



Information Technology and Communication

2022 Congressional City Conference

In-Person

Sunday, March 13, 2022

1:00-4:00 p.m.

Agenda: Information Technology and Communications

Congressional City Conference
Sunday, March 13, 2021
1:00-4:00 p.m. eastern

Sunday, March 13

<p>1:00 p.m. – 1:20 p.m.</p>	<p>WELCOME, INTRODUCTIONS AND MEETING OVERVIEW</p> <p>The Honorable Joseph Goldstein, Vice Chair <i>Councilmember, City of Marietta, Georgia</i></p> <p>The Honorable Van Johnson, Vice Chair <i>Mayor, City of Savannah, Georgia</i></p> <p>The Honorable Vince Williams, NLC President <i>Mayor, City of Union City, Georgia</i></p> <p>Councilmember Goldstein will lead introductions and provide an overview of expected outcomes from the meeting, and provide time for remarks from NLC President Vince Williams.</p>
<p>1:20 p.m. – 2:00 p.m.</p>	<p>NEW BROADBAND PROGRAMS IN THE BIPARTISAN INFRASTRUCTURE LAW</p> <p>Julia Pulidindi <i>Broadband Program Specialist, Office of Internet Connectivity and Growth, National Telecommunications and Information Administration, U.S. Department of Commerce</i></p> <p>Congress made historic investments in broadband in the Bipartisan Infrastructure Law (BIL), with more than \$48 billion of that new funding set to be administered by the National Telecommunications and Information Administration (NTIA). Join NTIA staff for a discussion of the new programs in the BIL, including which are available directly to localities as competitive grants, and which will flow through the states, as well as how cities, towns and villages can best position themselves to take advantage of new resources.</p>

<p>2:00 p.m. – 2:40 p.m.</p>	<p>FEDERAL COMMUNICATIONS COMMISSION UPDATE</p> <p>Kirk Burgee <i>Chief of Staff, Wireline Competition Bureau, Federal Communications Commission</i></p> <p>The Federal Communications Commission (FCC) has been tasked by Congress with numerous new responsibilities in the BIL, including implementing the new Affordable Connectivity Program, creating a “broadband nutrition label,” and preventing digital discrimination (also known as digital redlining). Attendees will receive an update from FCC staff on these new developments and how local leaders can get involved.</p>
<p>2:40 p.m. – 3:15 p.m.</p>	<p>FEDERAL ADVOCACY UPDATE</p> <p>Angelina Panettieri <i>Legislative Director, Information Technology and Communications, National League of Cities</i></p> <p>Committee members will receive an update on key developments in Washington impacting cities, towns and villages, including the latest on implementation of the American Rescue Plan Act and Bipartisan Infrastructure Law. NLC staff will also provide an update on key ITC priorities, including rulemaking around new broadband programs, pending legislation. Committee members will be briefed on talking points and legislative priorities to get ready for meetings with policymakers throughout the conference and on Hill Day.</p>
<p>3:10 p.m. – 3:50 p.m.</p>	<p>USING DATA AND DIGITIZATION TO MANAGE LOCAL CHALLENGES</p> <p>Nick Rodriguez <i>CEO, Delivery Associates</i></p> <p>Al Hassan Hleileh <i>Head of Digital, Delivery Associates</i></p> <p>Desiree Quinteros <i>Digital Project Leader, Delivery Associates</i></p> <p>How can cities, towns and villages better use data and technology to make policy decisions and implement new programs? During a discussion with NLC partner Delivery Associates, committee members will explore how communities have used data to tackle thorny challenges, including COVID-19 vaccine distribution equity, public health information sharing, climate change, and other issues. Committee members will discuss some of the emerging technologies and best practices that support and drive data-informed decisionmaking in cities.</p>

3:50 p.m. - 4:00 p.m.	CLOSING REMARKS AND ADJOURNMENT
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Next ITC Committee Meeting:
April 13, 2021
4:00PM Eastern
Virtual

Congressional City Conference Highlights for ITC Committee Members

Sunday, March 13

- 9:00AM – 10:30AM – Cybersecurity: Where to Start and Understanding the Threat Landscape (NLC University session; additional fee required)
- 1:00PM – 4:00PM – Information Technology and Communications Committee Meeting

Monday, March 14

- 9:00AM – 10:30AM – Opening General Session
- 10:45AM – 12:00PM - Closing the Digital Divide: Leveraging Federal Resources for Broadband, Digital Equity
- 1:45PM – 3:15PM - Legal Update: Court Cases Impacting Local Government OR
- 1:45PM – 3:15PM - Cybersecurity: Understanding the Threat Landscape and How to Protect Your Community
- 3:30PM – 5:00PM – Afternoon General Session

Tuesday, March 15

- 8:30AM – 10:00AM – How Federal Infrastructure Investments Can Help Small and Rural Communities
- 10:30AM – 12:00PM - ARPA Implementation in Your Community: Sharing Successes and Challenges
- 12:15PM – 1:45PM - Luncheon and General Session
- 7:30PM – 9:30PM – Evening Event

Wednesday, March 16

- All Day – Hill Day, schedules vary (preregistration required)

Attachments:

- NLC Policy Development and Advocacy Process
- NLC ITC Committee Roster
- Congressional Tip Sheets: Senate Commerce Committee, House Energy and Commerce Committee, Federal Agency Broadband Policymakers
- NLC Comments to FCC on the Affordable Connectivity Program
- NLC Comments to NTIA on Bipartisan Infrastructure Law Broadband Programs

NLC POLICY DEVELOPMENT AND ADVOCACY PROCESS

As a resource and advocate for more than 19,000 cities, towns and villages, the National League of Cities (NLC) brings municipal officials together to influence federal policy affecting local governments. NLC adopts positions on federal actions, programs and proposals that directly impact municipalities and formalizes those positions in the *National Municipal Policy (NMP)*, which guides NLC's federal advocacy efforts.

NLC divides its advocacy efforts into seven subject areas:

- Community and Economic Development
- Energy, Environment and Natural Resources
- Finance, Administration and Intergovernmental Relations
- Human Development
- Information Technology and Communications
- Public Safety and Crime Prevention
- Transportation and Infrastructure Services

For each of the seven issue areas, a Federal Advocacy Committee advocates in support of NLC's federal policy positions. Members of each Committee serve for one calendar year and are appointed by the NLC President.

Federal Advocacy Committees

Federal Advocacy Committee members are responsible for advocating on legislative priorities, providing input on legislative priorities, and reviewing and approving policy proposals and resolutions. Additionally, Committee members engage in networking and sharing of best practices.

Federal Advocacy Committees are comprised of local elected and appointed city and town officials from NLC member cities. NLC members must apply annually for membership to a Federal Advocacy Committee. The NLC President makes appointments for chair, vice chairs, and general membership. In addition to leading the Federal Advocacy Committees, those appointed as Committee chairs will also serve on NLC's Board of Directors during their leadership year.

At the Congressional City Conference, Federal Advocacy Committee members are called upon to advocate for NLC's legislative priorities on Capitol Hill, as well as develop the committee's agenda and work plan for the year. Committee members meet throughout the year to further the plan, hear from guest presenters, discuss advocacy strategies and develop specific policy amendments and resolutions. At the City Summit, Committee members review and approve policy proposals and resolutions. These action items are then forwarded to NLC's Resolutions Committee and are considered at the Annual Business Meeting, also held during the City Summit.

Advocacy

Throughout the year, Committee members participate in advocacy efforts to influence the federal decision-making process, focusing on actions concerning local governments and communities. During the Congressional City Conference, Committee members have an opportunity, and are encouraged, to meet with their congressional representatives on Capitol Hill. When NLC members are involved in the legislative process and share their expertise and experiences with Congress, municipalities have a stronger national voice, affecting the outcomes of federal policy debates that impact cities and towns.



2022 Information Technology & Communications (ITC) Committee Roster

Leadership

- Chair Chrelle Booker, Mayor Pro Tempore, Town of Tryon, NC
- Vice Chair Joseph Goldstein, Councilmember, City of Marietta, GA
- Vice Chair Van Johnson, Mayor, City of Savannah, GA

Members

- Chris Amorose Groomes, Mayor, City of Dublin, OH
- Kent Back, Councilmember, City of Gadsden, AL
- David Baker, Mayor, City of Kenmore, WA
- Jesse Barlow, Council President, Borough of State College, PA
- Edwin Benson, IT Manager, City of Kingsville, TX
- Joshua Butler, Councilmember, City of East Point, GA
- Allan Ekberg, Mayor, City of Tukwila, WA
- Bob Hart, City Manager, City of Corinth, TX
- Richard Holt, Councilmember, City of Centennial, CO
- Charles Jones, Vice Mayor, City of San Jose, CA
- Randy Keating, Vice Mayor, City of Tempe, AZ
- Nikki Lee, City Councilwoman, City of Tucson, AZ
- David Luna, Councilmember, City of Mesa, AZ
- Mike Lynch, Director, Broadband & Cable, City of Boston, MA
- Gene McGee, Mayor, City of Ridgeland, MS
- David Neal, Councilmember, Ward 4, City of Merriam, KS

- Christopher Nelson, Mayor, Village of West Dundee, IL
- Susan Norton, Chief of Staff, City of Fayetteville, AR
- Brigitte Peterson, Mayor, Town of Gilbert, AZ
- Tim Rosener, Council President, City of Sherwood, OR
- Jarrett Smith, Councilmember Ward 5, City of Takoma Park, MD
- Tracy Stefanski, Alderman, City of West Allis, WI
- Mark Stewart, Vice Mayor, City of Chandler, AZ
- Lauren Tolmachoff, Councilmember, City of Glendale, AZ

Feb. 2, 2021

House Energy and Commerce Committee

The Energy and Commerce Committee is one of the most powerful standing committees in the House, with the broadest policy portfolio of any other committee. It has jurisdiction over telecommunications, consumer protection, food and drug safety, public health and research, environmental quality, energy policy and interstate and foreign commerce.



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Source: U.S. Congress

By Patterson Clark, POLITICO Pro DataPoint



Chairman

John Thune, S.D.

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Nov. 20, 2017 | Updated Jan. 22, 2018

The Senate Commerce Committee

The Senate Commerce Committee has jurisdiction over all matters relating to science, engineering, technology, oceans policy, transportation, communications and consumer affairs, including interstate commerce, the Coast Guard and non-military aeronautical and space policy. The committee meets in Room 253 of the Senate Russell Office Building at the chairman's discretion.



Ranking Member

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By POLITICO Pro DataPoint

Aug. 17, 2021

The federal agencies that will take the lead on broadband

There's an ongoing debate over just which agency should take the lead on expanding broadband. The U.S. has divvied up the task of closing the digital divide, which now factors into the debate over infrastructure. In the Senate's recent bipartisan bill, the Commerce Department, Federal Communications Commission and Department of Agriculture all retain distinct broadband responsibilities within its proposed \$65 billion for digital connectivity. Although jurisdictional tensions occasionally flare up, the three agencies inked a statutorily required memorandum this summer pledging to cooperate.

The federal agencies tackling broadband



Commerce

What they've been doing

This agency's National Telecommunications and Information Administration has spearheaded broadband efforts for the executive branch and built up expertise during President Barack Obama's administration by doling out broadband grants from the 2009 economic stimulus.

The agency partners with states on mapping broadband internet and is now tasked with implementing multiple connectivity programs — including nearly \$1 billion to help tribal lands — from recent pandemic aid packages.



FCC

An independent agency that traditionally regulated phone service, the FCC has assumed a greater role in broadband debates over the last two decades. Its commissioners run a multibillion-dollar pot of subsidies, approaching \$10 billion a year, to expand internet access and 5G wireless coverage. During the pandemic, Congress set up FCC programs to help low-income consumers afford their broadband bills and help schools and libraries obtain devices like Wi-Fi hotspots.



Agriculture

The USDA's slice is all about the broadband loan programs for internet providers run out of the department's Rural Utilities Service, which go back more than a decade.

Congress in 2018 created a USDA broadband initiative known as ReConnect, which gives out hundreds of millions of dollars in loans and grants to service providers for construction, improvement of providers' internet networks and equipment needed to provide broadband service in eligible rural areas.



Treasury

You can thank the pandemic for this one. In March 2021, Congress gave Treasury the reins for some of the massive pots of pandemic relief money topping \$350 billion that state and local governments can tap for broadband projects (among other things).

Where the agencies fit into the Senate's bipartisan infrastructure bill

Senate negotiators picked Commerce to run the main broadband grant program and dole out more than \$42 billion in broadband infrastructure grants, with at least \$100 million set to go to each state, and nearly \$3 billion to fund digital inclusion projects, which aim to help encourage a broader swath of consumers to use the internet.

The Senate legislation requires that previously planned FCC broadband mapping be used to determine where subsidies can flow (first to entirely unserved parts of the U.S., then to sub-par internet areas). The bill keeps the FCC in charge of delivering subsidies for those who need help paying internet bills.

The infrastructure bill would bolster USDA's ReConnect program with more than triple what was appropriated for 2021.

Treasury was not included on broadband issues in the Senate infrastructure bill.

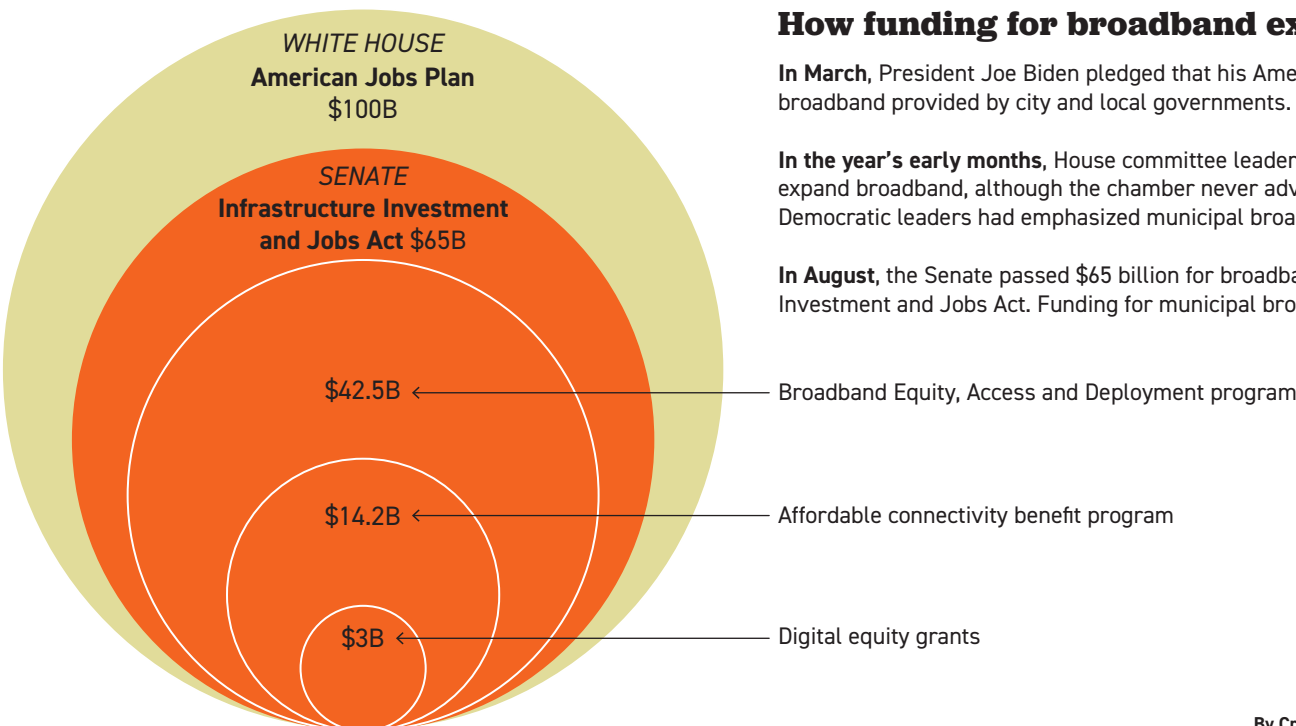
Who are the agencies' broadband supporters on the Hill

It's a popular choice among the lawmakers on both chambers' committees overseeing commerce, particularly those who are jaded with FCC after its fumbles on broadband, like botching aspects of past broadband subsidy handouts. Senate negotiators picked Commerce for the infrastructure bill's internet grants, and so did House Energy and Commerce Democrats and Republicans in separate broadband infrastructure bills.

No. 2 Senate Republican John Thune of South Dakota made a passionate pitch on the Senate floor Aug. 5 to designate the FCC as lead agency on broadband ahead of the Senate infrastructure vote, reflecting a telecom industry-favored preference shared by some commerce committee members in both chambers.

Leaders on Capitol Hill's Senate and House agriculture panels tend to support USDA leading the broadband agenda, which they say goes back to the department's role in rural electrification early in the last century. House Agriculture Chair David Scott (D-Ga.) is leading bipartisan legislation to put tens of billions of broadband dollars at USDA.

Treasury's role is limited to funding pandemic-related projects for state and local governments.



How funding for broadband expansion evolved

In March, President Joe Biden pledged that his American Jobs Plan would boost broadband provided by city and local governments.

In the year's early months, House committee leaders proposed billions of dollars to expand broadband, although the chamber never advanced such legislation. Some of the Democratic leaders had emphasized municipal broadband in their proposals.

In August, the Senate passed \$65 billion for broadband expansion in the Infrastructure Investment and Jobs Act. Funding for municipal broadband expansion was not prioritized.

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Affordable Connectivity Program)	WC Docket No. 21-450
)	

COMMENTS OF THE NATIONAL LEAGUE OF CITIES

On behalf of the nation’s more than 19,000 cities, towns and villages, the National League of Cities (NLC) welcomes this opportunity to provide comment on the Federal Communications Commission’s (Commission’s) implementation of the new Affordable Connectivity Program (ACP). As evidenced from the many actions taken by communities throughout the COVID-19 pandemic, both before and after the establishment of the Emergency Broadband Benefit (EBB), local leaders are eager to support federal efforts to get all residents connected.¹

Local governments have three primary roles to play in federal broadband affordability programs: as providers of broadband services directly, either through a municipally-owned broadband utility or through the purchase and distribution of free or prepaid subscriptions and devices; as leaders in raising awareness and coordinating resources, households in need, and interested partners; and as consumer watchdogs. We urge the Commission to keep all three of these roles in mind, both as it finalizes rules for administration of the ACP and as implements the transition from the EBB to this new program moving forward. NLC appreciates the Commission’s

¹ NLC’s Local Action Tracker, established in partnership with Bloomberg Philanthropies, indexes municipal actions in response to the COVID-19 pandemic across a wide variety of policy areas, including communications, digital connectivity, household or individual assistance, use of American Rescue Plan Act funds, and more. Available at: <https://www.nlc.org/resource/covid-19-local-action-tracker/>

acknowledgement that the statutorily obligated compressed timeline for transition from the Emergency Broadband Benefit to ACP has the potential to cause confusion or service disruption for eligible beneficiaries of both programs and looks forward to partnering to prevent these outcomes.

Provider Eligibility and Enrollment

NLC supports the Commission's proposal to allow current EBB providers to elect to participate in ACP without resubmitting a new application, and to only require those non-ETC providers that did not participate in EBB to apply to the Commission prior to submitting an election notice to USAC. NLC also supports the adoption of a formal process to relinquish ACP eligibility, paired with a requirement for providers to affirmatively elect into participation in ACP and provide updated information for the new program. While these processes should not be overly burdensome, both steps are important to ensure that the Companies Near Me search tools for eligible providers are as accurate and specific as possible. This tool is used not only by households enrolling in the program, but also by local organizations assisting residents with the process.

A new election also provides a critical opportunity for USAC to update its information on services or devices offered. While model or technical specification information is probably not necessary to populate this tool, the Commission should consider requiring providers to specify, and making information available, about whether available devices are desktops, laptops, tablets, or a variety of the three, not just whether any device at all is offered. Particularly given the reduced level of benefit available for the ACP compared to EBB, it is important to provide beneficiaries and digital navigators with sufficient information to make comparisons between provider offerings when multiple options are available to a household.

NLC also appreciates both the expanded pool of eligible providers for ACP as compared to EBB with the removal of limitations to services offered by December 1, 2020, as well as the Commission's concerns about avoiding corresponding increases in waste, fraud, and abuse. While NLC does not have a suggested threshold for past complaints or enforcement actions that should disqualify a provider from participation in ACP, this track record should be considered when reviewing elections into the program and when removing providers for a pattern of abusive or fraudulent behavior. NLC also supports the inclusion of some required level of responsiveness to consumer complaints by participating providers.

Household Eligibility

While the household eligibility criteria differ somewhat between the EBB and ACP, harmonizing the eligibility criteria as much as possible is critical for minimizing disruption for households eligible for both programs. NLC supports the Commission's proposal to maintain the definition of "household" between both programs. In addition, NLC supports maintaining the decision from EBB to allow households with students enrolled in schools or districts participating in the Community Eligibility Provision to participate in ACP, without demonstrating individual qualification for free or reduced-price school lunch or breakfast. NLC also supports expansion of that eligibility coverage to other school-wide administrative provisions. Requiring additional household-specific eligibility documentation for those families is unlikely to prevent substantial waste, fraud, or abuse, but the administrative hurdles are likely to shut out otherwise eligible households from taking advantage of the benefit. For that reason, NLC also encourages the Commission to continue to seek ways to harmonize the ACP verification and household recertification process with other related benefit programs, including Lifeline, and to minimize as much as possible duplicative documentation and verification requirements.

NLC opposes any requirement to install a monitoring app to determine subscriber non-usage of the benefit. While we appreciate the desire to maximize value of the benefit and prevent fraudulent claims for reimbursement by providers, this verification should not come at the expense of subscriber privacy. While the devices and subscriptions available to ACP subscribers are discounted, they should be the same as those offered to all other broadband subscribers and not come with invasive monitoring of household data usage. In addition, any such requirement is likely to exacerbate existing barriers to enrollment driven by a lack of consumer trust in government programs.

Covered Services and Devices

The transition from EBB to ACP provides an opportunity for the Commission to reassess and iterate upon the program. NLC supports the inclusion of legacy or grandfathered plans as eligible internet offerings, as part of a larger effort to minimize upselling or downselling. If a household is currently enrolled in a service that may be more affordable because it is a grandfathered offering, that household should not be forced to change plans in order to apply an ACP subsidy to their existing service. However, one exception may be if that service does not meet minimum standards. NLC does not suggest a specific benchmark and cautions the Commission from imposing standards that could cut out entire communities from participation, particularly if there are existing EBB households in those communities. However, the intent of the broadband provisions within the *Infrastructure Investment and Jobs Act* was to improve the overall quality and availability of broadband service and federal funding should not subsidize outdated, subpar infrastructure. NLC suggests establishing a service benchmark for the program and ramping up that benchmark over time to ensure that ACP participants offer true, meaningfully useful broadband service to subscribers.

NLC supports efforts by the Commission to expand access to ACP for households participating in bulk-billing options, including both households in multi-tenant dwellings and households participating in local bulk subscription programs. NLC urges the Commission to also make locally-administered bulk subscription programs, in which any additional subscription cost beyond the discounted amount would be paid by a third party such as a local government, eligible for inclusion along with landlord-administered bulk purchases. In practice, the administration of such programs, including household eligibility verification, is very similar to multitenant environments in which residents are billed by a landlord rather than directly by the broadband provider.

NLC encourages the Commission to revisit the definition of connected devices during the transition from EBB to ACP. While NLC does not support the inclusion of smartphones or “phablets” as eligible connected devices, some additional guidance is important to ensure that devices are fully usable as a household’s primary means of accessing the internet. For example, in addition to the existing requirements that devices support normal activities such as video chat, eligible devices should include an external means of input, such as a keyboard, to ensure that the device is fully usable for not just passive consumption of media, but also activities such as job applications and schoolwork. NLC also supports a requirement that eligible devices be able to connect to wifi networks, not just dedicated mobile networks or hotspots, and that the value of the device be at least \$100 if the full discount is to be provided. NLC also encourages the Commission to explore options to expand device availability and device benefit uptake, including potentially allowing households to obtain devices from sources other than their ACP broadband provider, or after the first month of service.

Consumer Protection

We encourage the Commission to use the transition from EBB to ACP to affirm and strengthen consumer protections in the broadband subsidy program. A robust consumer complaint process, along with a high level of awareness about how to submit a complaint, is crucial for ensuring that households are able to fully and equitably access the benefits to which they are entitled. NLC supports the Commission's proposal to require prominent notice of the Consumer Complaint Center phone number and website on bills, web pages, and marketing materials, as well as an obligation for providers to notify consumers of their right to file complaints. NLC encourages the Commission to include this information in its own multilingual outreach and marketing toolkits as well, for use by local consumer protection agencies and community organizations working to support households with enrollment. Information about provider misconduct should also be provided regularly through these channels.

Promoting Awareness and Data Reporting

As noted previously, local governments are key partners in promoting awareness of, and participation in, the ACP. NLC encourages the Commission to develop marketing and awareness materials in a variety of languages, as well as training and outreach sessions targeted at local partner agencies. These partner agencies may include local housing authorities, local financial empowerment programs, area agencies on aging, consumer protection agencies, and other local service providers with experience and expertise in connecting residents to benefits and resources. While the Commission, broadband providers, and local partners have learned a great deal about navigating the EBB process and raising awareness, the transition between programs has the potential to cause confusion and disruption in services. The Commission should prioritize education and outreach around the timeline for transition between programs, as well as the

differences between the programs, to ensure that enrollees, providers, and local partners understand what to expect, and how to find accurate information and legitimate participating providers.

NLC also encourages the Commission to consult with the National Telecommunications and Information Administration's Office of Internet Connectivity and Growth when considering how best to stand up a grant program for outreach efforts. While it may not be practical to perfectly harmonize an Commission-administered grant program with the many new grants being administered by NTIA, to the extent practical, both agencies should attempt to align these grant efforts. It is extremely likely that entities seeking grant support for ACP outreach will also pursue Digital Equity Act grant funds. While the Commission should seek to avoid duplication of effort, if possible, the Commission should try to establish similar requirements for eligible entities, allowable uses, and application processes. In addition, to support the participation by small local governments and community organizations, NLC encourages the use of grant funds for technical assistance and planning, and the waiving or minimizing of cost-sharing requirements.

Lastly, NLC encourages the Commission to share the results of any research on outreach, marketing, consumer feedback, and the value and impact of the program not just with participating providers, but with the public at large. Research and data collection around broadband affordability programs, particularly data available at the state, regional, and local levels will be enormously valuable to state and local governments in the coming months and years as they develop digital equity plans and programs in support of new broadband infrastructure grants and programs.

Transition to the Affordable Connectivity Program

Even with substantial outreach efforts, given the differences between the EBB and ACP programs and the very compressed timeline available for transition, it is likely that a substantial number of households will face disruption. While a discontinuation in services would be disruptive, NLC believes the Commission should prioritize protecting households from surprise bill increases and require an opt-in by current EBB households to participate in ACP. NLC encourages the Commission to make available an extension or grace period to obtain this opt-in from participants beyond the 60-day transition window to minimize the number of participants facing service interruption. In addition, NLC supports ample notification of the transition to EBB households, with at least the duration and frequency of notice anticipated for the sunset of the EBB program.

Conclusion

NLC and local leaders believe the funding and policies included in the *Infrastructure Investment and Jobs Act*, including the Affordable Connectivity Program, hold great promise to help close the digital divide in communities around the nation. We look forward to partnering with the Commission on ACP and the implementation of other infrastructure programs in the coming months and years.

Respectfully submitted,

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December 8, 2021

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Kathy Maness
Councilmember
Lexington, South Carolina

**Chief Executive Officer/
Executive Director**
Clarence E. Anthony

February 4, 2022

The Honorable Alan Davidson
Assistant Secretary of Commerce for Communications and Information
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

RE: Infrastructure Investment and Jobs Act Implementation, Docket No. NTIA-2021-0002

Dear Assistant Secretary Davidson:

The National League of Cities (NLC) welcomes the opportunity to provide comment on the broadband and digital equity grant programs being administered by the National Telecommunications and Information Administration (NTIA). NLC represents the nation's more than 18,000 cities, towns and villages of all sizes. Our nation's local leaders recognize the historic opportunity to shape America's broadband future and look forward to partnering with NTIA, as well as state, tribal, and territorial leaders, to ensure that all Americans can benefit equitably from advances in technology and the digital economy.

As NTIA builds out its Notices of Funding Opportunity and technical assistance programming for the Broadband Equity, Access and Deployment (BEAD), Digital Equity Act, and Middle Mile Broadband Infrastructure Grant programs, NLC urges NTIA to keep the following priorities in mind:

- NTIA must require robust, documented engagement by states with local government;
- NTIA must use its full legal authority to ensure adequate access for municipal broadband networks and publicly owned broadband infrastructure to grants and subgrants;
- NTIA should support smaller jurisdictions' access to federal resources;
- NTIA grant programs should be harmonized with other federal broadband programs; and
- Local broadband and digital equity plans should be prioritized in BEAD.

NTIA Must Require Robust, Documented Engagement by States with Local Government

19. Community engagement is critical to eliminating barriers to broadband access and adoption. NTIA views strong involvement between states and local communities as key to ensuring that the broadband needs of all unserved and underserved locations are accounted for in state plans submitted for funding. What requirements should NTIA establish for states/territories to ensure that local perspectives are critical factors in the design of state plans?

31. The Bipartisan Infrastructure Law also requires states and territories to coordinate with local governments and other political subdivisions in developing State Digital Equity Plans. What steps should states take to fulfill this mandate? How should NTIA assess whether a state has engaged in adequate coordination with its political subdivisions?

NLC appreciates the commitments made by Congress and NTIA to ensure that local voices are heard as part of the development of state broadband plans. In order to ensure that commitment is fulfilled, NLC urges NTIA to require that states engage fully with municipal governments and their representatives as they develop state broadband and state digital equity plans, as well as when determining the criteria for subgrant selection.

NLC suggests that NTIA establish a common set of baseline requirements for state development of both broadband and digital equity plans that contain, at minimum, documented outreach and engagement with municipalities, regional councils or metropolitan planning organizations, and regional or state associations of local governments. This outreach and engagement should ideally include documentation of efforts to receive input from localities in urban, suburban, and rural areas, as well as perspectives from a wide range of jurisdiction sizes, economic status, racial and ethnic composition, and geographic location. This outreach should include a significant public notice and comment period, as well as regional or local focus groups or listening sessions. NLC also encourages NTIA to require states to establish planning committees to guide and approve the development of plans and subgrant criteria, with a minimum threshold of member representatives from municipal governments and associations of local governments in the state.

The partnership between state and local governments will also be critical in validating and challenging Broadband DATA maps to ensure that state allocations are appropriately apportioned and to ensure that states are accurately identifying smaller pockets of high need that may not be visible even on more granular federal maps. Local leaders are keenly aware of these smaller areas of great need: digitally redlined neighborhoods, mobile home developments that are disconnected from nearby fiber and cable networks, small groups of hard-to-reach residents isolated by geographic features, and older multitenant buildings that need substantial improvement for robust in-unit wired or wireless connectivity. States should be required to document the efforts made to collaborate with local communities to identify these project needs as part of their plan development.

NTIA Must Use Its Full Legal Authority to Ensure Adequate Access for Municipal Broadband Networks and Publicly Owned Broadband Infrastructure to Grants and Subgrants

7. NTIA views the participation of a variety of provider types as important to achieving the overall goals of the Bipartisan Infrastructure Law broadband programs. How can NTIA ensure that all potential subrecipients, including small and medium providers, cooperatives, non-profits, municipalities, electric utilities, and larger for-profit companies alike have meaningful and robust opportunities to partner and compete for funding under the programs?

24. Affordability is a key objective of the Bipartisan Infrastructure Law's broadband programs. What factors should be considered in the deployment of BEAD funds to help drive affordability beyond the low-cost option?

NLC commends the Administration for its recognition that municipal broadband utilities, publicly owned open access networks, public-private networks, cooperatives, and other nontraditional business models are a key tool for closing the digital divide and protecting broadband users. These different models for broadband service, which generally are not driven by the need to turn a profit, are a critical missing piece for many communities. NLC encourages NTIA to take steps to ensure that these nontraditional providers have a fair chance to compete for funding under the BEAD and Middle Mile programs.

The Bipartisan Infrastructure Law (BIL) notes that under the BEAD program, states “may not exclude cooperatives, nonprofit organizations, public-private partnerships, private companies, public or private utilities, public utility districts, or local governments from eligibility for such grant funds.”¹ Unfortunately, at least 17 states still have laws on the books that explicitly or implicitly prohibit such entities from owning or operating broadband. These states are fundamentally unable to comply with this provision of the Bipartisan Infrastructure Law. For this reason, we urge NTIA to require, as part of state broadband plans, a description of how the state will comply with this requirement. Further, we urge NTIA to require compliance with this requirement prior to disbursement of BEAD funding past the initial planning tranche.

NTIA Should Support Smaller Jurisdictions’ Access to Federal Resources

5. In implementing the Bipartisan Infrastructure Law’s programs, NTIA will offer technical assistance to states, localities, prospective sub-grantees, and other interested parties. What kinds of technical assistance would be most valuable? How might technical assistance evolve over the duration of the grant program implementation?

9. Several Bipartisan Infrastructure Law broadband programs provide that, absent a waiver, a grant or subgrant recipient must contribute its own funding, or funding obtained from a non-federal source, to “match” funding provided by the BIL program. Under what circumstances, if any, should NTIA agree to waive these matching fund requirements, and what criteria should it assess (in accordance with any criteria established by the statute) when considering waiver requests?

32. Middle-mile infrastructure is essential to American connectivity. Lack of affordable middle-mile access can have a substantial impact on the retail prices charged for broadband services. How should the Assistant Secretary ensure that middle-mile investments are appropriately targeted to areas where middle-mile service is non-existent or relatively expensive? To what extent should middle-mile grants be targeted to areas in which middle-mile facilities exist but cannot economically be utilized by providers that do not own them? Should NTIA target middle-mile funds to areas where interconnection and backhaul costs are impacted by a lack of competition or other high-cost factors?

34. What requirements, if any, should NTIA impose on federally funded middle-mile projects with respect to the placement of splice points and access to those splice points? Should NTIA impose other requirements regarding the location or locations at which a middle-mile grantee must allow interconnection by other providers?

The new broadband and digital equity programs authorized by the BIL present a unique opportunity to direct additional resources to smaller communities in need of federal or state assistance. NTIA and the states should provide ongoing technical assistance tailored to these smaller communities to ensure that they are able to compete for direct federal grants and state subgrants, as well as to help them develop the capacity to plan and implement broadband infrastructure and digital equity activities in their communities that are sustainable into the future.

Key issues to address through training and technical assistance could include ongoing education about federal and state grant processes, procurement issues, partnership development, information about combining multiple funding and financing tools, information about broadband technologies and network models, and best practices in digital equity program development and management. NTIA’s State Broadband Leaders’ Network has provided an excellent channel for state broadband offices to develop capacity and learn about best practices. NLC encourages NTIA to engage in similar leadership development and learning efforts with local leaders as well.

¹ Infrastructure Investment and Jobs Act, PL 117-58, Sec. 60102(h)(1)(A)(iii).

Federal match requirements often also present an obstacle to smaller jurisdictions pursuing grant funding. While the allowable use of ARPA funds is a great help in overcoming this barrier, NTIA should consider whether factors may increase the burden of a match requirement on smaller jurisdictions, such as response to and recovery from an emergency or disaster, extreme resource constraints faced by high-poverty or remote communities in highest need of connectivity, and local fundraising limits (often imposed by state governments).²

Lastly, state plan approaches to middle mile infrastructure, as well as the Middle Mile Broadband Infrastructure Grant Program, should be designed with the needs of smaller communities in mind. Many smaller communities, relatively close to larger metro areas or major interstate highways with accompanying fiber backhaul, are unable to benefit from this existing middle mile infrastructure because of ownership limitations and lack of splice points. Funded middle mile projects should ensure adequate splice points and access for last mile connections to all communities along the project's route. NTIA and state plans should also, to the extent possible, assist smaller jurisdictions in coordination with regional partners to expand their capacity to engage with and pursue middle mile projects in their regions.

NTIA Grant Programs Should Be Harmonized with Other Federal Broadband Programs

14. NTIA is committed to ensuring that networks constructed using taxpayer funds are designed to provide robust and sustainable service at affordable prices over the long term. What criteria should NTIA require states to consider to ensure that projects will provide sustainable service, will best serve unserved and underserved communities, will provide accessible and affordable broadband in historically disconnected communities, and will benefit from ongoing investment from the network provider over time?

13. NTIA is committed to ensuring that networks built using taxpayer funds are capable of meeting Americans' evolving digital needs, including broadband speeds and other essential network features. What guidance or requirements, if any, should NTIA consider with respect to network reliability and availability, cybersecurity, resiliency, latency, or other service quality features and metrics? What criteria should NTIA establish to assess grant recipients' plans to ensure that service providers maintain and/or exceed thresholds for reliability, quality of service, sustainability, upgradability and other required service characteristics?

22. The Bipartisan Infrastructure Law requires that BEAD funding recipients offer at least one low-cost broadband option and directs NTIA to determine which subscribers are eligible for that low-cost option. BIL § 60102(h)(5)(A). How should NTIA define the term "eligible subscriber?" In other words, what factors should qualify an individual or household for a low-cost broadband option?

23. Under the Bipartisan Infrastructure Law, states and territories are charged with developing low-cost broadband service options in consultation with NTIA and broadband providers interested in receiving funding within the state. BIL § 60102(h)(5)(B). What factors should NTIA consider in guiding the states in design of these programs to achieve this goal? Should NTIA define a baseline standard for the "low-cost broadband service option" to encourage states/ territories to adopt similar or identical definitions and to reduce the administrative costs associated with requiring providers to offer disparate plans in each state and territory? What are the benefits and risks, if any, of such an approach?

Concerns about compliance with multiple varying sets of requirements for grant programs can have a chilling effect on municipalities' ability to pursue grant funding. For this reason, NTIA should make every reasonable effort to harmonize new programs' requirements with relevant related programs. For example,

² National League of Cities, "Consequences of State Tax and Expenditure Limits on Local Services." October 2021. Available <https://www.nlc.org/resource/consequences-of-state-tax-and-expenditure-limits-on-local-services/>

every jurisdiction in the nation has access to State and Local Fiscal Recovery Fund resources from the American Rescue Plan Act. The SLFRF permits broadband infrastructure and digital equity as allowable uses of funds and outlines criteria for allowable projects supported by those funds. For example, supported projects are required to provide at least 100/100 Mbps service, or 100/20 Mbps scalable to 100 Mbps symmetrical.³ Given that many states and localities are likely to be coordinating the use of ARPA and BIL dollars to complete larger efforts, ensuring that these two programs are aligned will smooth the planning process for these projects.

Similarly, the new Affordable Connectivity Program has established eligibility criteria for participating households.⁴ NTIA should consider aligning the definition of “eligible consumer” for BIL-mandated low-cost options with the eligibility criteria for the Affordable Connectivity Program to minimize the burden of creating and administering additional programs, and to incentivize provider participation in already-extant federal programs and systems.

Local Broadband and Digital Equity Plans Should be Prioritized in BEAD

19. Community engagement is critical to eliminating barriers to broadband access and adoption. NTIA views strong involvement between states and local communities as key to ensuring that the broadband needs of all unserved and underserved locations are accounted for in state plans submitted for funding. What requirements should NTIA establish for states/territories to ensure that local perspectives are critical factors in the design of state plans?

18. The Bipartisan Infrastructure Law provides that BEAD funding can be used in a variety of specific ways, including the provision of service to unserved and underserved areas, connection of community anchor institutions, data collection, installation of service within multi-family residential buildings, and broadband adoption programs. The law also permits the Assistant Secretary to designate other eligible uses that facilitate the program’s goals. What additional uses, if any, should NTIA deem eligible for BEAD funding?

A growing number of cities have completed digital equity or broadband access plans for their own communities or have recently begun the process.⁵ These plans have involved substantial time, community engagement, and research to both assess local challenges and tailor solutions to local needs. To maximize efficiency, respect community needs, and support local leaders in their progress, states should be required to consider and incorporate these existing plans into their statewide broadband and digital equity plans and should provide documentation of their effort to obtain these plans as part of their stakeholder engagement processes.

NLC also urges NTIA to make the implementation of these plans an allowable use of BEAD subgrant funding. As noted previously, many cities with broadband and digital equity plans are dense urban areas that appear to be fully served by broadband. However, they created these plans because of an evident lack of access or affordability in the community and the need for a focused effort to improve connectivity for residents and businesses. Data shows that more people lacking connectivity live in urban areas than rural ones – and those people are precisely who many of these local plans are targeting. In order to derive the maximum benefit, and connect the most people, states should incorporate local broadband and digital equity plans into their statewide plans and prioritize access to funding for these communities that are ready to take immediate action.

³ 31 CFR 35.6, Coronavirus State and Local Fiscal Recovery Funds Final Rule, Available <https://home.treasury.gov/system/files/136/SLFRF-Final-Rule.pdf>

⁴ Infrastructure Investment and Jobs Act, PL 117-58, Sec. 60502(a).

⁵ For examples of local plans, see NLC’s “A Digital Equity Playbook: How Local Leaders Can Bridge the Digital Divide,” <https://www.nlc.org/resource/digital-equity-playbook-how-city-leaders-can-bridge-the-digital-divide>

NLC's member cities, towns and villages have greatly benefited from the resources, education, and assistance offered by NTIA's BroadbandUSA program and Office of Internet Connectivity and Growth in previous years. We look forward to further growing this constructive partnership as NTIA implements the new Bipartisan Infrastructure Law in the coming months and years.

Thank you,

A handwritten signature in black ink, appearing to read 'Clarence E. Anthony', with a long horizontal line extending to the right.

Clarence E. Anthony
CEO & Executive Director
National League of Cities