

Technology Provisions Related to Aging Services Providers in the American Recovery and Reinvestment Act (ARRA) of 2009

1. Goals:

Ultimately the goal is for each individual to have an electronic health record by 2014. The purpose of the health technology provisions (known as the HITECH Act) in ARRA is to put in place the governmental and private structure needed to achieve that goal. This is important for our members because long-term care providers and our residents/clients are included in this goal.

2. “Health care provider” definition

The definition of “health care provider” is broad enough to include most AAHSA members who provide some form of health care, and “includes a hospital, skilled nursing facility, nursing facility, home health entity or other long term care facility, ...a pharmacist, a pharmacy ... and any other category of health care facility, entity, practitioner or clinician determined appropriate by the Secretary [of HHS]”.

3. “Health Information Technology” definition

The definition of “Health Information Technology” is broad and includes “hardware, software, integrated technologies and related license, intellectual property, upgrades, and packaged solutions sold and services that are specifically designed for use by health care entities for the electronic *creation*, maintenance, or exchange of health information.” In addition to EHRs this definition could encompass interoperable telehealth and biometric telemonitoring technologies that create interoperable health information.

4. Study on Aging Services Technology

Summary: The final bill contains the study on aging services technology proposed by CAST and included in one of the two House IT bills introduced last Congress. This study by HHS will examine “matters relating to the potential use of new aging services technology to assist seniors, individuals with disabilities, and their caregivers throughout the aging process”.

Details: “(c) AGING SERVICES TECHNOLOGY STUDY AND REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study of matters relating to the potential use of new aging services technology to assist seniors, individuals with disabilities, and their caregivers throughout the aging process.

(2) MATTERS TO BE STUDIED.—The study under paragraph (1) shall include—

A) an evaluation of—

(i) methods for identifying current, emerging, and future health technology that can be used to meet the needs of seniors and individuals with disabilities and their caregivers across all aging services settings, as specified by the Secretary;

- (ii) methods for fostering scientific innovation with respect to aging services technology within the business and academic communities; and
 - (iii) developments in aging services technology in other countries that may be applied in the United States; and
- (B) identification of—
 - (i) barriers to innovation in aging services technology and devising strategies for removing such barriers; and
 - (ii) barriers to the adoption of aging services technology by health care providers and consumers and devising strategies to removing such barriers.
- (3) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of jurisdiction of the House of Representatives and of the Senate a report on the study carried out under paragraph (1).
- (4) DEFINITIONS.—For purposes of this subsection:
 - (A) AGING SERVICES TECHNOLOGY.—The term “aging services technology” means health technology that meets the health care needs of seniors, individuals with disabilities, and the caregivers of such seniors and individuals.
 - (B) SENIOR.—The term “senior” has such meaning as specified by the Secretary.”

5. Study on need by health care providers for incentive payments

Summary: Acute care hospitals and physicians receive incentive payments to invest in electronic health record technology (hardware and software). The final bill includes a study, to be concluded by June 2010, to determine if other providers -- including LTC providers, long-term care hospitals, and rehabilitation hospitals -- also need incentives to encourage them to implement EHR technology prior to 2014.

Details: “SEC. 4314. STUDY ON APPLICATION OF EHR PAYMENT INCENTIVES FOR PROVIDERS NOT RECEIVING OTHER INCENTIVE PAYMENTS.

- (a) STUDY.—
 - (1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine the extent to which and manner in which payment incentives (such as under title XVIII or XIX of the Social Security Act) and other funding for purposes of implementing and using certified EHR technology (as defined in section 3000 of the Public Health Service Act) should be made available to health care providers who are receiving minimal or no payment incentives or other funding under this Act, under title XVIII or XIX of the Social Security Act, or otherwise, for such purposes.
 - (2) DETAILS OF STUDY.—Such study shall include an examination of—
 - (A) the adoption rates of certified EHR technology by such health care providers;
 - (B) the clinical utility of such technology by such health care providers;
 - (C) whether the services furnished by such health care providers are appropriate for or would benefit from the use of such technology;
 - (D) the extent to which such health care providers work in settings that might otherwise receive an incentive payment or other funding under this Act, title XVIII or XIX of the Social Security Act, or otherwise;
 - (E) the potential costs and the potential benefits of making payment incentives and other funding available to such health care providers; and
 - (F) any other issues the Secretary deems to be appropriate.

(b) REPORT.—Not later than June 30, 2010, the Secretary shall submit to Congress a report on the findings and conclusions of the study conducted under subsection (a).”

6. State grants to promote HIT

Summary: Funds will be available for states or a state-designated entity in the form of matching grants to encourage development and use of HIT. Specific grants and requirements are to be developed by states. There are requirements to involve providers, now defined to include various long-term care providers, as state plans are developed and implemented.

Details: “SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFORMATION TECHNOLOGY.

(a) IN GENERAL.—The Secretary, acting through the National Coordinator, shall establish a program in accordance with this section to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards.

(b) PLANNING GRANTS.—The Secretary may award a grant to a State or qualified State-designated entity (as described in subsection (f)) that submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may specify, for the purpose of planning activities described in subsection (d).

(c) IMPLEMENTATION GRANTS.—The Secretary may award a grant to a State or qualified State designated entity that—

- (1) has submitted, and the Secretary has approved, a plan described in subsection (e) (regardless of whether such plan was prepared using amounts awarded under subsection (b); and
- (2) submits an application at such time, in such manner, and containing such information as the Secretary may specify.

(d) USE OF FUNDS.—Amounts received under a grant under subsection (c) shall be used to conduct activities to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards through activities that include—

- (1) enhancing broad and varied participation in the authorized and secure nationwide electronic use and exchange of health information;
- (2) identifying State or local resources available towards a nationwide effort to promote health information technology;
- (3) complementing other Federal grants, programs, and efforts towards the promotion of health information technology;
- (4) providing technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information;
- (5) promoting effective strategies to adopt and utilize health information technology in medically underserved communities;
- (6) assisting patients in utilizing health information technology;
- (7) encouraging clinicians to work with Health Information Technology Regional Extension Centers as described in section 3012, to the extent they are available and valuable;
- (8) supporting public health agencies’ authorized use of and access to electronic health information;
- (9) promoting the use of electronic health records for quality improvement including through quality measures reporting; and
- (10) such other activities as the Secretary may specify.

(e) PLAN.—

(1) IN GENERAL.—A plan described in this subsection is a plan that describes the activities to be carried out by a State or by the qualified State designated entity within such State to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards and implementation specifications.

(2) REQUIRED ELEMENTS.—A plan described in paragraph (1) shall—

(A) be pursued in the public interest;

(B) be consistent with the strategic plan developed by the National Coordinator, (and, as available) under section 3001;

(C) include a description of the ways the State or qualified State-designated entity will carry out the activities described in subsection (b); and

(D) contain such elements as the Secretary may require.

(f) QUALIFIED STATE-DESIGNATED ENTITY.—For purposes of this section, to be a qualified State designated entity, with respect to a State, an entity shall—

(1) be designated by the State as eligible to receive awards under this section;

(2) be a not-for-profit entity with broad stakeholder representation on its governing board;

(3) demonstrate that one of its principal goals is to use information technology to improve health care quality and efficiency through the authorized and secure electronic exchange and use of health information;

(4) adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation by stakeholders; and

(5) conform to such other requirements as the Secretary may establish.

(g) REQUIRED CONSULTATION.—In carrying out activities described in subsections (b) and (c), a State or qualified State-designated entity shall consult with and consider the recommendations of—

(1) health care providers (including providers that provide services to low income and underserved populations);

(2) health plans;

(3) patient or consumer organizations that represent the population to be served;

(4) health information technology vendors;

(5) health care purchasers and employers;

(6) public health agencies;

(7) health professions schools, universities and colleges;

(8) clinical researchers;

(9) other users of health information technology such as the support and clerical staff of providers and others involved in the care and care coordination of patients; and

(10) such other entities, as may be determined appropriate by the Secretary.

(h) CONTINUOUS IMPROVEMENT.—The Secretary shall annually evaluate the activities conducted under this section and shall, in awarding grants under this section, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the Secretary, will lead towards the greatest improvement in quality of care, decrease in costs, and the most effective authorized and secure electronic exchange of health information.

(i) REQUIRED MATCH.—

(1) IN GENERAL.—For a fiscal year (beginning with fiscal year 2011), the Secretary may not make a grant under this section to a State unless the State agrees to make available non-

Federal contributions (which may include in-kind contributions toward the costs of a grant awarded under subsection (c) in an amount equal to—

- (A) for fiscal year 2011, not less than \$1 for each \$10 of Federal funds provided under the grant;
- (B) for fiscal year 2012, not less than \$1 for each \$7 of Federal funds provided under the grant; and
- (C) for fiscal year 2013 and each subsequent fiscal year, not less than \$1 for each \$3 of Federal funds provided under the grant.

(2) **AUTHORITY TO REQUIRE STATE MATCH FOR FISCAL YEARS BEFORE FISCAL YEAR 2011.**—For any fiscal year during the grant program under this section before fiscal year 2011, the Secretary may determine the extent to which there shall be required a non-Federal contribution from a State receiving a grant under this section.”

7. Loans for providers to adopt EHRs

Summary: Provides funds to states to establish EHR technology loan programs for health care providers. 10-year amortized loans may be used by providers for the purchase of certified EHR technology; enhance the utilization of certified EHR technology (which may include costs associated with upgrading health information technology so that it meets criteria necessary to be a certified EHR technology); train personnel in the use of such technology; or improve the secure electronic exchange of health information. Federal awards to states/tribes to establish loan funds can be made after January 1, 2010.

Detail: “SEC. 3014. COMPETITIVE GRANTS TO STATES AND INDIAN TRIBES FOR THE DEVELOPMENT OF LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF CERTIFIED EHR TECHNOLOGY.

(a) **In General-** The National Coordinator may award competitive grants to eligible entities for the establishment of programs for loans to health care providers to conduct the activities described in subsection (e).

(b) **Eligible Entity Defined-** For purposes of this subsection, the term ‘eligible entity’ means a State or Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act) that--

- (1) submits to the National Coordinator an application at such time, in such manner, and containing such information as the National Coordinator may require;
- (2) submits to the National Coordinator a strategic plan in accordance with subsection (d) and provides to the National Coordinator assurances that the entity will update such plan annually in accordance with such subsection;
- (3) provides assurances to the National Coordinator that the entity will establish a Loan Fund in accordance with subsection (c);
- (4) provides assurances to the National Coordinator that the entity will not provide a loan from the Loan Fund to a health care provider unless the provider agrees to--
 - (A) submit reports on quality measures adopted by the Federal Government (by not later than 90 days after the date on which such measures are adopted), to--
 - (i) the Administrator of the Centers for Medicare & Medicaid Services (or his or her designee), in the case of an entity participating in the Medicare program under title XVIII of the Social Security Act or the Medicaid program under title XIX of such Act; or
 - (ii) the Secretary in the case of other entities;

- (B) demonstrate to the satisfaction of the Secretary (through criteria established by the Secretary) that any certified EHR technology purchased, improved, or otherwise financially supported under a loan under this section is used to exchange health information in a manner that, in accordance with law and standards (as adopted under section 3004) applicable to the exchange of information, improves the quality of health care, such as promoting care coordination; and
- (C) comply with such other requirements as the entity or the Secretary may require;
- (D) include a plan on how health care providers involved intend to maintain and support the certified EHR technology over time;
- (E) include a plan on how the health care providers involved intend to maintain and support the certified EHR technology that would be purchased with such loan, including the type of resources expected to be involved and any such other information as the State or Indian Tribe, respectively, may require; and

(5) agrees to provide matching funds in accordance with subsection (h).

(c) Establishment of Fund- For purposes of subsection (b)(3), an eligible entity shall establish a certified EHR technology loan fund (referred to in this subsection as a 'Loan Fund') and comply with the other requirements contained in this section. A grant to an eligible entity under this section shall be deposited in the Loan Fund established by the eligible entity. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any Loan Fund.

(d) Strategic Plan-

(1) IN GENERAL- For purposes of subsection (b)(2), a strategic plan of an eligible entity under this subsection shall identify the intended uses of amounts available to the Loan Fund of such entity.

(2) CONTENTS- A strategic plan under paragraph (1), with respect to a Loan Fund of an eligible entity, shall include for a year the following:

- (A) A list of the projects to be assisted through the Loan Fund during such year.
- (B) A description of the criteria and methods established for the distribution of funds from the Loan Fund during the year.
- (C) A description of the financial status of the Loan Fund as of the date of submission of the plan.
- (D) The short-term and long-term goals of the Loan Fund.

(e) Use of Funds- Amounts deposited in a Loan Fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, making reimbursements described in subsection (g)(4)(A), or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the Loan Fund established under subsection (c). Loans under this section may be used by a health care provider to--

- (1) facilitate the purchase of certified EHR technology;
- (2) enhance the utilization of certified EHR technology (which may include costs associated with upgrading health information technology so that it meets criteria necessary to be a certified EHR technology);
- (3) train personnel in the use of such technology; or
- (4) improve the secure electronic exchange of health information.

(f) Types of Assistance- Except as otherwise limited by applicable State law, amounts deposited into a Loan Fund under this section may only be used for the following:

- (1) To award loans that comply with the following:

(A) The interest rate for each loan shall not exceed the market interest rate.

(B) The principal and interest payments on each loan shall commence not later than 1 year after the date the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

(C) The Loan Fund shall be credited with all payments of principal and interest on each loan awarded from the Loan Fund.

(2) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

(3) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the eligible entity if the proceeds of the sale of the bonds will be deposited into the Loan Fund.

(4) To earn interest on the amounts deposited into the Loan Fund.

(5) To make reimbursements described in subsection (g)(4)(A).

(g) Administration of Loan Funds-

(1) **COMBINED FINANCIAL ADMINISTRATION-** An eligible entity may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with applicable State law, the financial administration of a Loan Fund established under this subsection with the financial administration of any other revolving fund established by the entity if otherwise not prohibited by the law under which the Loan Fund was established.

(2) **COST OF ADMINISTERING FUND-** Each eligible entity may annually use not to exceed 4 percent of the funds provided to the entity under a grant under this section to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a Loan Fund which are incurred after the date of the enactment of this title.

(3) **GUIDANCE AND REGULATIONS-** The National Coordinator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including--

(A) provisions to ensure that each eligible entity commits and expends funds allotted to the entity under this section as efficiently as possible in accordance with this title and applicable State laws; and

(B) guidance to prevent waste, fraud, and abuse.

(4) **PRIVATE SECTOR CONTRIBUTIONS-**

(A) **IN GENERAL-** A Loan Fund established under this section may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection. An eligible entity may agree to reimburse a private sector entity for any contribution made under this subparagraph, except that the amount of such reimbursement may not be greater than the principal amount of the contribution made.

(B) **AVAILABILITY OF INFORMATION-** An eligible entity shall make publicly available the identity of, and amount contributed by, any private sector entity under subparagraph (A) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

(h) Matching Requirements-

(1) IN GENERAL- The National Coordinator may not make a grant under subsection (a) to an eligible entity unless the entity agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash to the costs of carrying out the activities for which the grant is awarded in an amount equal to not less than \$1 for each \$5 of Federal funds provided under the grant.

(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION- In determining the amount of non-Federal contributions that an eligible entity has provided pursuant to subparagraph (A), the National Coordinator may not include any amounts provided to the entity by the Federal Government.

(i) Effective Date- The Secretary may not make an award under this section prior to January 1, 2010.”

8. HIT Implementation Assistance

Summary: The bill creates three types of entities to support and accelerate efforts by health care providers to adopt, implement, and effectively utilize HIT. An HIT Extension Program is to be established within the DHHS; an HIT Research Center is to be created to provide technical assistance and best practices for providers; and HIT Regional Extension to facilitate HIT nationwide, with priority on providers in rural and other underserved areas, certain hospitals and FQHC’s. US-based Not-For-Profit organizations (or consortiums) that meet the eligibility criteria can to apply to become a regional center. These entities present an opportunity for aging service providers to receive technical assistance for interoperable HIT efforts, and to build strategic relationships with other health care providers.

Details “SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLEMENTATION ASSISTANCE.

(a) Health Information Technology Extension Program- To assist health care providers to adopt, implement, and effectively use certified EHR technology that allows for the electronic exchange and use of health information, the Secretary, acting through the Office of the National Coordinator, shall establish a health information technology extension program to provide health information technology assistance services to be carried out through the Department of Health and Human Services. The National Coordinator shall consult with other Federal agencies with demonstrated experience and expertise in information technology services, such as the National Institute of Standards and Technology, in developing and implementing this program.

(b) Health Information Technology Research Center

(1) IN GENERAL- The Secretary shall create a Health Information Technology Research Center (in this section referred to as the ‘Center’) to provide technical assistance and develop or recognize best practices to support and accelerate efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004.

(2) INPUT- The Center shall incorporate input from--

(A) other Federal agencies with demonstrated experience and expertise in information technology services such as the National Institute of Standards and Technology;

(B) users of health information technology, such as providers and their support and clerical staff and others involved in the care and care coordination of patients, from the health care and health information technology industry; and

(C) others as appropriate.

(3) **PURPOSES-** The purposes of the Center are to--

- (A) provide a forum for the exchange of knowledge and experience;
- (B) accelerate the transfer of lessons learned from existing public and private sector initiatives, including those currently receiving Federal financial support;
- (C) assemble, analyze, and widely disseminate evidence and experience related to the adoption, implementation, and effective use of health information technology that allows for the electronic exchange and use of information including through the regional centers described in subsection (c);

(D) provide technical assistance for the establishment and evaluation of regional and local health information networks to facilitate the electronic exchange of information across health care settings and improve the quality of health care;

(E) provide technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information; and

(F) learn about effective strategies to adopt and utilize health information technology in medically underserved communities.

(c) Health Information Technology Regional Extension Centers

(1) **IN GENERAL-** The Secretary shall provide assistance for the creation and support of regional centers (in this subsection referred to as 'regional centers') to provide technical assistance and disseminate best practices and other information learned from the Center to support and accelerate efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004. Activities conducted under this subsection shall be consistent with the strategic plan developed by the National Coordinator, (and, as available) under section 3001.

(2) **AFFILIATION-** Regional centers shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies and is awarded financial assistance under this section. Individual awards shall be decided on the basis of merit.

(3) **OBJECTIVE-** The objective of the regional centers is to enhance and promote the adoption of health information technology through--

- (A) assistance with the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to healthcare providers nationwide;
- (B) broad participation of individuals from industry, universities, and State governments;
- (C) active dissemination of best practices and research on the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to health care providers in order to improve the quality of healthcare and protect the privacy and security of health information;
- (D) participation, to the extent practicable, in health information exchanges;
- (E) utilization, when appropriate, of the expertise and capability that exists in Federal agencies other than the Department; and
- (F) integration of health information technology, including electronic health records, into the initial and ongoing training of health professionals and others in the healthcare industry that would be instrumental to improving the quality of healthcare through the smooth and accurate electronic use and exchange of health information.

(4) **REGIONAL ASSISTANCE-** Each regional center shall aim to provide assistance and education to all providers in a region, but shall prioritize any direct assistance first to the following:

- (A) Public or not-for-profit hospitals or critical access hospitals.
 - (B) Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act).
 - (C) Entities that are located in rural and other areas that serve uninsured, underinsured, and medically underserved individuals (regardless of whether such area is urban or rural).
 - (D) Individual or small group practices (or a consortium thereof) that are primarily focused on primary care.
- (5) **FINANCIAL SUPPORT-** The Secretary may provide financial support to any regional center created under this subsection for a period not to exceed four years. The Secretary may not provide more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such a center, except in an instance of national economic conditions which would render this cost-share requirement detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.
- (6) **NOTICE OF PROGRAM DESCRIPTION AND AVAILABILITY OF FUNDS-** The Secretary shall publish in the Federal Register, not later than 90 days after the date of the enactment of this title, a draft description of the program for establishing regional centers under this subsection. Such description shall include the following:
- (A) A detailed explanation of the program and the programs goals.
 - (B) Procedures to be followed by the applicants.
 - (C) Criteria for determining qualified applicants.
 - (D) Maximum support levels expected to be available to centers under the program.
- (7) **APPLICATION REVIEW-** The Secretary shall subject each application under this subsection to merit review. In making a decision whether to approve such application and provide financial support, the Secretary shall consider at a minimum the merits of the application, including those portions of the application regarding--
- (A) the ability of the applicant to provide assistance under this subsection and utilization of health information technology appropriate to the needs of particular categories of health care providers;
 - (B) the types of service to be provided to health care providers;
 - (C) geographical diversity and extent of service area; and
 - (D) the percentage of funding and amount of in-kind commitment from other sources.
- (8) **BIENNIAL EVALUATION-** Each regional center which receives financial assistance under this subsection shall be evaluated biennially by an evaluation panel appointed by the Secretary. Each evaluation panel shall be composed of private experts, none of whom shall be connected with the center involved, and of Federal officials. Each evaluation panel shall measure the involved center's performance against the objective specified in paragraph (3). The Secretary shall not continue to provide funding to a regional center unless its evaluation is overall positive.
- (9) **CONTINUING SUPPORT-** After the second year of assistance under this subsection, a regional center may receive additional support under this subsection if it has received positive evaluations and a finding by the Secretary that continuation of Federal funding to the center was in the best interest of provision of health information technology extension services.

9. Broadband technology grants

Summary: The purpose of this \$4.3 billion grant program is to provide access to broadband service to consumers residing in unserved areas of the United States; provide improved access to underserved areas; and to provide broadband education, awareness, training, access, equipment, and support to certain organizations including healthcare providers and organizations that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by aged and otherwise vulnerable populations. Qualifying organizations include nonprofit corporations, institutions, foundations and associations among others as specified, as well as any other entity, including broadband providers, that the Assistant Secretary finds by rule to be in the public interest. All grant awards are to be made before September 30, 2010. This grant program presents an opportunity for aging service providers to participate in regional or state grant applications to fund the installation of broadband equipment and related technology outreach and support services for older adults.

Detail: “SEC. 6001. BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM.

(a) The Assistant Secretary of Commerce for Communications and Information (Assistant Secretary), in consultation with the Federal Communications Commission (Commission), shall establish a national broadband service development and expansion program in conjunction with the technology opportunities program, which shall be referred to as the Broadband Technology Opportunities Program. The Assistant Secretary shall ensure that the program complements and enhances and does not conflict with other Federal broadband initiatives and programs.

(b) The purposes of the program are to--

(1) provide access to broadband service to consumers residing in unserved areas of the United States;

(2) provide improved access to broadband service to consumers residing in underserved areas of the United States;

(3) provide broadband education, awareness, training, access, equipment, and support to--

(A) schools, libraries, medical and healthcare providers, community colleges and other institutions of higher education, and other community support organizations and entities to facilitate greater use of broadband service by or through these organizations;

(B) organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by low-income, unemployed, aged, and otherwise vulnerable populations; and

(C) job-creating strategic facilities located within a State-designated economic zone, Economic Development District designated by the Department of Commerce, Renewal Community or Empowerment Zone designated by the Department of Housing and Urban Development, or Enterprise Community designated by the Department of Agriculture;

(4) improve access to, and use of, broadband service by public safety agencies; and

(5) stimulate the demand for broadband, economic growth, and job creation.

(c) The Assistant Secretary may consult a State, the District of Columbia, or territory or possession of the United States with respect to--

(1) the identification of areas described in subsection (b)(1) or (2) located in that State; and

(2) the allocation of grant funds within that State for projects in or affecting the State.

(d) The Assistant Secretary shall--

- (1) establish and implement the grant program as expeditiously as practicable;
 - (2) ensure that all awards are made before the end of fiscal year 2010;
 - (3) seek such assurances as may be necessary or appropriate from grantees under the program that they will substantially complete projects supported by the program in accordance with project timelines, not to exceed 2 years following an award; and
 - (4) report on the status of the program to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, every 90 days.
- (e) To be eligible for a grant under the program, an applicant shall--
- (1)
 - (A) be a State or political subdivision thereof, the District of Columbia, a territory or of the United States, an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(b)) or native Hawaiian organization;
 - (B) a nonprofit--
 - (i) foundation,
 - (ii) corporation,
 - (iii) institution, or
 - (iv) association; or
 - (C) any other entity, including a broadband service or infrastructure provider, that the Assistant Secretary finds by rule to be in the public interest. In establishing such rule, the Assistant Secretary shall to the extent practicable promote the purposes of this section in a technologically neutral manner;
 - (2) submit an application, at such time, in such form, and containing such information as the Assistant Secretary may require;
 - (3) provide a detailed explanation of how any amount received under the program will be used to carry out the purposes of this section in an efficient and expeditious manner, including a showing that the project would not have been implemented during the grant period without Federal grant assistance;
 - (4) demonstrate, to the satisfaction of the Assistant Secretary, that it is capable of carrying out the project or function to which the application relates in a competent manner in compliance with all applicable Federal, State, and local laws;
 - (5) demonstrate, to the satisfaction of the Assistant Secretary, that it will appropriate (if the applicant is a State or local government agency) or otherwise unconditionally obligate, from non-Federal sources, funds required to meet the requirements of subsection (f);
 - (6) disclose to the Assistant Secretary the source and amount of other Federal or State funding sources from which the applicant receives, or has applied for, funding for activities or projects to which the application relates; and
 - (7) provide such assurances and procedures as the Assistant Secretary may require to ensure that grant funds are used and accounted for in an appropriate manner.
- (f) The Federal share of any project may not exceed 80 percent, except that the Assistant Secretary may increase the Federal share of a project above 80 percent if--
- (1) the applicant petitions the Assistant Secretary for a waiver; and
 - (2) the Assistant Secretary determines that the petition demonstrates financial need.
- (g) The Assistant Secretary may make competitive grants under the program to--

- (1) acquire equipment, instrumentation, networking capability, hardware and software, digital network technology, and infrastructure for broadband services;
 - (2) construct and deploy broadband service related infrastructure;
 - (3) ensure access to broadband service by community anchor institutions;
 - (4) facilitate access to broadband service by low-income, unemployed, aged, and otherwise vulnerable populations in order to provide educational and employment opportunities to members of such populations;
 - (5) construct and deploy broadband facilities that improve public safety broadband communications services; and
 - (6) undertake such other projects and activities as the Assistant Secretary finds to be consistent with the purposes for which the program is established.
- (h) The Assistant Secretary, in awarding grants under this section, shall, to the extent practical--
- (1) award not less than 1 grant in each State;
 - (2) consider whether an application to deploy infrastructure in an area--
 - (A) will, if approved, increase the affordability of, and subscribership to, service to the greatest population of users in the area;
 - (B) will, if approved, provide the greatest broadband speed possible to the greatest population of users in the area;
 - (C) will, if approved, enhance service for health care delivery, education, or children to the greatest population of users in the area; and
 - (D) will, if approved, not result in unjust enrichment as a result of support for non-recurring costs through another Federal program for service in the area; and
 - (3) consider whether the applicant is a socially and economically disadvantaged small business concern as defined under section 8(a) of the Small Business Act (15 U.S.C. 637).
- (i) The Assistant Secretary--
- (1) shall require any entity receiving a grant pursuant to this section to report quarterly, in a format specified by the Assistant Secretary, on such entity's use of the assistance and progress fulfilling the objectives for which such funds were granted, and the Assistant Secretary shall make these reports available to the public;
 - (2) may establish additional reporting and information requirements for any recipient of any assistance made available pursuant to this section;
 - (3) shall establish appropriate mechanisms to ensure appropriate use and compliance with all terms of any use of funds made available pursuant to this section;
 - (4) may, in addition to other authority under applicable law, deobligate awards to grantees that demonstrate an insufficient level of performance, or wasteful or fraudulent spending, as defined in advance by the Assistant Secretary, and award these funds competitively to new or existing applicants consistent with this section; and
 - (5) shall create and maintain a fully searchable database, accessible on the Internet at no cost to the public, that contains at least a list of each entity that has applied for a grant under this section, a description of each application, the status of each such application, the name of each entity receiving funds made available pursuant to this section, the purpose for which such entity is receiving such funds, each quarterly report submitted by the entity pursuant to this section, and such other information sufficient to allow the public to understand and monitor grants awarded under the program.
- (j) Concurrent with the issuance of the Request for Proposal for grant applications pursuant to this section, the Assistant Secretary shall, in coordination with the Commission, publish the non-

discrimination and network interconnection obligations that shall be contractual conditions of grants awarded under this section, including, at a minimum, adherence to the principles contained in the Commission's broadband policy statement (FCC 05-15, adopted August 5, 2005).

(k)

(1) Not later than 1 year after the date of enactment of this section, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report containing a national broadband plan.

(2) The national broadband plan required by this section shall seek to ensure that all people of the United States have access to broadband capability and shall establish benchmarks for meeting that goal. The plan shall also include--

(A) an analysis of the most effective and efficient mechanisms for ensuring broadband access by all people of the United States;

(B) a detailed strategy for achieving affordability of such service and maximum utilization of broadband infrastructure and service by the public;

(C) an evaluation of the status of deployment of broadband service, including progress of projects supported by the grants made pursuant to this section; and

(D) a plan for use of broadband infrastructure and services in advancing consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, worker training, private sector investment, entrepreneurial activity, job creation and economic growth, and other national purposes.

(3) In developing the plan, the Commission shall have access to data provided to other Government agencies under the Broadband Data Improvement Act (47 U.S.C. 1301 note).

(l) The Assistant Secretary shall develop and maintain a comprehensive nationwide inventory map of existing broadband service capability and availability in the United States that depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State. Not later than 2 years after the date of the enactment of this Act, the Assistant Secretary shall make the broadband inventory map developed and maintained pursuant to this section accessible by the public on a World Wide Web site of the National Telecommunications and Information Administration in a form that is interactive and searchable.

(m) The Assistant Secretary shall have the authority to prescribe such rules as are necessary to carry out the purposes of this section.