

Broadband Support Opportunities for State and Local Governments Under the American Rescue Plan Act of 2021

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President Biden has now signed the [American Rescue Plan Act of 2021](#) (H.R. 1319, “Act”) into law. As many are aware, the \$1.9 trillion package includes \$7.17 billion for an Emergency Connectivity Fund to enable remote learning, for which the FCC is to issue rules within 60 days of the Act’s enactment. This blog entry describes a few *other* aspects of the Act that present significant opportunities for broadband service providers and their partners, particularly state and local governments.

Coronavirus State and Local Fiscal Recovery Funds

A major component of the Act overall is the relief funding appropriated to state and local governments. Subtitle M of the Act creates a “Coronavirus State Fiscal Recovery Fund,” providing for payment of \$220 billion to states, territories and Tribal governments, and a “Coronavirus Local Fiscal Recovery Fund,” providing \$130 billion to local governments (including “metropolitan cities, non-entitlement units of local government, and counties”).^[1]

How those funds are to be allocated among the various states and units of local governments is prescribed in detail in the Act. Importantly, while distributed funds may only be used for certain purposes, *this is not a grant program where a state or local government must describe and apply for funds to support a particular project*. In general, distribution will be of a prescribed amount, and is essentially automatic.

As compared to local government funding provisions under consideration as part of the CARES Act in 2020, the new Act gives states and local governments significant flexibility in how the Fiscal Recovery Fund monies may be spent. For both states and local governments, the funds can be used for a variety of purposes relating to COVID-19 fiscal recovery, including (to paraphrase): (A) to respond to “negative economic impacts” and to aid impacted industries, (B) to provide premium pay and grants to essential workers, and (C) to address budget shortfalls stemming from the pandemic.^[2]

Of most interest for our purposes is subsection (D), which states that the Fiscal Recovery Funds may be used “**to make necessary investments in water, sewer, or broadband infrastructure.**” The Act does not elaborate further.

In short, states and local governments are about to receive a massive infusion of funding. They may conclude that the development of necessary broadband infrastructure is a worthy use of some of that money, particularly if such infrastructure is necessary to support their other COVID-related programs, and under the Act, they would be permitted to do so.

Two other points are also worth noting. Unlike some of the other new programs under the NTIA and FCC, the funds would not need to be expended until December 31, 2024. The Act also specifically allows the funds to be transferred to a private nonprofit organization, or special-purpose unit of state or local government.^[3]

Coronavirus Capital Projects Fund

The Act provides \$10 billion to states, territories, and Tribal governments (not local governments) “to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency.”^[4] The scope of that appropriation plausibly includes broadband-related projects. The Act directs the Treasury Department to establish a grant process to access the funding within 60 days of enactment.

Economic Development Administration (EDA) Appropriation

Section 6001 of the Act provides \$3 billion to the [Economic Development Administration](#) within the Department of Commerce. Broadband projects in economically distressed communities are eligible for funding under the Public Works and Economic Adjustment Assistance programs.

Homeowners Assistance Fund

The Act appropriates nearly \$10 billion for a “Homeowners Assistance Fund” that states can use for payment assistance for “qualified expenses” of households that need help due to COVID-19, including mortgage payment assistance.^[5] The fund can be used for “internet service, including broadband internet access service.” It is to remain available until September 30, 2025.

[1] Section 9901.

[2] Section 9001 of the Act, adding Sections 602 and 603 of the Social Security Act (42 U.S.C. § 801 *et seq.*).

[3] Section 9901 of the Act; Sec. 602(c)(3).

[4] *Id.*; Sec. 604.

[5] Section 3206.

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