



THE UNITED STATES
CONFERENCE OF MAYORS



September 18, 2024

The Honorable Mike Johnson
Speaker, U.S. House of Representatives
H-232, The Capitol
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Democratic Leader, U.S. House of Representatives
H-204, The Capitol
Washington, D.C. 20515

Dear Speaker Johnson and Leader Jeffries:

On behalf of the nation's bipartisan leaders of counties, cities, towns, villages, and the hundreds of millions of our residents, the National League of Cities (NLC), The United States Conference of Mayors (USCM), National Association of Counties (NACo) and the National Association of Telecommunications Officers and Advisors (NATOA) write to express our continued¹ strong opposition to H.R. 3557, the American Broadband Deployment Act of 2023.²

H.R. 3557 represents an unprecedented and dangerous usurpation of local governments' authority to manage public rights-of-way and land use. The bill favors a model for local permitting that unfairly constrains local input and threatens to undo significant local coordination efforts that have occurred across the country to prepare and act upon this historic moment in federal broadband infrastructure investment. The bill also waives historic preservation (NHPA) and environmental (NEPA) rules at the favor of cable, wireless and telecommunications providers despite recent progress made at the federal level to significantly reform NEPA and federal permitting processes. In return for these gifts, the bill imposes no obligations on cable, wireless, and telecommunications companies to provide broadband to "unserved" and "underserved" Americans and, further, passes on the real cost of deployment to already overburdened American households.

The proponents of this legislation have suggested that local governments are an impediment to successful broadband deployment, especially with the unprecedented levels of federal investment that are being made right now. This simply isn't true. Local governments are partners with the telecommunications industry, working together to safely, securely, and successfully deploy telecommunications infrastructure in our cities and counties in a timely and efficient manner. We not only partner with our rights-of-way to ensure that disruptions to infrastructure such as roads are minimized, but we are working collaboratively to ensure that together, we deliver on the promise of internet for all Americans as we work with our State Broadband Offices on each of our broadband plans.

In fact, the National Telecommunications and Information Administration has made local coordination a significant component of the Broadband, Equity, Access, and Deployment (BEAD) Program because of this very essential relationship between local governments and internet service providers.

Perhaps most alarming about H.R. 3557 is the promotion of the myth that making these proposed changes to our rights-of-way authority will unlock lower prices and improve the quality of broadband offerings available in the

¹ This is the third time that we have jointly expressed our opposition to the joint Congressional leaders. See Joint Letter of National Local Government organizations of April 19, 2023 available at <https://www.natoa.org/news/joint-letter-on-breaking-barriers-streamlining-permitting-to-expedite-broadband-deployment> and the Joint Letter of National Local Government organizations of April 19, 2023 available at <https://www.natoa.org/news/action-alert-local-government-strongly-opposes-hr-3557-americanbroadband-deployment-act>. Both are attached hereto as Exhibits A & B.

² Additional expressions of opposition can be found at: https://legacy.usmayors.org/resolutions/92nd_Conference/proposedreview-list-full-print-committee-individual.php, <https://www.nlc.org/article/2023/06/08/house-committee-advancescommunications-infrastructure-preemption-bill/>, and <https://www.naco.org/news/house-committee-advances-local-authoritypreemption-bill-broadband-deployment-projects>

United States. There's no proof that any of these conditions happened in states where local governments were pre-empted. States such as Texas have not demonstrated any benefits from a statewide law compared to other states and there is no evidence that a national pre-emption of local authority would have a positive effect, either.

Local governments have demonstrated historically and continue to support the successful deployment of broadband networks as we seek to ensure that all our residents have access to quality, robust, and affordable broadband services. Congress understood this fact, and the Constitution's protection of property rights, when it preserved local government authority over the use of local rights-of-way (Sec. 253) and the siting of wireless devices (Sec. 332). Network construction and operations need to be carefully managed for the sake of residents and their public safety through the careful coordination of multiple rights-of-way (ROW) users to provide power, water, sewerage, stormwater, and transportation use for our communities. We must also ensure that the competing interests of these ROW occupants are well managed to avoid land grabs that might otherwise defeat the intent of Congress' investment in broadband deployment.

Our organizations have worked diligently and proactively with the wireline and wireless providers to address mutual ROW concerns in anticipation of the billions of dollars in BEAD fiber deployment made available by the bipartisan Infrastructure Investment and Jobs Act. In fact, just this year, during a summit hosted by Georgetown Law Institute for Technology Law & Policy, stakeholders from the federal, state, and local levels of government met with industry stakeholders, including ISPs, both large and small, coming together to identify areas of consensus and collaboration. The findings from our discussions were reduced to a report: [Permitting Success: Closing the Digital Divide Through Local Broadband Permitting](#) that was published last week.³

H.R. 3557 runs counter to the recommendations that came out of that multi-stakeholder discussion. That group recognized the main issue is lack of staff and resources, particularly in jurisdictions that will get most of the BEAD funding. The Report reflects the acknowledgement by industry and other stakeholders that local permitting is important to protect public safety and the diverse values of communities.

Similarly, the Federal Communications Commission's Communications Equity and Diversity Council's model rules for states and local governments recognized similar values and the need for local involvement to be sure deployment is equitable.⁴ This bill is also at odds with those recommendations.

H.R. 3557 deprives citizens and their local governments of the ability to preserve property rights and, most importantly, maintain public safety. Worse, the proposals included in the legislation have been adopted in Texas and other states that were identified recently in the national broadband map as having the most unserved households in America. H.R. 3557, if enacted, would not deliver the benefits that its proponents promise.

That such flawed legislation has moved as far as it has may be attributed to the fact the American Broadband Deployment Act of 2023 was hurried through committee without the benefit of local government testimony nor insights and consequences of the proposed fundamental changes to our nation's telecommunications policy and rights-of-way authorities. H.R. 3557, unlike many other broadband legislative priorities and investments passed by Congress during the last several years, was voted out of committee on partisan lines. Because we are and have always been, bipartisan, we are troubled by party-line legislation addressing issues that are bipartisan in nature.

As the level of government closest to the people, we oppose heavy-handed federal overreach into local land use, permitting, and franchise negotiation decisions. Congress has historically recognized these rights in Sections 224, 253, and 332 of the Telecommunications Act. These authorities are critical to conduct responsible stewardship of

³ See <https://www.benton.org/publications/permitting-success>. Participants included Lumen, NCTA - The Internet & Television Association, Dycom Industries, Fiber Broadband Association, Brightspeed, NTCA -The Rural Broadband Association, Google Fiber, WTA - Advocates for Rural Broadband, Ting Internet, National Rural Electric Cooperative Association and US Telecom.

⁴ Recommendations and Best Practices to Prevent Digital Discrimination and Promote Digital Equity Submitted to the Federal Communications Commission by the Working Groups of the Communications Equity and Diversity Council November 7, 2022, <https://www.fcc.gov/sites/default/files/cedc-digital-discrimination-report-110722.pdf>

public property, protect public safety, and preserve the rights of residents as consumers of broadband services and neighbors to the infrastructure that makes connectivity possible.

We welcome the opportunity to discuss and work collaboratively with Congress and our telecommunications partners to find successful solutions to improve broadband deployment in our country. We thank you for considering our viewpoints and look forward to continuing our work together on this important issue of ensuring quality and affordable internet access for all Americans.

Sincerely,



Clarence Anthony
CEO and Executive Director
National League of Cities



Tom Cochran
CEO and Executive Director
The United States Conference of Mayors



Matthew D. Chase
CEO/Executive Director
The National Association of Counties



Tonya Rideout
Executive Director
The National Association of Telecommunications Officers and Advisors

CC: Members of the U.S. House of Representatives

If you have any questions, please contact:

The **National League of Cities (NLC)** is the voice of America's cities, towns and villages, representing more than 200 million people. NLC works to strengthen local leadership, influence federal policy and drive innovative solutions. Contact: Angelina Panettieri, Legislative Director for Information Technology and Communications, at 202-626-3196 or panettieri@nlc.org.

The **United States Conference of Mayors (USCM)** is the official nonpartisan organization of cities with populations of 30,000 or more. There are 1,400 such cities in the country today. Each city is represented in the Conference by its chief elected official, the mayor. Contact: David W. Burns, Assistant Executive Director, at 202-861-6765 or dburns@usmayors.org.

The **National Association of Counties (NACo)** provides essential services to the nation's 3,069 counties, serving nearly 40,000 county elected officials and 3.6 million county employees. Since 1935, NACo unites county officials to advocate county priorities in federal policymaking and optimize county and taxpayer resources and cost savings while promoting exemplary county policies and practices. Contact: Seamus Dowdall, Assoc. Legislative Director, Telecommunications & Technology at 202-942-4212 or sdowdall@naco.org.

The **National Association of Telecommunications Officers and Advisors' (NATOA)** is the local government association supporting our members by advocating for broadband deployment, digital equity, cable services, Public, Educational and Governmental Access (PEG) Television, public safety communications and the preservation of local authority in our public rights of way (PROW). Members are local government staff and their advisors offering a wealth of experience and expertise on public rights-of-way management, telecom work and communications issues related to broadband, wireless, cable television, public, educational, and government (PEG) access, public safety communications, consumer protection and PROW management. Contact: Mike Lynch, Leg/Reg Affairs Director, 703-519-8035, x202 or MLynch@NATOA.org.