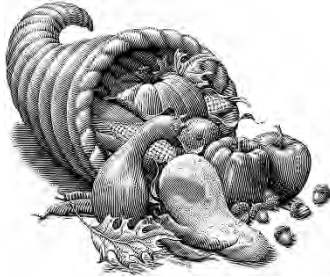


STARTING 2022 OFF RIGHT:  
THE INFRASTRUCTURE INVESTMENT AND JOBS ACT INCLUDES  
SIGNIFICANT FUNDING FOR BRINGING BROADBAND ACCESS TO  
RURAL AMERICA



By: [Richard M. Blau, Esq.](#), Chair  
Nationwide Food Law Team

The [Infrastructure Investment and Jobs Act \(“IIJ Act”\)](#) signed into law by President Joe Biden on November 15, 2021, was hailed by the White House and advocates as a historic investment to improve internet access in America. In the law, Congress for the first time recognizes that “access to affordable, reliable, high-speed broadband is essential to full participation in modern life in the United States.”

The law goes further by acknowledging that the “digital divide disproportionately affects communities of color, lower-income areas, and rural areas,” and orders the Federal Communications Commission (FCC) to take action against discrimination of access based on income level, race, ethnicity, color, religion, or national origin. This is an important recognition of the role broadband access plays in perpetuating cycles of poverty and community underdevelopment.

Because broadband access is essential infrastructure, areas in America lacking access to the internet face a barrier to economic competitiveness, as well as an inequitable distribution of essential public services, including access to emergency health care as well as modern education. Rural farmers, ranchers, and foresters, in addition to Native Americans living on tribal lands, are among the most negatively impacted by their lack of access to broadband services.

**THE IIJ ACT PROVIDES \$65 BILLION IN NEW FEDERAL FUNDING FOR EXPANDING  
BROADBAND INFRASTRUCTURE AND PROMOTING CONNECTIVITY**

The largest of the IIJ Act’s many components is the \$42.5 billion [Broadband Equity, Access, and Deployment \(BEAD\)](#) program, which goes to the states to administer as block grants to expand broadband networks, requires each state to generate a five-year action

plan laying out how it will use the funds, including a process for prioritizing locations that are classified as “unserved” or “underserved.” Under the BEAD program, which focuses on the provision of new broadband infrastructure, each state will be awarded an initial amount of \$100 million, with the remainder of the \$42.5 billion -- approximately 85% of the total appropriation -- allocated based on the percentage of unserved locations across states. The states are then responsible for disbursing these funds as sub-grants. Unserved locations [can include agricultural and business sites](#), not just households.

States with existing broadband offices and grant programs will have an advantage in developing the required five-year action plans, as well as having offices capable of awarding sub-grants within their borders. Florida established its own [Office of Broadband](#) pursuant to Section 288.9961, -.9963 of the Florida Statutes; the agency works with local and state government agencies, community organizations, and private businesses to increase the availability and effectiveness of broadband internet throughout the state, specifically in small and rural communities.

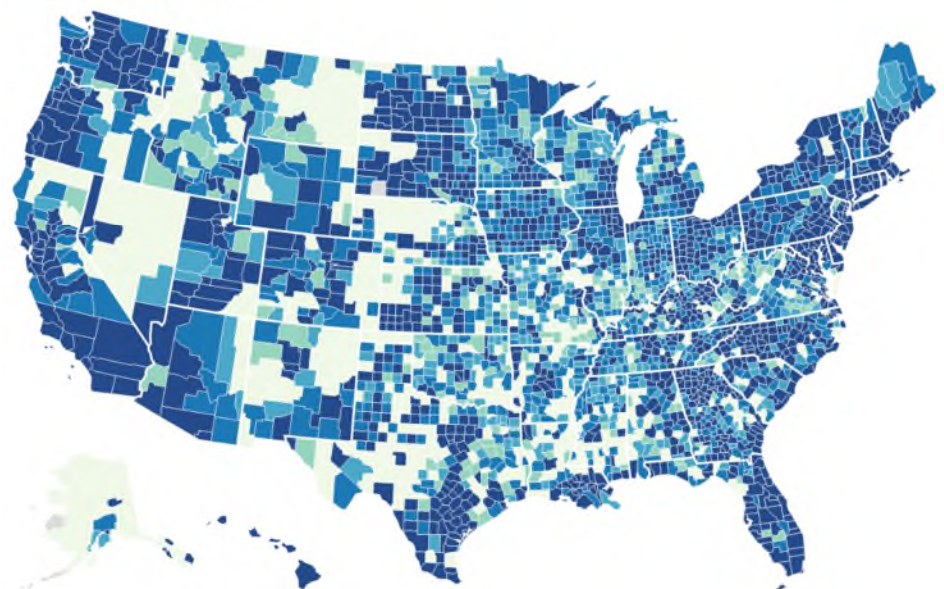
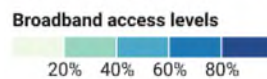
The second-largest piece is the \$14.2 billion [Affordable Connectivity Program](#), which subsidizes eligible households with \$30 per month for internet access. This program will be administered by the FCC.

Other components include the \$2.75 billion [Digital Equity Act](#), which requires each state to establish an organization responsible for developing a digital equity plan that will help to disburse sub-grants. [Digital equity](#) means ensuring every community has adequate access to the technologies and skills needed to fully participate in society.

For the first time ever, Congress also appropriated \$1 billion for the Commerce Department’s [Middle Mile Grants](#) program. The rural poor face a material lack of access to broadband service.

### Counties in need of greater broadband access

Rural U.S. counties in the South, Great Plains and West have some of the lowest percentages of residents with access to high-speed internet. The Infrastructure Investment and Jobs Act aims to fill in these gaps.



Data from FCC's 2017 report *Mapping Broadband Health in America*.  
Map: The Conversation/CC-BY-ND • Source: FCC

In Florida, many farmers, ranchers, and foresters residing in panhandle counties such as Calhoun, Jefferson, Liberty, and Washington counties have little to no access to the internet (less than one-tenth of one percent (0.1%) of Calhoun County's population had access to broadband service in 2017).

The Middle Mile Program will help these rural areas by providing grants for initiatives that include building fiber, leasing of dark fiber, submarine cable, undersea cables, transport to data centers, carrier-neutral internet exchanges, and wireless microwave backhaul. The grant program defines "middle-mile" as any broadband infrastructure that does not directly connect to an end-user location. The federal grants will provide up to 70% of the cost of constructing middle-mile connectivity. Priority will be given to projects that:

- Leverage existing rights-of-way to minimize regulatory and permitting challenges.
- Enable the connection of unserved anchor institutions.
- Facilitate the creation of carrier-neutral interconnection facilities (places where multiple carriers can meet and exchange traffic).
- Improve the redundancy of existing middle-mile infrastructure.

Grants are more likely to be awarded to solid financial recipients that have assembled a consortium of entities pledging to use the new middle-mile routes. Regional groups should start talking now to be ready when these grants are announced, as there likely will be only one grant cycle.

#### NOT ONLY GETTING ACCESS, BUT UNDERSTANDING HOW TO USE THAT ACCESS

Getting people connected involves more than making broadband available and more affordable. It also involves digital literacy training and raising awareness about connectivity opportunities. The new law acknowledges this challenge and creates two programs:

- (i) the **State Digital Equity Capacity Grant Program**; and
- (ii) the **Digital Equity Competitive Grant Program**.

These federally funded programs seek to build state capacity and promote broadband adoption through local community organizations. This marks a significant departure from the "build it and they will come" approach that has guided federal broadband policymaking for decades.

The IIJ Act also includes a provision that prevents states from excluding cooperatives, nonprofit organizations, public-private partnerships, public utilities, and local governments from obtaining broadband infrastructure funding. Florida is among the eighteen states that either prohibit or seriously impede counties and local municipalities from offering free broadband access.

The IIJ Act mandates that recipients of network deployment grants must offer at least one low-cost service option for eligible subscribers. The law leaves the definition of low-cost and the eligibility guidelines up to states, though in consultation with the National Telecommunications and Information Administration.

Industry observers and policymakers suggest that the Federal Communication Commission's current [affordability benchmark](#) of 2% of disposable household income going toward phone and internet services should serve as a baseline for defining eligibility.

## THE ONLINE ROAD AHEAD

The Biden Administration has repeatedly stated that broadband internet is necessary for Americans to do their jobs, to participate equally in school learning, health care, and to stay connected. Yet, by one definition, more than 30 million Americans live in areas where there is no broadband infrastructure that provides minimally acceptable speeds – a particular problem in rural communities throughout the country.

The IIJ Act provides \$65 billion in federal funding to help ensure all Americans have access to reliable high-speed Internet through a historic investment in broadband infrastructure deployment. The legislation will also help lower prices for internet service and help close the digital divide, so that more Americans can afford internet access.

As U.S. Agriculture Secretary Tom Vilsack recently stated:

As we make significant progress in closing the digital divide and delivering 21st century broadband, farmers will have access to real-time information and new technologies needed to maintain their competitive edge, small businesses will be able to develop their markets, and rural communities can become better connected to jobs, telemedicine, and distance learning. . . .

This is a tremendous opportunity to build up rural America with wealth that stays in rural communities, jobs you can raise a middle-class family on, and the ability to compete around the world. I'm thankful to those in Congress who drove this bipartisan legislation over the finish line, and to

President Biden for his leadership for America's working families. Now, let's get to work and see to it that the benefits of modern infrastructure reach every corner of country.

For more information regarding the IIJ Act and grant opportunities available through its many programs, contact **GrayRobinson's Food Law Team** via telephone at (866) 382-5132 or via email at: [foodlaw@gray-robinson.com](mailto:foodlaw@gray-robinson.com).



[Richard M. Blau](#) leads GrayRobinson's [Nationwide Food Law Practice](#), focusing on the laws that govern the production, importation, processing, marketing, distribution, and sale of foods and beverages throughout the United States. Richard works with all levels of the food industry. He has represented international importers and domestic manufacturers, statewide wholesaler trade groups and regional distributors, and retailers (including multistate restaurant and grocery store chains) across the United States. Richard has achieved numerous peer-related accolades for his legal work, including: **Chambers and Partners** - Nationally ranked as "Band 1" for Food and Beverage Law; **Best Lawyers in America** - Nationally listed for Food and Beverage Law; and **Super Lawyers** - Elected member.