investment and limit risk, the BEAD program will fail to achieve the goal of universal access to high-speed broadband.