

United States Senate

WASHINGTON, DC 20510-4105

<https://www.thune.senate.gov>

December 6, 2022

Mr. Grover Norquist
President – Americans for Tax Reform
722 12th Street, NW, Fourth Floor
Washington, DC 20005

Dear Mr. Norquist:

Fixed and mobile broadband services are vital to America's communities. The expansion of these services has played a critical role in ushering advancements in health care, education, economic development, and much more. As you know, Congress has allocated billions of dollars with the intent to expand these services to unserved areas.

More than a year has passed since the Infrastructure Investment and Jobs Act (IIJA) was signed into law. As part of the IIJA, Congress provided a \$65 billion investment in broadband services, the majority of it going to the Broadband, Equity, Affordability, and Deployment (BEAD) program administered by the National Telecommunications and Information Administration (NTIA).

In addition to NTIA, the Federal Communications Commission (FCC), U.S. Department of Agriculture (USDA), and U.S. Department of Treasury (Treasury), play a role in advancing broadband services across the United States. Additionally, multiple other agencies and states have adopted programs to help support the expansion of broadband services. In fact, the Government Accountability Office (GAO) recently found that broadband funding is spread out over 15 separate agencies and more than 130 separate programs.

The fragmented approach the federal government has taken to address the digital divide raises a number of concerns. As GAO noted, "U.S. broadband efforts are not guided by a national strategy with clear roles, goals, objectives, and performance measures." This creates a serious risk of misallocating the broadband funding Congress has appropriated which may result in billions of taxpayer dollars being spent with little to show.

As a longtime member and former chairman of the Senate Committee on Commerce, Science, and Transportation, which has jurisdiction over telecommunications services, I believe it is imperative Congress exercises its oversight responsibilities and seeks feedback on how to best expand broadband services in the most effective, efficient, and fiscally responsible manner so that we can close the digital divide once and for all. Absent such oversight, there is a significant risk the federal government will repeat the mistakes of the past where agencies misused billions of dollars and overbuilt networks.

In light of the importance of ensuring federal dollars for broadband services are implemented properly and broadband deployment more generally, I ask you to provide your organization's comments on the current broadband regulatory structure and your organization's priorities, as well as provide responses to the following specific questions no later than Friday, January 6, 2023.

Infrastructure Investment and Jobs Act-specific Issues:

1. As part of the IIJA, Congress established a technology-neutral approach for the BEAD program. Do you believe NTIA followed Congress' intent in establishing a technology-neutral approach? If not, should Congress consider amending the IIJA statute to make it more explicit that all technologies are allowed to participate? If so, how?
2. In the BEAD Notice of Funding Opportunity (NOFO), there are detailed reporting requirements on subgrantees who do not use a unionized workforce or a project labor agreement. As a practical matter, do you think this favors certain providers over others? Does Congress or NTIA need to take further action to remove this requirement?
3. The BEAD NOFO promotes government-owned networks. Do you believe government-owned networks are an effective entity to deploy broadband networks? If yes, please explain.
4. One of the provisions of the IIJA requires products and materials used for broadband projects to be produced in the United States. Given the current supply chain issues, should Congress consider modifying this obligation or otherwise clarify this provision?
5. The Broadband Buildout Accountability Act, S. 3671, would remove the Freedom of Information Act exemption in the BEAD program. Should Congress enact this legislative proposal? If not, why?
6. Are there other technical issues in the BEAD program that Congress should address before NTIA announces funding allocations by June 30, 2023?

General Broadband Issues:

1. As noted above, there are over 130 programs supporting broadband access across 15 agencies.
 - a. To date, which of these programs do you believe has had the most success in delivering broadband services to truly unserved areas?
 - b. Should Congress consider eliminating any of these programs? If so, which ones?
 - c. Should Congress merge and combine any of these programs? If so, which programs would be best suited to be merged?

2. What specific reforms and constraints should Congress consider to ensure federal funds are not being awarded where providers are receiving other federal or state broadband funding support?
3. Should Congress take additional action in response to concerns that broadband funding may be used to overbuild existing service? If so, what reforms and constraints should be implemented?
4. Should Congress take additional action in response to concerns that broadband funding may be conditioned upon recipients imposing some form of rate regulation of broadband services, whether or not such requirements are explicitly denominated "rate regulation?" If so, what reforms and constraints should be implemented?
5. Should Congress take additional action in response to concerns that broadband funding may be conditioned upon recipients imposing some form of "net neutrality" mandates upon broadband services, whether or not such mandates are explicitly denominated "net neutrality?" If so, what reforms and constraints should be implemented?
6. How effective have the Memoranda of Understanding between (1) the FCC, USDA, and NTIA, and (2) the FCC, USDA, NTIA, and Treasury been with respect to broadband coordination efforts? Are there additional reforms federal agencies should implement to better coordinate on broadband deployment efforts?
7. Should Congress take steps to increase the transparency of agencies when allocating and disbursing broadband funds? If so, what steps should Congress take?
8. What, if any, permitting regulations at the federal level are impeding broadband deployment?
9. Does the FCC presently possess sufficient authority to preempt state and local requirements that may unreasonably impede the deployment of broadband networks? If not, what steps should Congress consider to address the unreasonable impediments?
10. What specific steps can Congress take to reduce costs to broadband providers when deploying new networks?
11. Would updating pole attachment regulations spur more rural broadband deployment? If so, what actions should be taken?
12. How are federal broadband programs addressing cybersecurity challenges? Should Congress consider reforms to improve cybersecurity?
13. Are there other broadband policy issues that Congress should consider reforming during the 118th Congress?

I appreciate your attention to this important issue and for your efforts to provide this information.
If you have any questions, please contact Alex Sachtjen in my office at (202) 224-2321.

Sincerely,

A handwritten signature in blue ink that reads "John Thune". The signature is fluid and cursive, with the first name "John" and last name "Thune" clearly legible.

John Thune
United States Senator