

TELECOMMUNICATIONS AND REGULATORY AFFAIRS
Legislative and Regulatory Update – December 2021

Congress

- **Infrastructure Investment and Jobs Act (H.R. 3684):** Signed by Pres. Biden; the broadband provisions include includes \$65 billion for broadband-related projects and cybersecurity grants:

Broadband Highlights:

- \$42.45 billion Broadband Equity, Access, and Deployment Program - available to states that apply for funds. Allocated to states by formula.
 - Deployment to unserved and underserved areas first then connecting eligible community anchor institutions
 - Data collection, broadband mapping, and planning
 - Provision of affordable broadband to multi-family residential building in low- and moderate-income neighborhoods.
 - Broadband adoption (including providing affordable internet-capable devices)
- \$2.75 billion under the Digital Inclusion Act, which includes two new grant programs, the State Digital Equity Capacity Grant Program and Digital Equity Competitive Grant Program, focused on digital inclusion.
- \$14.2 billion for the Affordable Connectivity Benefit Households via providers (*see FCC below regarding rulemaking*)
 - This is an extension of the temp. Emergency Broadband Benefit Program (\$50/month which expires December 31, 2021), though with lower monthly subsidies.
 - Permanent program - \$30/month subsidy for internet service for households up to 200% of poverty that qualify for other federal benefits (Nutrition, SSI, Veteran's Pension, etc.).
- \$1 billion for middle mile infrastructure.
- \$2 billion for USDA rural broadband construction programs (primarily ReConnect).
- \$1 billion for DHS-run grant program to address cybersecurity risks and cybersecurity threats to information systems owned or operated by, or on behalf of, State, local, or Tribal governments.

- **Build Back Better Act ([HR-5376](#))**: House-passed version includes \$500 million for a new FTC data privacy and security bureau, \$500 million for NTIA connected device vouchers, \$490 million for next-generation 911 tech upgrades and \$300 million for the FCC Emergency Connectivity Fund.
- **Eliminating Barriers to Rural Internet Development Grant Eligibility Act (E-BRIDGE Act) ([H.R. 3193](#)) ([S. 1695](#))**: Passed House Nov. 4th; authorizes the Commerce Dept. to award economic development grants for public-private partnerships and certain consortiums for projects to provide, extend, expand, or improve broadband service through (1) planning, technical assistance, or training; (2) land acquisition or development; or (3) acquisition, construction, or improvement of facilities.
- **Next Generation Telecommunications Act ([S. 3014](#))**: Would establish a Next Generation Telecommunications Council to advise Congress on 6G advancements and other advanced wireless communications technologies; allocates \$10 million to the Council, which would submit a report to Congress within one year.
- **Cyber Incident Reporting for Critical Infrastructure Act of 2021 ([H.R. 5440](#))**: Introduced by Reps. Clarke, Thompson, Garbarino and Katko; would require critical infrastructure owners to report cyber incidents to a new Cyber Incident Review Office that would be established by CISA. Included in the House version of the National Defense Authorization Act; not in Senate version.
- **Broadband Incentives for Communities Act ([H.R. 5058](#))**: Introduced by Rep. Fletcher; would establish an NTIA-run competitive grant program to assist local governments in providing efficient review and approval of zoning and permitting applications that facilitate the deployment of broadband infrastructure; would also require NTIA to establish a “Local Broadband Advisory Council” to develop solutions to the challenges shared by local jurisdictions, covered entities, and infrastructure providers in facilitating wireless and broadband deployment.
- **Anti-Digital Redlining Bill ([H.R. 4875](#))**: Introduced by Rep. Clarke; would require the FCC to issue a notice of inquiry related to digital redlining and prohibit digital redlining.
- **Bridge Act ([S. 2071](#))**: Bill is the basis for broadband infrastructure funds allocated through the larger infrastructure package, though with key revisions (see above). Introduced by Sens. Bennet, King and Portman; establishes a \$40B grant fund that NTIA would allocate to states, DC/Puerto Rico, territories and Tribes who apply for the funds. The eligible entities must use the funds to (1) competitively award subgrants and/or (2) provide technical assistance to local, regional, private, or nonprofit entities to carry out existing efforts to deploy broadband, close the digital divide or implement the subgrants awarded under (1). With respect to (1)—the

subgrants—the deployment of broadband networks is one of 11 different eligible uses. The others include connecting anchor institutions, telehealth, free or reduced-cost broadband programs, digital inclusion, broadband adoption, workforce development and accelerating the completion of an ongoing project or public-private partnership. There are speed and affordability requirements for subgrantees who receive funds to deploy infrastructure (among other provisions of the bill).

- **American Broadband Act** ([H.R. 3435](#)): House Republican’s broadband proposal. Largely includes the House bills listed below as part of the “Boosting Broadband Availability Agenda” and includes 2 grant programs: \$20 billion for fixed broadband and \$3 billion for mobile broadband. Both programs would be run by NTIA and fund 75% of covered projects, which are to be public-private partnerships; state/local governments must agree to cost-based fees for use of ROW and muni facilities in the ROW and state/local governments cannot provide broadband services (among other conditions).
- **Smart Cities and Communities Act** ([H.R. 3386](#)): Introduced by Reps. DelBene and Clarke; among other things, would appropriate \$100,000,000 for each of fiscal years 2022 through 2026 for a smart community regional demonstration grant program for local governments that would fund up to 50 percent of “the total cost of technology investments to incorporate and assess qualifying smart city or community technologies.”
- **Accelerating Rural Broadband Deployment Act** ([S. 1113](#)) ([H.R. 3970](#)): Introduced by Sens. Kelly and Daines; House companion from Reps. Curtis and O’Halloran; would establish a process for accessing federal ROW for broadband deployment, including market-based rates for 30 year licenses and 60 day shot clock with deemed granted provision.
- **Accessible, Affordable Internet for All Act** ([H.R. 1783](#); [S. 745](#)): Introduced by Rep. Clyburn and Sen. Klobuchar; would provide \$80 billion to deploy broadband infrastructure; \$5 billion over five years for low-interest financing of broadband deployment; additional \$6 billion for the Emergency Broadband Benefit Program; guarantee the right of local governments, public-private partnerships, and cooperatives to deliver broadband service; establish grant programs for states to create and implement comprehensive digital equity plans and for digital inclusion projects undertaken by individual organizations and local communities; and additional \$2 billion for the Emergency Connectivity Fund through E-Rate.
- **Leading Infrastructure For Tomorrow’s America Act (LIFT America Act)** ([H.R. 1848](#)): Introduced by Rep. Pallone; proposes \$312 billion in clean energy, energy efficiency, drinking water, broadband, and health care infrastructure; would provide \$80 billion for broadband deployment, three-quarters of which goes to the FCC and the rest to states, in both cases for competitive bidding processes to reach unserved

areas; \$15 billion in grants for the deployment and implementation of Next Generation 9-1-1 services; \$5 billion to NTIA to make financing available for broadband infrastructure deployment projects; an additional \$6 billion for the FCC's Emergency Broadband Benefit program; an additional \$2 billion for home internet connectivity for students, teachers, and library patrons based on the FCC's E-rate authority; \$1.3 billion in grants for digital equity/inclusion. Also would prohibit states from inhibiting local governments, public-private partnerships, and cooperatives from delivering broadband service.

- **Community Broadband Act** ([H.R. 1631](#); [S. 1460](#)) Introduced by Reps Eshoo and Golden and Sen. Booker; would “remove roadblocks for public-private partnerships and locally-owned broadband systems.”
- **Eliminate the Digital Divide Act of 2021** ([S. 922](#)) Introduced by Sens. Manchin and Cornyn; would allocate \$10 billion to states for broadband buildout in unserved areas, including \$1 billion for high-cost locations; eligible entities are private providers of broadband service or a public-private partnership or cooperative.
- **GOP House Communications Subcommittee Released 28 Bills** called “Boosting Broadband Availability Agenda,” including:
 - **Broadband Justice Act** ([H.R. 1904](#)): Introduced by Reps. Bowman (MO) and Cleaver (NY); would allocate \$5 billion to provide a utility allowance for the reasonable costs of broadband for low income housing programs; would fund grant and loan programs to provide broadband to federally-assisted and other low income housing projects, including to public entities and public housing agencies.
 - **WIRELESS Leadership Act** ([H.R. 1060](#)): Introduced by Rep. Latta (OH); would, among other things, amend Section 332(c)(7) regarding wireless tower siting to codify shot clocks; impose deemed granted remedies on all wireless applications; cap fees at costs; includes “enhancement” in addition to provision of services as provider actions that state/local government cannot prohibit or effectively prohibit.
 - **BROADBAND Leadership Act** ([H.R. 1051](#)): Introduced by Rep. Griffith (VA); would amend Section 253 to apply to actions that prohibit or have the effect of prohibiting the provision or *enhancement* of telecom services; imposes shot clocks on all telecom applications (not just wireless) with a deemed granted remedy; allows only cost-based fees for all telecom applications and for use of the ROW and municipal facilities in the ROW.
 - **Broadband Resiliency and Flexible Investment Act** ([H.R. 1045](#)): Introduced by Rep. Crenshaw (TX); same as Wireless Resiliency and Flexible Investment Act but would add “eligible telecommunications facilities request” to the statute,

which is defined to include modification of an existing tele communications service facility in or on eligible support infrastructure.

- **SPEED Act** ([H.R. 1069](#)): Introduced by Rep. Pence (IN); would preclude the FCC from requiring review under NEPA or NHPA for deployment of certain communications facilities.
- **RAPID Act** ([H.R. 1074](#)): Introduced by Rep. Scalise (LA); would provide that the deployment of a small personal wireless service facilities shall not constitute an undertaking or major federal action under NEPA/NHPA.
- **National Broadband Plan for the Future Act of 2021** ([S. 279](#); [H.R. 870](#)): Introduced by Sen. Markey (MA) and Rep. Eschoo (CA); requires the FCC to update the National Broadband Plan.
- **Measuring the Economic Impact of Broadband Act of 2021** ([S. 326](#)): Introduced by Sen. Klobuchar (MN); would require the Secretary of Commerce to conduct an assessment and analysis of the effects of broadband deployment and adoption on the economy of the United States.

Federal Communications Commission

- This week, the U.S. Senate reconfirmed Chairwoman Rosenworcel to the FCC, putting her in place to be the first permanent chair of the agency under President Biden. Rosenworcel will also be the first female chair in the 86-year history of the FCC.
- **Implementation of the Affordable Connectivity Program (WC Docket No. 21-450)**: The FCC released a [Public Notice](#) seeking comment on final rules to implement the Affordable Connectivity Program, an extension of a modified Emergency Broadband Benefit Program included in the Infrastructure Investment and Jobs Act. The Commission considers December 31, 2021, to be the effective date of the ACP and the date on which EBB will cease, but the IIJA provides for a 60-day transition period for EBB households, which will commence on December 31st, so that current EBB recipients will not see an immediate reduction in their benefit on the effective date of the ACP. The Wireline Competition Bureau subsequently released an [Order](#) with preliminary guidance on the transition. Comments in response to the Public Notice are due on or before December 8, 2021, and reply comments are due on or before December 28, 2021.
- **Improving Competitive Broadband Access to Multiple Tenant Environments (GN Docket No. 17-142)**: NATOA filed [Reply Comments](#) in response to the Wireline Competition Bureau's [Public Notice](#) to update the record on issues raised in the 2019 *Improving*

Competitive Broadband Access to Multiple Tenant Environments Notice of Proposed Rulemaking. The Notice seeks comment on, among other things, (1) revenue sharing agreements; (2) exclusive wiring arrangements, including sale-and-leaseback arrangements; and (3) exclusive marketing arrangements between broadband providers and building owners. The Notice also seeks to refresh the record on the effects of state and local mandatory access laws on competition, choice, and price in multiple tenant environments. The comment period is closed but *ex partes* are still permitted.

State Activities

- HB 5 of the 87th Legislature established a new Broadband Development Office (BDO), operated under the Texas Comptroller Office. Effective date of June 15, 2021. Greg Conte serves as BDO director. Hegar will serve as chairman of a 10-member board of advisors that will guide the new office.

The office will do the following:

- award grants, low-interest loans and other financial incentives to increase broadband.
- create a broadband map indicating areas eligible for financial assistance (within a year of effective date of bill);
- set an effective threshold speed for broadband service in those underserved areas at 25 megabits per second (Mbps) download and 3 Mbps upload;
- create and update a state broadband plan (within a year of effective date of bill);
- engage in outreach to communities regarding the expansion and adoption of broadband service and the programs administered by the BDO; and
- serve as the state's subject matter expert for federal funding to help local governments