Washington Watch

Congress and Closing the Digital Divide

By Leslie Mozingo and Amy Kirschbaum,
Strategics Consulting

Broadband access, or the lack thereof, has become an issue of increasing importance especially in this past year as our nation has shifted away from the previous way we lived to a way that is incumbent upon social distancing and the need for reliable, fast internet access. Adequate digital infrastructure is essential for education, economic development, health care, social services, and in many cases, as we learned during the pandemic, employment. However, many portions of North Carolina counties do not have access to high-speed internet. According to the NC Department of Information Technology, 1.1 million people in the state lack it. In appropriate reaction, NCACC's #1 federal priority has been to support funding and legislation to expand high-speed broadband access.

Throughout the pandemic the shift to working from home, attending school virtually, and access to health care via Zoom became the norm not the exception. The digital divide was not just noticeable, it exposed an economic imperative for change. Congress reacted and now increasingly a number of federal agencies are offering communities help in closing the gap. Additionally, recent legislation such as the American Rescue Plan (ARP) has included unprecedented amounts

of funding to address broadband issues:

- $9.961 billion to the Homeowner Assistance Fund (multiple agencies).

- $219.8 billion to the Coronavirus State Fiscal Recovery Fund at the Department of Treasury (broadband infrastructure included).
- $10 billion to the Coronavirus Capital Projects Fund (broadband eligible).
- $500 million to the Economic Development Administration's (EDA) Economic Adjustment Assistance program.
- $500 million for a U.S. Department of Agriculture Rural Health Care Pilot Grant program. (Funding can be used for telehealth capabilities.)
- $140 million to Secretary of the U.S. Department of Health and Human Services for Telehealth Support Program.
- $7.171 billion to Federal Communications Commission's Emergency Connectivity Fund to reimburse schools and libraries for providing free broadband services.
- $362 billion to the State and Local Fiscal Recovery Fund (LRF) that provided direct assistance to states, counties, local governments, tribal governments and U.S. territories, specifically identifying broadband as one of the few capital infrastructure investments allowed.

The LRF offers flexibility for digital inclusion activities, including physical network build-out in unserved and underserved areas, device

and connectivity subscription support, and digital literacy training are eligible for these funds. The U.S. Treasury has instructed that priority should be given to deployment of infrastructure that will bring service to households or businesses that are not currently serviced by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed. To meet this requirement, states and localities should use funds to deploy broadband infrastructure projects whose objective is to provide service to unserved or underserved households or businesses, although these unserved or underserved households or businesses do not need to be the only ones in the service area funded by the project.

That specific broadband speed is important because, in 2015, the FCC set the target speed threshold to 25 Mbps (download) / 3Mbps (upload). This means that 25 million megabits per second will be transmitted downstream from the internet to the user's computer; and 3 million megabits per second will be transmitted upstream from the user's computer to the internet.

Additionally, the $10 billion Capital Projects Fund given to states allows for investment in high-quality broadband as well as other connectivity infrastructure, devices, and equipment. States, territories and tribal governments can use the funds for capital projects directly enabling work, education and health monitoring. North Carolina's share is $100 million plus an additional sum based on state population, amount of residents living in rural areas and number of households under 150% of the poverty line. The State has not announced receipt of funds or its distribution plan yet, but the application process is expected to open in Summer 2021.

Federal Agency Resources

Throughout federal agencies and commissions there are resources, most competitively awarded, to support expansion of broadband. Funding for these programs is provided through regular annual appropriations.

The Appalachian Regional Commission (ARC) for the Central Appalachia area has the Central Appalachia & North Central / North Appalachia Broadband program that assists with broadband deployment in distressed counties in the specified regions.

U.S. Department of Agriculture

- The Rural Broadband Access Loan and Loan Guarantee program funds the costs of construction, improvement, or acquisition of facilities and equipment needed to provide service in eligible rural areas.
- The Community Connect Grants program funds broadband deployment to rural communities where it is not yet economically viable for private sector providers to deliver service. Funds may be used for construction, acquisition, or leasing of facilities, spectrum, land or buildings used to deploy broadband service for all residential and business customers located within the Proposed Funded Service Area (PFSA) and for all participating critical community facilities such as public schools, fire stations, and public libraries.
- The Telecommunications Infrastructure Loans and Loan Guarantees program funds the construction, maintenance, improvement and expansion of telephone service and broadband in extremely rural areas with a population of 5,000 or less.
- The Distance Learning and Telemedicine program principally funds end-user equipment to help rural communities use telecommunications to link teachers and

medical service providers in one area to students and patients in another. Funds can be used for transmission facilities, audio, video and interactive video equipment, terminal and data terminal equipment, computer hardware and other components.

- The ReConnect program furnishes loans and grants to provide funds for the costs of construction, improvement, or acquisition of facilities and equipment needed to provide broadband service in eligible rural areas. The Service areas cannot be in a city, town or incorporate area that has a population greater than 20,000 or an urbanized area adjacent to a city or town with a population greater than 50,000 people.
- The Community Facilities (CF) Direct Loan and Grant Program provides affordable funding to develop essential community facilities in rural areas. This includes public connectivity/computer access, Smart Communities and telehealth.

Department of Commerce

National Telecommunications and Information Administration (NTIA) provides technical services and now administers three (3) new grant programs – Tribal Broadband Connectivity Program, Broadband Infrastructure Program, and the Connecting Minority Communities.

Economic Development Administration (EDA) Economic Adjustment Assistance program received CARES Act and ARP funding in addition to the annual appropriations the agency receives from Congress. This is EDA's most flexible program, and grants made under it help communities plan, build, innovate, and put people back to work through construction or non-construction projects designed to meet local needs.

Federal Communications Commission

- Emergency Broadband Benefit provides discount for up to $50 per month towards broadband service for eligible households and up to $75 per month on tribal lands, as well as one-time discount for laptops, tablets, and more.
- Emergency Connectivity Fund Program is intended to close the "homework gap" by providing funding to schools and libraries for the purchase of connected devices and broadband connections for use by students, teachers/staff and library users. The FCC's May 11 final rule also clarified that any funds remaining after accepting all applications for future purchases could be used to reimburse past eligible purchases made during the COVID-19 pandemic.
- E-Rate Program makes telecommunications and information services more affordable for schools and libraries by providing discounts.
- Rural Health Care Program allows funding to eligible healthcare providers in rural areas for telecommunications and broadband services necessary for the provision of healthcare.

U.S. Department of Housing and Urban Development

- Community Development Block Grant (CDBG) funds may be used to install wiring, fiber optic cables and affixed equipment. Although HUD plans to issue regulations that will formalize its steps for narrowing the digital divide, current CDBG funds can be used for broadband installation infrastructure and service delivery.
- Community Development Block Grant Disaster Recovery (CDBG-DR) is a special appropriation after a President declares a major disaster. Funds can be used for disaster relief, long-term recovery, restoration of infrastructure, housing and economic revitalization.
- Choice Neighborhoods helps transform distressed neighborhoods and housing into mixed-income neighborhoods with investments in neighborhood assets and opportunities for families. Choice Neighborhoods strongly encourages grantees to increase broadband connectivity.
- Section 108 Loan Guarantee Program funds can be used to upgrade broadband infrastructure to create more connected communities. It is a non-competitive process with applications being accepted on a rolling basis. Section 108 loans can be used for a specific project or to finance multiple projects over a number of years. Eligible applicants must be a CDBG entitlement recipient

North Carolina Limitations and Legislation

Even with all the new funding for broadband expansion and several pieces of new legislation introduced in Congress to continue the effort, local governments in North Carolina are restricted from making investments in broadband infrastructure networks. The National Association of Counties (NACo) Broadband Task Force report finds that when states restrict local governments from making broadband networks and services investments, they are limiting opportunities for counties to achieve the user scale necessary, including with public-private partnerships that help overcome otherwise cost-prohibitive service opportunities. NACo is working to pass federal legislation that would remove those barriers and expand broadband access.

There are efforts in Raleigh to make changes, too. Consistent with NC counties' top legislative goal, NCACC is advocating for state legislation to enable counties to build infrastructure and lease to private internet service providers, and other functional and financial mechanisms to help residents access, afford, and adopt broadband service. While federal law allows some of the American Rescue Plan Act funds to be invested in broadband infrastructure, state law in North Carolina restricts counties' ability to use the money flexibly and comprehensively.

On the funding side, Governor Roy Cooper has proposed that $1.2 billion of the state's share of ARP funding should go toward fiber installation grants and other broadband projects. The House has not acted on a budget plan, but it unanimously passed the Growing Rural Economies with Access to Technology (GREAT) Broadband Expansion Act (House Bill 947) that establishes a Completing Access to Broadband (CAB) program for grants to private providers of broadband services in the most rural and remote parts of North Carolina. The House appropriates $400 million in ARP funding to be overseen by county governments, and an additional $350 million state-received ARP funds to be used for the GREAT grant program. The budget passed by the Senate would allocate $330 million for GREAT and other money for broadband with $15 million for broadband access at rural community colleges.

Building a New Digital Economy in NC

BAND-NC provides mini grants of $5,000 to communities that want to implement digital inclusion plans, begin a digital inclusion planning process, or have immediate digital needs. The second round will open summer 2021. Nonprofits, government institutions, schools/colleges and universities, and churches are eligible to apply, but only one grant per county will be funded. All applicants should apply on behalf of a county (or a group of counties). Regional entities, such as Councils of Government, can apply on behalf of multiple counties, though the funds cannot exceed $5,000 for any one county, and they must include individual counties in their planning efforts. Applicants should include a list of community partners who are either involved in the project and/or actively supportive of the project and digital inclusion more broadly.

About the author: Leslie Moringo, CEO and Owner of Strategica Consulting, is a federal relations consultant to NCACC. For more information, contact Leslie at (202) 256-5160, leslie@strategica. consulting, or visit www.strategica.consulting.