ENERGY & COMMERCE
CHAIR RODGERS

MEMORANDUM

To: Members, Energy and Commerce Committee
From: Majority Staff
Re: Communications and Technology Subcommittee Hearing

I. INTRODUCTION

On Thursday, September 21, 2023, at 9:00 a.m., the Subcommittee on Communications and Technology will hold a hearing in 2123 Rayburn House Office Building titled "Connecting Every American: The Future of Rural Broadband Funding."

II. WITNESSES

- Jonathan Spalter, President & CEO, USTelecom – The Broadband Association
- Justin Forde, Vice President, Vice President of Government Relations, MidCo
- Scott Wallsten, President and Senior Fellow, Technology Policy Institute
- Sara Nichols Senior Planner, Land of Sky Regional Council of Government

III. BACKGRUND

According to the Federal Communications Commission (FCC), 8.3 million households lack access to high-speed broadband.[1] Providing universal access to communications service—initially voice service and now broadband—has always been a challenge in the United States. Although connecting urban, populated areas is relatively easy, serving sparsely populated rural areas is difficult due to differences in terrain and population density.

To address this digital divide, Congress has tasked multiple agencies—primarily the FCC, National Telecommunications and Information Administration (NTIA), and Department of Agriculture (USDA)—with providing financial support to aid the deployment of communications technology to unserved areas. According to the Government Accountability Office (GAO), there are more than 130 federal programs—administered by 15 agencies—that could be used to expand these services.[2] This hearing is an opportunity to examine the effectiveness of the federal funding programs and consider how they should operate in the future.

IV. SELECTED ISSUES

1. Universal Service Fund

[1] Jessica Rosenworcel, National Broadband Map: It Keeps Getting Better (May 30, 2023), https://www.fcc.gov/national-broadband-map-it-keeps-getting-better.
[2] https://www.gao.gov/products/gao-22-104611.

For most of the twentieth century, one company—AT&T—provided telephone voice service to most Americans. The government granted AT&T monopoly status on the condition of providing universal service. The company relied on implicit cross-subsidization of its services to address the economics of this task—in other words, urban customers paid rates above cost to subsidize below-cost rates paid by rural customers.

After the breakup of AT&T in 1984, implicit subsidies were no longer feasible, and the country needed a new solution to support universal service. In 1996, Congress enacted the Telecommunications Act of 1996, which included a new Section 254 that addressed universal service. Section 254 outlines principles for universal service,[3] and directs the FCC to establish "policies for the preservation and advancement of universal service,"[4] and mechanisms to support universal service.[5] It also transitioned universal service support from implicit to explicit subsidies.[6] The result is the Universal Service Fund (USF).

The FCC's USF program is a user-fee-based support program that subsidizes broadband and telephone services in high-cost, typically rural, areas (High-Cost Program), for low-income households (Lifeline Program), in schools and libraries (E-Rate Program), and at rural health-care facilities (Rural Health Care Program). The Universal Service Administrative Company (USAC) is an independent, non-profit entity, that administers the USF and is funded through the USF.

In 2022, USAC disbursed more than $7.4 billion for the four USF programs: $4.3 billion of which went to the High-Cost Program, $2 billion to the E-Rate Program, $610 million to the Lifeline Program, and $497 million to the Rural Health Care Program.[7] USAC's operating expenses for the year totaled $328,224,370.[8]

The USF is funded through assessments from telecommunications providers based on a percentage of their interstate and international voice-service revenues. Providers usually pass this cost on to their customers. The percentage, known as the contribution factor, is adjusted each quarter based on the fund's estimated needs. The contribution factor for the third quarter of 2023 is 29.2 percent.[9] The proposed contribution factor for the fourth quarter of 2023 is 34.5 percent—the highest ever.[10]

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[3] *Id.*
[4] 47 U.S.C. § 254(b).
[5] *Id* § 254(a).
[6] *Id* § 254(b)(4).
[7] Universal Serv. Admin. Co., 2022 Annual Report at 4 (2023), https://www.usac.org/wp-content/uploads/about/documents/annual-reports/2022/USAC_2022_Annual_Report.pdf.
[8] *Id*. at 5.
[9] Universal Serv. Admin. Co., Contribution Factors (2023), https://www.usac.org/service-providers/making-payments/contribution-factors/.
[10] Proposed Fourth Quarter 2023 Universal Service Contribution Factor, Public Notice, CC Docket No. 96-45, DA 23-843 (rel. Sept. 13, 2023), https://docs.fcc.gov/public/attachments/DA-23-843A1.pdf.

To receive USF funds, a provider must be an eligible telecommunications carrier (ETC), a designation typically provided by a state that ensures the provider meets certain service obligations.[11]

High-Cost. The high-cost program originally supported the deployment and operation of voice-service networks in high-cost areas. In 2011, the FCC created the Connect America Fund (CAF), its first program to support networks capable of providing both voice and broadband services.[12] CAF transitioned most high-cost providers from receiving support based on their existing costs, which encouraged inefficiencies, to providing support based on forward-looking models that estimated future costs, and competitive bidding (auctions). The FCC also adopted the first budget for the high-cost program—$4.5 billion annually over six years.

The FCC followed the CAF program in 2020 with the $20.4 billion Rural Digital Opportunity Fund (RDOF), a two-phase reverse auction of ten-year support to assist the deployment of fixed broadband in rural, unserved areas.[13] The Phase I auction was completed on December 7, 2020, with 180 bidders winning $9.23 billion in ten-year support to serve 5,220,833 locations in 49 states and one territory.[14]

Despite CAF, the FCC initially kept small, rural providers on legacy rate-of-return support, which offers support based on the provider's prior costs. In recent years, the FCC has tried moving these providers to funding based on cost models. In 2016, the FCC created the Alternative Connect America Cost Model (A-CAM I), provided carriers with a voluntary path to model-based support where the FCC offered providers funding to provide broadband to a pre-determined number of locations based on a cost model.[15] The Commission revised these offers twice in 2018,[16] and made a second A-CAM offer (A-CAM II) to carriers that did not accept initial offers.[17] A-CAM I companies would receive support until 2026, while revised A-CAM I and A-CAM II providers received support until 2028. Providers are obligated to deploy broadband with speeds of 25/3, 10/1, or 4/1 Mbps depending on location. The total support currently provided to A-CAM I and A-CAM II companies is $1.1 billion per year.[18]

In July, the FCC approved the Enhanced Alternative Connect America Cost Model (A-CAM) program, which will offer existing A-CAM and rate-of-return recipients model-based

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[11] 47 U.S.C. § 254(e); *see also id.* § 214(e).
[12] *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 1090 et al., 26 FCC Rcd 17663 (2011).
[13] *Rural Digital Opportunity Fund,* Report and Order, WC Docket No. 19-126 et al., 35 FCC Rcd 686, (2020), https://docs.fcc.gov/public/attachments/FCC-20-5A1.pdf.
[14] *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes,* WC Docket No. 19-126 et al., Public Notice, 35 FCC Rcd 13888 (2020), https://www.fcc.gov/document/auction-904-winning-bidders.
[15] *Connect America Fund et al.,* WC Docket No. 10-90 et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087 (2016).
[16] *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking, 33 FCC Rcd 2990 (2018); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 33 FCC Rcd 11893 (2018).
[17] *Id.*
[18] *Connect America Fund et al.,* WC Docket No. 10-90 et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 23-60 (rel. July 24, 2023), https://docs.fcc.gov/public/attachments/FCC-23-60A1.pdf.

funding to support deployment of 100/20 Mbps broadband in their service areas by 2028.[19] The budget for the program is no more than $1.27 billion annually, or no more than $1.33 billion annually if certain conditions are met, over a 15-year term beginning January 1, 2024. The Commission explained that this offer would complement the upcoming Broadband Equity, Access, and Deployment (BEAD) program by removing locations from BEAD eligibility and preventing overbuilding of networks already receiving federal support.

The FCC also plans to support mobile broadband providers' deployment in high-cost areas. In 2020, the FCC approved rules creating a 5G Fund, which would auction up to $9 billion in USF support to carriers to deploy 5G-capable networks in rural America.[20] The FCC originally planned to begin the auction upon the release of new broadband maps but now plans to wait to consider new mobile broadband availability data and "the impact of programs like BEAD, before moving forward with new approaches to long-term support for mobile broadband."[21] On September 21, the FCC will vote on a Further Notice of Proposed Rulemaking seeking comment on a limited set of issues to refresh the record and continue the implementation of the 5G Fund.[22]

Lifeline. The Lifeline Program began in 1985 and was rolled into the USF in 1997. Lifeline provides support to low-income consumers by subsidizing both fixed and mobile voice and broadband services. Lifeline providers currently receive a discount of up to $5.25 per consumer per month for voice-only service, and $9.25 per consumer per month for broadband service of at least 4.5 GB/month. Consumers on Tribal lands receive an additional discount of $25 per month. Some states provide additional discounts. The FCC planned to drop support for voice service to $0 in December 2021, but paused the phase-out until December 1, 2023.[23] Similarly, the FCC has paused a planned increase of the minimum service standard for mobile broadband.[24]

Waste, fraud, and abuse has been a serious problem for the Lifeline program.[25] To address this problem, the FCC established the National Verifier, a centralized system that uses state and federal databases and other sources to determine whether applicants are eligible for

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[19] *Id.*
[20] *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Report and Order, 35 FCC Rcd 12174 (2020), https://docs.fcc.gov/public/attachments/FCC-20-150A1.pdf.
[21] Letter from Jessica Rosenworcel, Chairwoman, FCC, to The Hon. Roger F. Wicker, Ranking Member, S. Comm. on Commerce, Sci. & Transp. (Nov. 10, 2022), https://docs.fcc.gov/public/attachments/DOC-389366A2.pdf.
[22] Establishing a 5G Fund for Rural America, GN Docket No. 20-32, Draft Further Notice of Proposed Rulemaking, FCC-CIRC2309-02 (rel. Aug. 31, 2023), https://docs.fcc.gov/public/attachments/DOC-396574A1.pdf.
[23] *See Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42 et al., Order, DA-22-706 (WCB 2022), https://docs.fcc.gov/public/attachments/DA-22-706A1.pdf.
[24] *Id*. The minimum service standard was supposed to increase to 6.5 GB/month beginning December 1, 2022.
[25] *Bridging the Digital Divide for Low-Income Consumer*s, WC Docket. No. 17-287, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 34 FCC Rcd 10886 ¶¶ 4-13 (2019); *see also* FCC Office of Inspector General, Advisory Regarding Fraud in the Lifeline Program at 1 (Apr. 16, 2019), https://docs.fcc.gov/public/attachments/DOC-357035A1.pdf ("Fraud remains a serious problem for the Lifeline program" and "[m]uch of the fraud found in the Lifeline program occurs during the subscriber enrollment.); GAO, Telecommunications: Additional Action Needed to Address Significant Risks in FCC's Lifeline Program, GAO-17-538 at 37-40 (2017) (stating that GAO was unable to confirm the eligibility of 36% of the Lifeline subscribers in its review.).

Lifeline. It helps providers initiate new applications, check eligibility, and check the status of an application. The FCC also established the National Lifeline Accountability Database to prevent multiple carriers from receiving support for the same subscribers.

Rural Health Care. The Rural Health Care Program (RHC) provides funding to eligible health-care providers for telecommunications and broadband services necessary to provide health care. The program is mandated in Section 254.[26] RHC is comprised of two core programs: the Healthcare Connect Fund and the Telecommunications Program. The RHC budget cap for funding year 2022 was $637,721,108.[27]

During the Covid-19 pandemic, the FCC also established the Connected Care Pilot Program, outside of the RHC, to support telehealth for low-income Americans, especially those living in rural areas and veterans. This separate, three-year pilot program provided up to $100 million in support from the USF to help defray health-care providers' costs of providing connected care services.

E-Rate. The Schools and Libraries program, or E-Rate, provides funding to eligible schools, school districts, and libraries to obtain affordable broadband service to classrooms and libraries. Congress directed the program in Section 254.[28] Support depends on the poverty level of the school or library and whether the school or library is in an urban or rural area. Schools and libraries may request funding support under two categories of service, which allow for support for either telecommunications, telecommunications services, and Internet access, or services that deliver Internet access, such as internal connections and basic maintenance of internal connections. The cap for funding year 2023 was $4.77 billion and is adjusted each year.[29]

Section 254 provides that E-Rate funds may only be used "to enhance… access to advanced telecommunications and information services for… school classrooms… and libraries."[30] Despite this limit, FCC Chairwoman Jessica Rosenworcel has proposed expanding E-Rate to support Wi-Fi on school buses and at-home Wi-Fi hot spots,[31] locations that are not school classrooms or libraries. In July, House Energy and Commerce Committee Chair Cathy McMorris Rodgers and Senate Commerce Committee Ranking Member Ted Cruz sent Chairwoman Rosenworcel a letter opposing this proposal.[32]

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[26] 47 U.S.C. 254(h)(1)(A).
[27] *See Wireline Competition Bureau Announces E-Rate and RHC Programs' Inflation-Based Caps for Funding Year 2023*, CC Docket No. 02-6 et al, Public Notice, DA-23-178 (WCB Mar. 3, 2023), https://docs.fcc.gov/public/attachments/DA-23-178A1.pdf.
[28] 47 U.S.C. § 254(h)(2).
[29] *See supra* note 27.
[30] 47 U.S.C. § 254(h)(2).
[31] Press Release, Chairwoman Rosenworcel Announces 'Learn without Limits' Initiative, FCC (June 26, 2023), https://docs.fcc.gov/public/attachments/DOC-394625A1.pdf.
[32] Letter from Ted Cruz, Ranking Member, S. Comm. on Commerce, Sci. & Transp. & Cathy McMorris Rodgers, Chair, H. Comm on Energy and Commerce, to The Hon. Jessica Rosenworcel, Chairwoman, FCC (July 31, 2023), https://docs.fcc.gov/public/attachments/DOC-396295A1.pdf.

Chairwoman Rosenworcel has also proposed creating a new pilot program within the USF, outside of E-Rate, to support cybersecurity services for eligible K-12 schools and libraries.[33]

Future of the USF. The purpose of the USF has come into question because of recent Congressional spending on broadband deployment, affordability, and distance learning—functions duplicative of the USF. Some argue that Congress should use appropriations for these functions instead of using the USF.[34]

In addition, the increase of the contribution factor from 5.5 percent in 2000[35] to where it stands today has led to calls for contribution reform. One proposal is to add broadband providers to the base,[36] also known as "taxing the Internet," which can only be done if the FCC reclassifies broadband as a Title II service ("Net Neutrality" debate). Others suggest including edge providers in the base, such as Netflix or Amazon.[37]

Another reform proposal is to adopt a combined budget cap for the USF to improve efficiency and encourage responsible use of the Fund. On May 31, 2019, the FCC released a Notice of Proposed Rulemaking (NPRM) seeking comment on establishing a budget cap and how a cap could enable the Commission to evaluate the financial aspects of the four USF programs in a more holistic way.[38]

The Infrastructure Investment and Jobs Act (IIJA) directed the FCC to conduct a study on the future of the USF,[39] which the FCC released in August 2022.[40] The report made a series of recommendations for Congressional action.

The USF is also the subject of litigation. Consumers' Research, an advocacy organization, filed lawsuits in the United States Court of Appeals for the Fifth Circuit,[41] Sixth Circuit,[42] and Eleventh Circuit[43] raising Constitutional and statutory challenges to the USF. Specifically, Consumers' Research argues that the USF violates the nondelegation doctrine because Congress failed to provide the FCC with an intelligible principle to guide its efforts to

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[33] Press Release, FCC Chairwoman Rosenworcel Takes Steps to Protect Schools Against Cyber Attacks, FCC (June 26, 2023), https://docs.fcc.gov/public/attachments/DOC-395069A1.pdf.
[34] *See, e.g.*, Daniel Lyons, A Common-sense Opportunity to Reform the Universal Service Fund, American Enterprise Inst. (Jan. 28, 2021), https://www.aei.org/technology-and-innovation/a-common-sense-opportunity-to-reform-the-universal-service-fund/.
[35] *Proposed Second Quarter 2000 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, DA 00-517 (rel. Mar. 7, 2000), https://docs.fcc.gov/public/attachments/DA-00-517A1.pdf.
[36] Shirley Bloomfield, NTCA Leads 254 Organizations in Calling for USF Contributions Reform (Dec. 7, 2021), https://www.ntca.org/ruraliscool/newsroom/ntca-leads-254-organizations-calling-usf-contributions-reform.
[37] *See, e.g.,* Brendan Carr, Ending Big Tech's Free Ride, Newsweek (May 24, 2021), https://www.newsweek.com/ending-big-techs-free-ride-opinion-1593696.
[38] *Universal Service Contribution Methodology*, Notice of Proposed Rulemaking, WC Docket No. 06-122, 34 FCC Rcd 414 (2019). https://docs.fcc.gov/public/attachments/FCC-19-46A1.pdf.
[39] Infrastructure Investment and Jobs Act, P.L. 117-58, div. F, tit. I § 60104(b) (2021) (IIJA).
[40] *Report on the Future of the Universal Service Fund*, FCC No. 22-67, WC Docket No. 21-476, Report (rel. Aug. 15, 2022), https://www.fcc.gov/document/fcc-reports-congress-future-universal-service-fund.
[41] *Consumers' Rsch. v. FCC*, No. 22-60008 (5th Cir. Filed Jan. 5, 2022).
[42] *Consumers' Rsch. v. FCC*, No. 21-3886 (6th Cir. filed Sept. 30, 2021).
[43] *Consumers' Rsch. v. FCC*, No. 22-13315 (11th Cir. filed Oct. 3, 2022).

achieve universal service, and that the FCC cannot delegate administration of the USF to a private entity (USAC). The Sixth Circuit ruled in favor of the FCC,[44] as did the Fifth Circuit initially,[45] before vacating the decision to hear the case *en banc*.

2. Covid and Infrastructure Investment and Jobs Act (IIJA) Programs

During the Covid-19 pandemic, Congress created a number of programs to address connectivity. These programs, however, funded areas also funded by the USF—telehealth, schools and libraries, low-income, and broadband infrastructure deployment.

Covid-19 Telehealth. The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided the FCC with $200 million to respond to the coronavirus pandemic by supporting telecommunications services, information services, and devices necessary to enable telehealth.[46] The Consolidated Appropriations Act, 2021 provided an additional $250 million to the FCC's COVID-19 Telehealth Program.[47] All funding under the program was committed.

Emergency Broadband Benefit/Affordable Connectivity Program. The Consolidated Appropriations Act, 2021 established the temporary $3.2 billion Emergency Broadband Benefit (EBB) program at the FCC to provide a $50 subsidy to support connectivity for low-income households during the COVID-19 public health emergency.[48] It also provided a $100 reimbursement for one connected device per household.

The IIJA amended EBB, renaming it the Affordable Connectivity Program (ACP) and making it permanent.[49] Additionally, Congress changed certain program requirements. These amendments included raising the threshold for eligibility from 135 percent of the federal poverty level to 200 percent of the federal poverty level and reducing the monthly discount on Internet service from $50 per month to $30 per month for eligible households that are not on qualifying Tribal lands. Congress also appropriated an additional $14.2 billion dollars for the ACP. As of September 4, there are over 20.7 million households enrolled in ACP and $6.9 billion remaining to disburse.[50] The remaining funds will likely be depleted by early-to-mid 2024.

[44] *Consumers' Rsch. v. FCC*, No. 21-3886 (6th Cir. May 4, 2023), https://www.opn.ca6.uscourts.gov/opinions.pdf/23a0093p-06.pdf.
[45] *Consumers' Rsch. v. FCC*, 63 F.4th 441 (5th Cir. 2023).
[46] Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136 (2020).
[47] Consolidated Appropriations Act, 2021, P.L. 116-260, div. N, tit, IX, § 903 (2020) (Consolidated Appropriations Act, 2021).
[48] *Id.* § 904 (2020).
[49] IIJA, div. F tit. V § 60501 et seq.
[50] Universal Serv. Admin. Co., ACP Enrollment and Claims Tracker (last accessed Sept. 12, 2023), https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/#total-enrolled

The FCC's administration of EBB/ACP has come under scrutiny. On November 22, 2021[51] and September 8, 2022,[52] the FCC Office of Inspector General (FCC OIG) issued advisories regarding EBB enrollment fraud. Further, the Government Accountability Office (GAO) found that the agency did not have adequate performance goals and measures, and that it did not have adequate antifraud controls.[53] In May, House Energy and Commerce Chair Cathy McMorris Rodgers and Senate Commerce Committee Ranking Member Ted Cruz sent a letter to the FCC OIG requesting a review of the FCC's management of these programs. FCC OIG responded on May 30, stating that it is conducting multiple investigations and will have more information upon completion of its 2023 ACP audit.[54]

Emergency Connectivity Fund. Section 7402 of the American Rescue Plan Act created the $7.171 billion Emergency Connectivity Fund and required the FCC to promulgate rules for use of the fund to provide eligible equipment or connectivity to schools and libraries to support remote learning by their students, staff, or patrons.[55] As of May 31, the FCC had awarded nearly $6.7 billion of these funds.[56]

Broadband Infrastructure Deployment Programs. The IIJA tasked the NTIA with managing several grant programs that carry out broadband deployment. This includes:

- $42.45 billion for the Broadband Equity, Access, and Deployment (BEAD) Program, which will provide last-mile deployment grants to states for unserved and underserved areas;
- $1 billion for the Middle Mile Grant Program, to support the deployment of middle-mile infrastructure; and
- $2 billion for the Tribal Connectivity Program, to support connectivity-related activities for Tribal communities.[57]

The programs are in addition to broadband infrastructure programs established by the Consolidated Appropriations Act, 2021. That law provided NTIA $1.3 billion for broadband grants: $1 billion for Tribal areas and $300 million for broadband deployment in unserved areas.[58] The Tribal grants may be used by Tribal governments for broadband deployment on Tribal lands, and also for telehealth, distance learning, broadband affordability, and digital

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[51] FCC Office of Inspector General, Advisory Regarding Fraudulent EBB Enrollments Based on USDA National School Lunch Program Community Eligibility Provision," (Nov. 22, 2021), https://www.fcc.gov/document/fcc-inspector-general-issues-advisory-regarding-ebb-enrollment-fraud.

[52] FCC Office of Inspector General, Advisory Regarding Provider Enrollments of Multiple ACP Households Based on the Same Child/Dependent, (Sept. 8, 2022), https://www.fcc.gov/sites/default/files/oig_advisory_duplicate-bqps_09082022.pdf.

[53] GAO, Affordable Broadband: FCC Could Improve Performance Goals and Measures, Consumer Outreach, and Fraud Risk Management, GAO-23-105399 (2023), https://www.gao.gov/products/gao-23-105399.

[54] Letter from Sharon R. Diskin, Acting Inspector Gen., FCC, to The Hon. Cathy McMorris Rodgers, Chair, House Comm. on Energy and Commerce and The Hon. Ted Cruz, Ranking Member, Sen. Comm. on Commerce, Science, and Transp.,May 30, 2023, https://s3.amazonaws.com/warren-news.com/pdf/880931.

[55] American Rescue Plan Act of 2021, P.L. 117-2, tit. VII, subtit. D § 7402.

[56] Press Release, FCC Announces Over $15 Million for Emergency Connectivity Funding for Schools and Libraries (May 31, 2023), https://docs.fcc.gov/public/attachments/DOC-393923A1.pdf.

[57] Infrastructure Investment and Jobs Act, P.L. 117-58, div. F, tit. I-V (2021), https://www.congress.gov/bill/117th-congress/house-bill/3684.

[58] Consolidated Appropriations Act, 2021, P.L. 116-260, div. N, tit. V, § 905 (2020).

inclusion. The broadband expansion grants support broadband infrastructure deployment to areas lacking broadband, especially rural areas.

The Consolidated Appropriations Act, 2021 also created the Connecting Minority Communities Pilot Program, which included $285 million to support to expand broadband capacity and use in communities surrounding Historically Black Colleges and Universities, Tribal colleges and universities, and minority-serving education institutions.[59]

3. Other Federal Broadband Efforts

USDA. The USDA also offers significant funding for broadband deployment through the Rural Utilities Service (RUS): the Telecommunications Infrastructure Loan Program, the Community Connect Grant Program, the Rural Broadband Access Loan and Grant Program, and the Rural e-Connectivity Pilot Program (ReConnect).[60]

The ReConnect Program has been the most popular USDA broadband program used by telecommunications providers in recent years. This pilot program targets areas where at least 90 percent of the households to be served by a project are in a rural area that lacks sufficient access to broadband, defined as 10/1 Mbps. The program was established in 2018 through the Consolidated Appropriations Act, 2018,[61] but has never been formally authorized. Congress initially appropriated $600 million for the program in FY2018, and subsequently appropriated $550 million in FY2019, $555 million in FY2020, and $635 million in FY2021. Additional money has come from other legislation: the Coronavirus Aid, Relief, and Economic Security (CARES) Act provided $100 million[62]and the IIJA included $2 billion for ReConnect.[63]

Treasury. The American Rescue Plan Act of 2021 also established several programs within the Department of the Treasury to fund broadband deployment through state, local, and Tribal governments.[64] The Act established a $219.8 billion Coronavirus State Fiscal Recovery Fund, which states, territories, and Tribal governments may use to "make necessary investments in…broadband infrastructure," as well as a $130.2 billion Coronavirus Local Fiscal Recovery Fund, to allow cities and counties to make similar investments.[65] The Act also established a $10 billion Coronavirus Capital Projects Fund that will allow states, territories, and Tribal governments to "carry out critical capital projects directly enabling work, education, and health monitoring, including remote options."[66] Each state will receive $100 million, with an additional

[59] Consolidated Appropriations Act, 2021, § 902.
[60] RUS, Telecom Programs. https://www.rd.usda.gov/programs-services/telecommunications-programs#:~:text=The%20RUS%20Telecom%20Program%20is,and%20Outreach%20Division%20(POD).&text=LOAD%20is%20the%20primary%20contact%20for%20all%20telecom%20borrowers%20and%20grant%20applicants.
[61] Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, div. A, tit. VII, § 779 (2018).
[62] Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, div. B, tit. I, § 11004 (2020).
[63] IIJA, div. J, tit. I.
[64] American Rescue Plan Act of 2021, H.R. 1319, tit. IX, sub. M, § 9901 (2021).
[65] *Id.*
[66] *Id.*

$100 million split among Tribes, and the remaining money split amongst states based on population, rurality, and poverty levels.

Interagency Coordination. Historically, federal agencies have not coordinated their funding decisions. As a result, they have awarded funds to areas that already have broadband service from a private sector provider or are served by a project funded by another agency. Further, navigating the myriad federal broadband support programs can be challenging. Federal broadband support programs are spread across multiple Executive Branch agencies, the programs often have different qualifications and applications; address different needs; and may not be well promoted.[67]

The Consolidated Appropriations Act, 2021, included two provisions to improve interagency coordination. First, the Advancing Critical Connectivity Expands Service, Small Business Resources, Opportunities, Access, and Data Based on Assessed Need and Demand (ACCESS BROADBAND) Act,[68] established the Office of Internet Connectivity and Growth (Office) at NTIA. The Office is tasked with tracking federal broadband support funds, and coordinating federal broadband support programs within the Executive Branch and with the FCC to ensure unserved Americans have access to connectivity and to prevent duplication of support. The Office is also directed to streamline and standardize the process for applying for federal broadband support.

Second, the Broadband Interagency Coordination Act required the FCC, NTIA, and USDA to enter into an interagency agreement to coordinate the distribution of federal funds for broadband programs, to prevent duplication of support and ensure stewardship of taxpayer dollars.[69] The agencies completed this agreement in June 2021.[70] The agencies included the Treasury Department in a separate agreement in 2022.[71]

4. *Broadband Mapping*

National Broadband Map. The increased need for broadband highlights the importance of identifying which areas have broadband and which areas do not. To accomplish this task, the FCC creates maps to identify served and unserved areas. Previous FCC maps relied on census-block level data from providers and overstated the availability of broadband in some areas, creating an obstacle to further deployment.

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[67] *See Broadband Funding Guide*, BroadbandUSA, https://broadbandusa.ntia.doc.gov/sites/default/files/resource-files/bbusa_federalfunding_all_190409.pdf.
[68] Consolidated Appropriations Act, 2021, § 903.
[69] *Id.*, § 904.
[70] Press Release, NTIA, NTIA, FCC and USDA Announce Interagency Agreement to Coordinate Broadband Funding Deployment (June 25, 2021), https://www.ntia.doc.gov/press-release/2021/ntia-fcc-and-usda-announce-interagency-agreement-coordinate-broadband-funding.
[71] Memorandum of Understanding Regarding Information Sharing dated as of May 9, 2022, between the FCC, USDA, NTIA, and Treasury, https://www.ntia.doc.gov/files/ntia/publications/interagency_broadband_mou.pdf

On March 23, 2020, Congress enacted the Broadband DATA Act, which reformed the FCC's mapping process.[72] The law directed the FCC to issue new rules on the collection of granular broadband availability data from providers every six months, establish a challenge process to verify the accuracy of such data, develop a process for state and local governments and third parties to submit availability data, and create a broadband serviceable location fabric to identify every broadband-serviceable location in the country. Through the Consolidated Appropriations Act, 2021, Congress provided the FCC $98 million to fulfill its obligations under that law.[73]

The FCC released a "pre-production" version of its new map on November 18, 2022.[74] Although the map was a significant improvement over previous FCC maps, it still had flaws, including missing communities. The FCC released an updated map, which included new data from providers and adjudicated challenges to the pre-production map, on May 30.[75] According to that map, 8.3 million homes and businesses lack access to broadband.[76]

Broadband Funding Map. Section 60105 of the IIJA directs the FCC to establish an online mapping tool showing where the Federal government (FCC, NTIA, USDA, and Treasury) is funding broadband deployment.[77] The FCC released the first version of this map on May 15.[78]

IV. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Kate O'Connor or John Lin of the Committee Staff at (202) 225-3641.

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[72] Broadband Deployment Accuracy and Technological Availability (DATA) Act, P.L. 116-130 (2020), *codified at* 47 U.S.C. 641, et seq.
[73] Consolidated Appropriations Act, 2021, div. E, tit. V; div. N, tit. V, § 906(1).
[74] FCC Releases Pre-Production Draft National Broadband Map, WC Docket Nos. 11-10, 19-195, Public Notice, DA 22-1210 (BDTF/WCB/OEA Nov. 18, 2022).
[75] FCC National Broadband Map, FCC, https://broadbandmap.fcc.gov/home.
[76] Jessica Rosenworcel, National Broadband Map: It Keeps Getting Better (May 30, 2023), https://www.fcc.gov/national-broadband-map-it-keeps-getting-better.
[77] Infrastructure Investment and Jobs Act, P.L. 117-58, div. F, tit. I § 60105(b) (2021).
[78] Broadband Funding Map, FCC, https://fundingmap.fcc.gov/home.