



The Honorable John Thune
United States Senate
511 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Thune,

Thank you for your outreach to the National Urban League (NUL) with the opportunity to provide comments on our country's current broadband regulatory structure and our organization's broadband policy priorities for the years ahead. NUL and our 92 affiliates across 36 states and the District of Columbia have long fought for the economic empowerment of historically under-resourced communities across the nation. That is why we were an early advocate for the *Infrastructure Investment and Jobs Act* (IIJA). We remain committed to ensuring the funds from the IIJA, including federal support for broadband access, affordability, and adoption, are equitably distributed to the communities that remain unconnected, are at risk of being disconnected, and are in need of increased workforce and entrepreneurial opportunities. We are proud that our work on several policies was ultimately reflected in this historic bipartisan legislation. Notably, in our *Lewis Latimer Plan for Digital Equity and Inclusion* we provided comprehensive and detailed analyses and solutions to address unequal broadband availability, broadband adoption, and access to economic opportunities for communities of color and low-income communities across urban and rural America.¹

It is imperative that we all recognize that closing the digital divide through the new funds available through the IIJA means we can make impactful traction in closing the economic opportunity divide as well. The broadband and broadband-enabled industries have led to massive wealth accumulation that has not been equitably distributed to the communities the National Urban League represents. Companies must continue to be strongly encouraged or incentivized to hire from underrepresented communities beyond entry level positions, establish diversity hiring goals, and increase supplier diversity. NUL has been successful in our work with other civil rights groups to advise companies on how to prioritize diversity, equity, and inclusion throughout their organizations. We have proudly taken up these efforts because we know that Black, Latino, and other workers of color who have made vast contributions to our American economy deserve job opportunities at every level in technology and technology-related industries alongside opportunities for entrepreneurs of color to benefit economically from this sector. Therefore, we encourage Congress to mirror our efforts and prioritize the digital divide as an issue that impacts consumers, workers, business owners, and our ability to compete and thrive as a nation.

We are pleased that this federal legislation has allocated substantial resources to address these critical issues, including \$42.45 billion to increase broadband access and adoption through the Broadband Equity, Access, and Deployment (BEAD) program and \$2.75 billion for Digital

¹ National Urban League. (March 2021). *The Lewis Latimer Plan for Digital Equity and Inclusion*. https://nul.org/sites/default/files/202104/NUL%20LL%20DEIA%20041421%20Latimer%20Plan_vFINAL_1136A.M.pdf.



Equity Act initiatives. We are also pleased that this bipartisan legislation led to the establishment of the \$14.2 billion Affordability Connectivity Program (ACP), which as of January 2023 has already connected more than 15 million households across the nation to affordable broadband and remains a stellar example of a whole-of-nation approach to bridging the digital divide.

The Broadband Mission

The National Urban League and majority of stakeholders across the public and private sectors believe that federal investment in broadband funding should be focused on four goals:

- *Availability:* Creating robust broadband networks so they are available to every residential and business location in the United States.
- *Affordability:* Ensuring everyone can afford to use those broadband networks and devices needed to navigate the internet.
- *Access to Economic Opportunities:* Establishing new economic opportunities that allow all people to fully participate in the growth of our digital economy and benefit from the deployment of these networks as workers and business owners.
- *Utilization:* Making full use of networks to improve the delivery of, and outcomes associated with public and essential services, such as education, healthcare, public safety, job training, and civic engagement.

The IJA is primarily focused on providing the necessary funding to achieve the availability, affordability, and access to economic opportunities goals. That is appropriate, as the utilization goal can only fully be realized if the first three goals are accomplished.

There is an urgent need for policy to address both supply side and demand side barriers.

Congress, through the BEAD program, Digital Equity Act programs, and ACP allocations, demonstrated that it correctly understood that policy needs to address challenges to both broadband access and broadband adoption. It is widely understood that the two are interconnected; the greater coverage means more potential customers, while more potential customers improve the economics of networks yet to be built as well as existing networks.

This inquiry, however, only focuses on the supply side, with the questions largely concerned with potential impediments and inefficiencies in achieving the goal that broadband networks reach every residential and business location in the United States. We agree that removing barriers and achieving efficiency is important and we look forward to reviewing the record your inquiry generates to help add to our own views on many of the questions you raise. But, as we demonstrate below, the greatest challenge to efficiently achieving Congress' objectives is not related to the questions you have raised in your inquiry. Rather, the greatest challenge before us is uncertainty about the future of the Affordable Connectivity Program.

Greatest Challenge to Achieving the Broadband Mission: Uncertainty about the Future of Affordable Connectivity Program

It is estimated that ACP funding is likely to be exhausted by mid-2024. Failure to extend ACP will devastate the 15 million households and counting that already benefit from or are seeking to

enroll in this program and will threaten their ability to thrive in the digital age. That, in and of itself, is a disaster for our country economically and socially, but the potential discontinuation of ACP will also cause a great inefficiency in the BEAD program. The reasons are as follows:

Bidders will seek to close a funding gap; the greater the potential revenue, the smaller the funding gap. Those bidding to receive BEAD funds to deploy networks will not seek funding for 100% of the capital cost of the network. Rather, they will seek funding for the gap between the capital cost and the private investment that they can generate in order to receive an acceptable market return. As the Rural Digital Opportunity Fund (RDOF) auction demonstrated, the funding gaps vary greatly between geographic regions. All providers will complete a detailed analysis of what revenues they expect to receive in order to provide a return on the capital they will invest. Again, the greater the potential revenue, the smaller the funding gap.

Additionally, a recent study reviewed the impact of ACP and concluded that the program reduces the subsidy needed to incentivize providers to build in rural areas by 25% per household.² The study further states that “ACP, which subsidizes subscriber service fees up to \$360 per year, reduces the per-household subsidy required to incentivize ISP investment by \$500, generating benefit for the government and increasing the market attractiveness for new entrants and incumbent providers.”³

In preparing their bids, bidders must make assumptions about the revenues they will receive. Companies must make assumptions about the long-term prospects of the ACP. Rural areas have a high number of ACP-eligible households and households that are currently enrolled in ACP. If the potential grantees assume ACP will be permanent, they will build higher revenues into their models and therefore need less funding to incentivize investment. If the assumption proves correct, then the funding will accurately reflect the long-term funding gap. If the assumption proves wrong, however, the potential grantees will receive too little funding and suffer adverse financial consequences. Such consequences for any enterprise would present an issue, and, for smaller enterprises focused on rural areas, they could be ruinous.

As noted above, if ACP, or an alternative long-term broadband affordability program, is not authorized, there will be severe consequences in terms of tens of millions of Americans being disconnected or never having the opportunity to connect to the internet. Additionally, if Congress fails to reauthorize ACP, the federal government likely will end up overpaying for broadband deployments. As a result, the federal dollars will end up funding deployments to significantly fewer unserved and underserved homes and businesses. That reduction in the states’ ability to meet the Congressional goal of closing the digital divide will not be due to the misconduct of any grantee or state but because Congress had not made its intention clear about a critical financial input to the models that the private sector uses to apply for BEAD funding.

² Clark, K., Fazlullah, A., Garner, D., Golnabi, S., Hill, H., Kalmus, M., McQuiggan, M., and Salmirs, E. (2022). Closing the Digital Divide Benefits Everyone, Not Just the Disconnected: An Analysis of How Universal Connectivity Benefits education, Health care, Government Services, and Employment. San Francisco, CA: Common Sense.

³ *Id* at 30.



Again, we do not dispute the need for efficiency in equitable deployment of broadband and in the allocation of federal funds. We urge you and your colleagues to evaluate Congress' role in the possible creation of an inefficiency most likely to result in the greatest overspending and under-delivering.

To improve the efficiency of BEAD, there must be a sustainable funding mechanism for ACP. Therefore, we urge you and your colleagues to explore options to ensure this critical program receives continued funding.

Other Issues:

You have also asked a series of additional questions related to broadband policies. For those questions where we have relevant experience and believe our views could assist in the formation of policy, we have provided further information below. For other questions, we look forward to reviewing the record and, if we think useful, adding supplemental information.

General Broadband Issues:

1. As noted above, there are over 130 programs supporting broadband access across 15 agencies.

a. To date, which of these programs do you believe has had the most success in delivering broadband services to truly unserved areas?

Examination of government data show that initiatives such as the Affordable Connectivity Program (ACP) have had a positive impact on closing the digital divide. In South Dakota, 13% of ACP eligible households have already enrolled and are benefiting from the \$30 a month subsidy. Through the establishment of the ACP Outreach Grant Program, we fully expect an uptick in that number as trusted community organizations in the state and around the country work to spread the word about this program and assist eligible households with enrolling.

Also, the recently-released American Community Survey data show sizable increases in home broadband subscriptions from 2019 to 2021 – that is, during the height of the pandemic. The ACS data show that home wireline subscriptions (i.e., those for cable modem, fiber, or digital subscriber line service) grew by 4.7 percentage points from 2019 to 2021. From 2017 to 2019, growth was just 2.0 percentage points.⁴ Moreover, broadband adoption growth from 2019 to 2021 was greatest in cities such as Detroit, Cleveland, and Baltimore, which have high rates of poverty. In other words, broadband adoption increased the most in the cities with the lowest broadband adoption rates.

The 2019 to 2021 timeframe coincides not just with the Covid-19 pandemic, but also with new initiatives aimed at making broadband more affordable. Throughout the country, local philanthropies and businesses joined together to address the digital divide, particularly for

⁴ Horrigan, J. (November 2022). It's No Time to Disarm in the War Against the Digital Divide. Benton Foundation. <https://www.benton.org/blog/its-no-time-disarm-war-against-digital-divide>.

households with school-age children. Many states, such as Maryland, used American Rescue Plan Act funding to make service more affordable for low-income households. In 2021, the Emergency Broadband Benefit (EBB) provided service subsidies for all lower-income households, with the Affordable Connectivity Program succeeding it in 2022.⁵ The track record during the pandemic of ACP and other affordability initiatives suggest that they should be sustained going forward.

Further, a goal of the IJJA is to ensure broadband network investments pay off for all Americans regardless of their income levels. It is well documented that many lower-income households struggle with paying for key services such as broadband. Among those who *do not* have broadband subscriptions at home, the monthly service fee is the primary reason. In a 2021 survey, approximately 55% of non-adopters said that the cost of service was a reason they lacked a subscription.⁶ For lower-income households who *have* home broadband service, nearly half (46%) say it is difficult for them to afford service.⁷

This means “subscription vulnerability” is a real and ongoing problem for many low-income households. In Philadelphia, for example, 31% of low-income households said they experienced a service interruption due to the pandemic.⁸ The Pew Research Center found that 25% of all Americans experienced difficulty paying for internet service during the pandemic’s early days. The pandemic was an economic disruption that exposed the problems many low-income households experience in paying for broadband.⁹ Yet, the fundamental challenge of broadband affordability will not vanish as the pandemic recedes. Therefore, programs to ease the burden of broadband subscription for low-income households – such as ACP – warrant ongoing support as a means of reaching universal service goals.

c. Should Congress merge and combine any of these programs? If so, which programs would be best suited to be merged?

We urge you to think beyond elimination and merger of broadband funding programs and to consider that the federal government should improve access to critical information about the programs and improve the application process. In our *Lewis Latimer Plan for Digital Equity and Inclusion*, we made the following several recommendations to do so:¹⁰

⁵ Edinger, J. (August 2021). Gov. Hogan Launches Connect Maryland Broadband Initiative. Government Technology. <https://www.govtech.com/network/gov-hogan-launches-connect-maryland-broadband-initiative>

⁶ Everyone On & Horrigan, J. (December 2021). Affordability and the Digital Divide. <https://static1.squarespace.com/static/5aa8af1fc3c16a54bcbb0415/t/61ad7722de56262d89e76c94/1638758180025/EveryoneOn+Report+on+Affordability+%26+the+Digital+Divide+2021.pdf>.

⁷ *Id.* at 7.

⁸ Horrigan, J. (October 2021). Philadelphia’s Digital Divide by the Numbers a City-Wide Survey Shows that Programs to Tackle the Digital Divide Have a Positive <https://www.phila.gov/media/20211019110414/Connecting-Philadelphia-2021-Household-Internet-Assessment-Survey.pdf>.

⁹ Parker, K., Minkin, R., Bennett, J. (September 2020). Economic Fallout from Covid-19 Continues to Hit Lower Income Americans the Hardest. Pew Research Center. <https://www.pewresearch.org/social-trends/2020/09/24/economic-fallout-from-covid-19-continues-to-hit-lower-income-americans-the-hardest/>.

¹⁰ National Urban League. (March 2021). The Lewis Latimer Plan for Digital Equity and Inclusion at 50. https://nul.org/sites/default/files/202104/NUL%20LL%20DEIA%20041421%20Latimer%20Plan_vFINAL_1136A.M.pdf.



- ***Provide a search engine that enables stakeholders to effectively find the program that serves their needs.*** Since we published the *Lewis Latimer Plan* suggesting an upgrade to the broadband search engine, the National Telecommunications and Information Administration (NTIA) has improved their online tool. However, we still think there are improvements that could be made to improve the ability of potential recipients to quickly identify relevant programs and determine whether each program’s mission and eligibility criteria fit their situation.
- ***Require agencies to update their information.*** A quick review of the information makes clear that many entries are out of date. There should be a requirement for agencies to periodically update the information and to do so immediately when there is a significant event, such as congressional action allocating new funds, that affects the nature of their programs.
- ***For programs other than those supported by the Federal Communications Commission (FCC)’s Universal Service Fund, create a common application that enables those applying for funding from more than one program to save time and effort in the application process.*** NTIA should review the applications for those programs and develop a common application so that the applicant can fill out one form, instead of multiple forms, and apply for multiple programs simultaneously. This will be helpful in avoiding duplication of administrative work done by the government. Further, NTIA should standardize, to the extent possible, the application process to ease the administrative burden on applicants. As an illustration, the Department of Education has an online financial aid form application, known as the FAFSA, that is common to all eligible institutions.
- ***The federal website should be designed so that states can also add their broadband-related programs to the database.*** Several states have programs to enhance federal broadband efforts. In this regard, it would be helpful to communities if the federal website were designed to allow states to add their broadband related programs to the database.

6. How effective have the Memoranda of Understanding between (1) the FCC, USDA, and NTIA, and (2) the FCC, USDA, NTIA, and Treasury been with respect to broadband coordination efforts? Are there additional reforms federal agencies should implement to better coordinate on broadband deployment efforts?

These federal agencies will need to coordinate on a number of issues, but we would recommend prioritizing coordination on the implementation of the findings of the important FCC proceedings on preventing and eliminating digital discrimination and how the broadband “nutrition label” should be applied to recipients of federal funding.

7. Should Congress take steps to increase the transparency of agencies when allocating and disbursing broadband funds? If so, what steps should Congress take?

As stated in our response in question 1, we believe the federal government should improve access to critical information about the broadband funding programs and improve the application process through the implementation of the following recommendations:

- Improve the search engine that enables stakeholders to effectively find the program that serves their needs.
- Require agencies to update their information.
- For programs other than the those supported by the FCC’s Universal Service Fund, create a common application that enables those applying for funding from more than one program to save time and effort on the application process.
- Design a federal website that allows states to add their broadband related programs to the database.

10. What specific steps can Congress take to reduce costs to broadband providers when deploying new networks?

There may be a number of steps Congress could take but, as we recommended in the *Lewis Latimer Plan*, at a minimum:

- the FCC, in consultation with other federal, state, and local governments, should publish best practices for public entities to reduce the costs of, and time required for, broadband deployment; and
- the FCC, in consultation with relevant stakeholders, should develop a set of best practices that expedite review when infrastructure deployment utilizes existing rights of way, such as highways, utilities, and rail.

13. Are there other broadband policy issues that Congress should consider reforming during the 118th Congress?

As stated in the *Lewis Latimer Plan for Digital Equity and Inclusion* and then, to build on the positive momentum of the IJA, we have developed a set of recommendations and best practices on how IJA broadband funding would be most effectively spent to drive digital equity where it matters most – connecting unserved and underserved populations while also increasing broadband adoption and economic opportunities for workers and businesses. We provided the following recommendations to Congress with a particular focus on states and territories receiving broadband funds:

Establish a “Broadband Adoption Office” while also building staff capacity and expertise on broadband adoption issues in state and local broadband offices to focus on the complex needs of non-adopters to get more residents online efficiently and rapidly. Among specific recommendations for the Office, we advise it to:

- Establish a Digital Navigators Corps to help unconnected persons solve a wide range of adoption issues;



- Create an Online Digital Readiness Portal to provide every American with access to free, age-appropriate curricula that teaches digital skills and enhances digital readiness, offered in multiple languages; and
- Issue reports on the effectiveness of different digital readiness strategies.

Engage underserved and underrepresented communities in broadband adoption initiatives developed in collaboration with experienced community-based organizations that can help tailor programming to meet the specific needs of non-adopters.

Facilitate partnerships with experienced, community-based organizations, employers, and educational institutions to promote the recruitment of historically marginalized populations including people of color, women, underemployed, and low-income workers for workforce development opportunities and jobs related to BEAD-funded eligible activities.

Establish supplier diversity initiatives and goals among BEAD program grantees so that economic opportunities associated with broadband deployment projects are available to diverse populations.

Prioritize the deployment of timely and cost-effective broadband solutions to connect unconnected households within multi-family properties and public housing using BEAD program funding.

In addition, we have specific recommendations relating to policies that could build on the universal broadband platform to improve outcomes in healthcare, K-12 education, workforce development, and general government services. These recommendations include the following:

Healthcare. We were pleased that in the recently passed omnibus legislation, Congress took steps to extend for two years critical waivers for telehealth and hospital-at-home programs that have led to improvements in care and made medical treatment more convenient and accessible for patients. We urge you to act to do so on a more permanent and dependable basis. With healthcare services increasingly provided online, government must ensure that everyone has access to user-friendly, health-enabling tools that connect them to high-quality, affordable health services and medical information they can understand. To do so, we recommend that federal and state governments act to reduce disparities in access to health care services by:

- Adopting consistent policies across state Medicaid programs;
- Removing geographic and originating site restrictions;
- Removing limitations on eligible services, providers, and facilities, and removing unnecessary restrictions on practitioners eligible to provide telehealth services; and
- Funding programs supporting digital health care infrastructure and technical assistance, digital health literacy, and workforce diversity.

In addition, we recommend that:

- The Department of Health and Human Services allocate funding to develop, recruit, and retain healthcare professionals from underrepresented groups; and



- The FCC modify the Connected Care Pilot Program and the Telehealth Program to focus more on improving health outcomes for low-income communities and communities of color.

K-12 Education. Technology is creating a new educational infrastructure with a vast expansion of new, diverse, and relevant opportunities. Unfortunately, uneven implementation of these technologies is widening rather than narrowing existing gaps in educational outcomes. We must ensure that new educational infrastructure provides all students with equal access to the tools and content of fast-evolving digital learning. Further, we need to provide educators the support they need to enable students to maximize the value of digital content. To do so, we recommend that Congress:

- Ensure students have support for digital learning from teachers and other appropriately trained adults, such as online tutors;
- Invest in a federal research and development agenda focused on advancing new models of technology-empowered teaching and learning that promote equity and improve outcomes for all students;
- Invest in culturally responsive and relevant online learning tools;
- Reform funding systems to ensure adequate and equitable distribution of resources, particularly to advance digital learning;
- Improve access for students of color and others to educational experiences that improve their ability to utilize technology; and
- Develop a National Strategic Agenda for Education Technology Research & Development, focused on improving outcomes for students of color.

Workforce Development. Governments should improve digital tools that enable people interested in every job type to upgrade their skills and to search, apply, and interview for jobs, and ensure that small businesses can use broadband-based tools to improve their prospects. To do so we recommend:

- The White House and Congress expand access to digital resources and technical assistance for enterprises located in rural areas and among communities of color;
- The Department of Labor develop more broadband, technology, and communications sector-related registered apprenticeship training programs;
- The federal government provide incentives for companies, states, municipalities, nonprofit organizations, and the private sector to create and scale new workforce development and digital skills training programs;
- Federal agencies increase and improve data collection related to workforce development; and
- States modernize their unemployment benefits systems to offer unemployed citizens more effective access to opportunities for future employment.

Government Services. Low-income and minority communities would benefit significantly from greater online access to government services. Many government information systems, however, are outdated. Further, budget gaps lead to failures in upgrading and maintaining digital infrastructure. Overall, governments must systematically improve their ability to use technology to deliver services. To address these issues, we recommend that federal, state, and local governments:



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- Optimize government websites for mobile use;
- Establish a one-stop-shop for citizens to access and control personally identifiable information held by government agencies;
- Improve automated online government customer support;
- Take steps to eliminate data poverty, the social and economic inequalities that result from a lack of collection or use of data about an individual or community;
- Require all government forms be provided digitally for data entry, signing, and submission; and
- Modernize and secure existing government systems and facilitate low contact and remote access to government websites and services.

In closing, we hope these recommendations will encourage lawmakers, government agencies, and community partners to work collaboratively to drive broadband adoption and increase economic opportunities in the communities we represent, which will help ensure we all can participate in the digital ecosystem. It should also be noted what Congress itself found in adopting the broadband provisions of the IJA: 1) “access to affordable, reliable, high-speed broadband is essential to full participation in modern life in the United States,” 2) “the digital divide disproportionately affects communities of color, lower-income areas, and rural areas, and the benefits of broadband should be broadly enjoyed by all,” and 3) access to the internet is an economic security issue, not only for individuals and families but for our nation.

The digital age has clearly demonstrated that access to affordable, reliable broadband is indeed a civil right because it impacts one’s ability to get an education, find work, access healthcare, and even start or sustain a business. It also remains a critical tool for organizing for social justice and civic engagement. The National Urban League looks forward to continuing to work with you and all the members of the Senate to ensure IJA broadband funds are equitably distributed, interagency coordination is facilitated to promote broadband adoption, and proposals are developed to secure continued funding for critical programs that address access to economic opportunities, broadband availability, and broadband adoption. If you or your staff should have any questions, please contact Alisa Valentin, NUL’s Senior Director of Technology and Telecommunications Policy at avalentin@nul.org.

Sincerely,

Marc H. Morial
President and CEO
National Urban League