

**ARKANSAS AMERICAN RESCUE PLAN STEERING
COMMITTEE MEETING MINUTES**

Governor's Conference Room
Wednesday, June 2, 2021 – 3:30pm

IN ATTENDANCE

STEERING COMMITTEE MEMBERS

Larry Walther, Secretary, Department of Finance & Administration
Stacy Hurst, Secretary, Department of Parks, Heritage & Tourism
Mike Preston, Secretary, Department of Commerce
Johnny Key, Secretary, Department of Education
Wes Ward, Secretary, Department of Agriculture
Dr. Jose Romero, Secretary, Department of Health
Daryl Bassett, Secretary, Department of Labor & Licensing
Cindy Gillespie, Secretary, Department of Human Services
Senator Bill Sample
Senator Keith Ingram
Senator Ronald Caldwell
Representative Kenneth Ferguson
Representative Jeff Wardlaw
Representative Frances Cavanaugh

ADDITIONAL ATTENDEES

Solomon Graves, Secretary, Department of Corrections
Judge Steven Porch, Chief Legal Counsel and Executive Broadband Manager for Commerce
Paul Louthian, Deputy Director, Department of Finance and Administration

AGENDA

- 1) Welcome and Opening Remarks – Secretary Walther
 - 2) Approval of Minutes – Secretary Walther
 - 3) Presentation of Proposed Rules – Secretary Walther
 - 4) Department Presentation
 - Commerce – Secretary Preston
 - 5) Discussion
 - 6) Scheduling of Next Meeting
- Adjournment

WELCOME AND OPENING REMARKS

Secretary Larry Walther presented the minutes from the Arkansas American Rescue Plan Steering Committee meeting on May 19, 2021. Senator Sample motioned to approve; Secretary Key provided a second; Secretary Walther called for a vote; the minutes were approved.

PRESENTATION OF PROPOSED RULES

Secretary Walther presented the proposed rules which used the CARES Act Steering Committee rules as a guide. A motion was presented to approve the rules; a second was provided; Secretary Walther called for a vote; the rules were approved.

COMMERCE: DEPARTMENT PRESENTATION

Secretary Mike Preston of the Department of Commerce presented a request for \$300 million in funding for broadband grants and administrative costs. The \$300 million includes \$30,703,422.00 towards approved applications submitted after CARES Act funding was exhausted, \$114,737,395.17 towards projects which are not federally compliant, and \$150 million towards anticipated requests for new projects.

Secretary Preston noted that the Commerce Broadband Office received \$120 million in funds from the CARES Act, which provided broadband access to 130,000 Arkansans.

DISCUSSION

Judge Steven Porch, Chief Legal Counsel and Executive Broadband Manager for Commerce took questions from the Committee regarding his June 1, 2021 memorandum.

Secretary Walther asked if the Commerce Broadband Office will be able to provide the bandwidth that is requested in the American Rescue Plan. Judge Porch noted that the optic fiber used in this project will allow that to happen.

Senator Sample asked for more information on the problems the Commerce Broadband Office is facing making the \$114 million projects compliant. Judge Porch stated that the backhaul is the major issue because equipment will need to be updated. Senator Sample also asked for an update on getting wireless internet to the people of Arkansas. Judge Porch agreed that is an issue and noted that the Governor is issuing a letter to the Under Secretary of Treasury to address these issues. Judge Porch stated that many areas of Arkansas have terrain that is not feasible to dig trenches for wires due to the diamonds and limestone in the ground.

Secretary Hurst requested more information on the map which shows "Awards and Ready to Deploy as of May 25," asking if that includes what has already been granted out and the additional projects with the additional \$150 million in projects that are anticipated. Judge Porch answered that his team is going to work to get these projects in line with the federal guidelines. Secretary Hurst then asked how much of Arkansas will remain uncovered from broadband internet access once the requested \$300 million is spent. Judge Porch noted that the Commerce Broadband Office will first need to see how many new applications are received before they can provide an accurate number for how much of Arkansas will remain uncovered, so it might be a few years before there can be an accurate estimate. Secretary Hurst then followed up by asking whether the companies to assist in determining which areas in Arkansas are underserved would be used before or after the additional \$150 million is set up for a grant program. Judge Porch said

he aims for these to happen simultaneously. He also wants to contract a “network performance engineer” to work in conjunction with the internet service providers to find where the need is in Arkansas. Secretary Hurst then asked if it would be better to spend the money now to hire a consultant to join the project and study Arkansas and make a recommendation on the best path moving forward which can be achieved in the fastest way possible. Judge Porch noted the problem is finding internet service providers that are willing to work with the consultants, so a simultaneous approach will be best.

Senator Caldwell then asked a follow-up to Secretary Hurst’s question of how many Arkansans would remain unserved after the \$300 million is spent. Senator Caldwell mentioned a Farm Bureau connectivity summit being held in August and said he would like to defer this request until the committee can see the master plan for the project. Judge Porch said there have been about 130,000 Arkansans that have been served with broadband.

Representative Wardlaw appeared by Zoom and asked Secretary Walther if the \$157 million in infrastructure money was not identified to be mostly used for broadband. Secretary Walther answered that there are currently no directions from the Treasury Department on what to use that money for, but he expects the money will be used for broadband and backbone types of projects. Representative Wardlaw then asked if the committee should hold this request until directions for the money are given from the Treasury Department. Secretary Walther responded that these projects are ready to pursue but were put on hold because of a lack of CARES funding, so he suggested that these projects are ready to pursue at this time. Secretary Walther voiced support for the idea of hiring a consultant or utilizing the Farm Bureau connectivity summit to help identify the needs of the state.

Senator Ingram stated his concern over not having an overall strategy or plan but doesn’t want that to deter the committee from moving forward, as he had the same concerns with the CARES Act. He would love to see where the state is being served and the interconnectivity that occurs with the grants. Senator Ingram then asked if all these grants are isolated on their own, or if they will attach to a larger grid. Another concern Senator Ingram had was that there is no plan in place for the cities and counties that will utilize broadband to join in with the state which would drive the costs down per person. He then says, unlike the CARES Act, there are a number of years to get it right, so there is no need to rush.

Judge Porch stated that when he was speaking about the backhaul, which reaches a larger web, the map can seem deceptive. He then said the area is not still isolated but connected to a larger web; for example, AT&T may backhaul into Windstream, or Windstream into AT&T. Judge Porch apologized for not being clear on the map and had wanted to show the location where the money is used.

Senator Ingram said it would be helpful to show the location and how they tie into the greater picture of the overall state with what we have existing. Secretary Walther noted he has identified the same issue and what is shown was done most recently, but it does not show what is actually there throughout the state.

Senator Sample asked if there was a public service commission that regulates the ISPs. Judge Porch answered that he is not aware of any state regulation.

Secretary Walther noted that in the late 90s, there was a deregulation in the telecommunications industry that was pretty extensive, so it is pretty competitive. That is why companies go into each other's territory. Senator Sample asked if that is the reason there is not a map of where the ISP coverage is. Secretary Walther stated you can probably get one where there is no competition; like in smaller cities, but in larger cities, like Little Rock, Jonesboro, or West Memphis where there is competition, the ISP would be more protective of that info, he would think.

Senator Sample then said that unless there is access to a map, especially in the rural areas of the counties, the coverage will never be known unless there is a constituent out there screaming and hollering. Secretary Walther said his hope was the that third-party view would help us better understand where the boards are.

Secretary Gillespie agreed but wanted to go back to the point that there needs to be better understanding of the void; and how we maximize funding in the fastest way, so we do not spend money on something that was not the most efficient way. She followed that up by saying that map would be helpful and would prioritize who is not served or underserved and how the money will stretch the furthest.

Secretary Bassett agreed with everyone and noted there has been a battle with this digital divide in Arkansas for a very long time. Then he expressed his concern that we have gotten farther in this administration on the conversation of broadband than we have since his days on the Public Service Commission. Secretary Bassett thinks there is ample concern about the \$300 million, but that the \$30 million represents tremendous strides that have been made in this state and would hate to lose that momentum by not funding those. He goes on to state that getting those ISPs on one accord is extremely difficult; so, while we may defer action on the \$300 million, he would think the \$30 million is critical so that no ground is lost.

Representative Cavanaugh is concerned that we may lose the \$160 million designated for infrastructure if we move too fast; because if the \$300 million were to be approved and we get the new rules for broadband, they may say we already used the money for that through regular funds.

Secretary Walther thought both could be used for broadband and asked Paul Louthian to expand on that. Louthian answered he doesn't believe this is a concern because the money for the capital projects was allocated for three things at a very high level: broadband, water, and sewer infrastructure. These will have to be applied for and be granted. Mr. Louthian does not think the fact that we have used some of the \$1.57 billion will have any bearing on the \$157 million if we can show the need and benefit the state will get from spending that money on broadband.

Representative Cavanaugh asked if the goal would be \$460 million on broadband if the \$300 million was spent now and then \$160 million comes. Secretary Walther did not think that would be the goal, but it may be the result.

Secretary Gillespie wanted to clarify if the \$114 million was the applications already received and not compliant as of now but proposing to work with them to become compliant. She says if

we couldn't get them compliant then it might be less than \$114 million, we spend there. Secretary Preston answered that is what we have in the pipeline.

Judge Porch said with them making an effort to become complaint, they want higher speed, wired opposed to wireless, the cost will grow from there.

Secretary Walther stated none of the projects Judge Porch identified the \$114 million for are in the ground today, so we're starting from scratch on those, but similar to the \$30 million, we know they are there, but not compliant. So, instead of \$300 million, we did \$150 million, which would get us \$30 million and \$114 million plus about \$6 billion at this point so that we may proceed with the known projects pretty fast after we go through the ALC.

Secretary Preston wanted to look at \$30 million of requests and Senator Ingram then pointed out that the number of households, 8400, is high because it is all fiber. Those are the ones that are ready to go since they fit the current definitions and guidelines proposed by the federal government. The \$115 million would broaden it to fix wireless satellite and other things that would be more conducive to Arkansas. Judge Porch's point, if we don't get that feedback from the federal government, that \$115 million is going to grow because of all that transforms from fixed wireless, satellite and fiber. We are being fairly conservative in this estimate and our thought is that since we've had such great interest in this program, that we need to get it going again. We are ready to go but do not have the funding and we now have the mechanism by which we can fund it. Senator Caldwell added he found out yesterday from Senator Sample that the Farm Bureau asked if they could attend in August. If they put a plan together, are we pushing it down for another nine years before we get broadband service. Then Senator Ingram brought up the point that we have two years to allocate the money and four years to spend it, so that is the real reason not to push.

Secretary Preston said that is going to be helpful but will only get us part of the way. These costs will go up. What we were able to demonstrate last year, \$120 million, we serviced 130,000 Arkansans in less than a year. Those were the ones that were completely underserved and most impacted by the pandemic. So, by us sending the message that we have these projects in the pipeline, but we will be taking on new ones, they will have the funding available. All the requests that come in are driven by city or a county and that's how they partner with an ISP. In our changes to the rules, that will be something we will address. It will take a lot of coordination between our office, Judge Porch, the municipal league, and the association of counties to make sure we are all on the same page. That brings in a new dynamic that we didn't have on the last and that's going to help us stretch that \$300 million or whatever that number is. Compliant with the will of the committee, the Legislature and ALC approves it, this \$115 million would get us going and serve what's in front of us, but there will be a lot more out there and don't know how long they're going to want to wait for us to get the ball rolling. He thinks \$300 million is a safe number that really gets us going again but we will probably need to come back for more funds and whether that be the additional infrastructure we have directly coming in or just more funds through this committee.

Senator Caldwell said the \$30 million is ready to go, so we are waiting on the \$114 million to be approved by Treasury, correct? Secretary Preston answered by Treasury or we will work with them to say how can we get you compliant. Senator Caldwell asked, then why couldn't we approve the \$30 million now and then wait until everything is worked out for the \$114 million. Secretary Preston says we're going to have to do rules and wanted to move quicker. Their need is immediate.

Senator Sample asked if there is a list of the applicants for the \$115 million, in which Judge Porch replied, he can get one.

Secretary Gillespie asked Secretary Preston with that \$115 million, you would like to be able to let the ISPs and counties know that the money is going to be available so they can get the applications moving. Secretary Preston replied they still are. Secretary Gillespie stated she would like to know before the next launch of \$150 million in projects are each approved. It would be good if we had a third-party helping to guide the decision making amongst those applications. She asked if it would be possible to merge that into this proposal that you do the 30 you've got; you are working to get federal approval around the \$114 million so that we maximize what's there. There is \$150 million for other projects but simultaneously we are doing that study and do not start awarding that second \$150 million until we have a better sense of the void in this state. How much is it going to take for us to get the state where we want it to be, which is where there is broadband access everywhere, and it is not at 28% but 0.

Secretary Bassett said the variable we have here is Arkansas, and that is why the wireless is so critical to prevent costs from spiraling out of control. There is no real way that we can quantify the end cost of broadband in Arkansas. We can only do our best efforts, and I hear the need for a master plan.

Secretary Gillespie suggested there should be some current third-party helping together decision-making and choosing among those applicants she stated we don't start awarding the second \$150 million until we have a better sense of voice. She seconded the motion.

Secretary Bassett states that a waiver piece is critical but have any of the ISPS discussed alternative forms of delivery with you in case the waiver does not come through? He asked has anyone brought up the concept of broadband over powerlines. Judge Porch responds by saying no and says he spoke of the ISPA and that they are not going to waste their time and trying to apply for anything when there is no money and opportunity there

Senator Caldwell states he is opposed to spending \$300 million today not really knowing what direction we are going to go until they have identified some sites that need to be worked on and we have done that but then again you know as legislators we look at the whole state and you know there may be some good spots that get left out when it's all said and done. Secretary Walther states he agrees we need an inventory to know what the assets are with either wire line or fiber across the state. If people can't afford \$49.95/month or whatever the cost is so that's what we deal with when we are talking about school children and having access so is that part of the equation part of any of these considerations at this point or are we only talking about with these funds addressing the infrastructure issue?

Secretary Preston answers that he thinks the counties and cities could probably play a role as well in making sure that you know once access is out there and deployed and infrastructure's in the ground, they are helping those that are underserved to afford the cost of it. These ISPs are not going to do this on their own. This is going to have to be some type of partnership and that is why we have been able to build out the other 130,000 because they didn't have it before they are not going to do this on their own.

Secretary Walther states the first 30 they will be compliant so they will be compliant with the new rules. Judge Porch replies that is correct we would be the ones that have to get our rules compliant. They are using optic fiber which will be able to carry.

Secretary Hurst presented a motion for the governor to approve \$150 million for the Department of Commerce's Rural Connect Broadband Grant Program. The \$150 million would cover the \$30 million for projects already approved and the \$114.7 million in other broadband projects that do not meet the technical requirements for funding under the American Rescue Plan.

Dr. Romero speaks of for those in the healthcare industry where this broadband is going to work for healthcare for those that are disadvantaged and if they can't afford the \$49 they won't have access to health care even though you have the broadband.

Senator Ingram asked Judge Porch what power does the county judge have or mayor? Are you basing that on a franchise agreement? What power do they have to negotiate?

Judge Porch's replies that they all must sign the agreement. If they do not sign the application or the arc agreement, they don't get the money. He states the money is the incentive, so they are going to have to play ball with them.

Secretary Hurst was asked to restate her motion which would be to move forward with the \$150 million to cover the \$30 million projects that are already in the queue and an additional \$114 million to cover that as well for those that need some correction to become federally complaint. Then we reconvene as quickly as possible and have more information about how we can retain a consultant to help guide our broadband efforts in Arkansas.

Senator Sample states he would like more information about who is getting and who has applied for the \$114M before I would be willing to vote to take and have it out there.

Secretary Preston states that we can provide that but that this will still need to go to ALC for an appropriation. He states we can get that on the interim.

Secretary Walther states the information would be provided to the entire steering committee as quickly as possible

Secretary Walther called for a vote; the motion passed.

Secretary Walther in closing states that the motion carries, and we will have the information to the judge.

Secretary Hurst asks about what other states are doing or what options we might have to retain a competent consultant on this. Would that be tomorrow before we hire somebody.

Senator Caldwell is going to talk to Farm Bureau tomorrow at 9am. It is an open meeting.

Senator Sample: It is a Zoom meeting

Secretary Walther: Secretary Hurst will do the due diligence but will have the appropriate resources to make sure we are in compliance.

The main burden will be on the agency that is carrying the protest and bringing the recommendations to the steering committee.

Secretary Ward: has met with Secretary Cook, they will work on setting up an advisory committee

Water/wastewater – HR has a water/wastewater advisory committee and they will be working with them

SCHEDULING OF NEXT MEETING

The next meeting was not scheduled.

The meeting was adjourned.