



April 25, 2025

**TO:**

Hon. Brett Guthrie, Chair  
House Committee on Energy & Commerce

Hon. Frank Pallone, Ranking Member  
House Committee on Energy & Commerce

Hon. Richard Hudson, Chair  
House Subcommittee on Communications &  
Technology

Hon. Doris Matsui, Ranking Member  
House Subcommittee on Communications &  
Technology

**CC:**

Hon. Ted Cruz, Chair  
Senate Committee on Commerce, Science &  
Transportation

Hon. Maria Cantwell, Ranking Member  
Senate Committee on Commerce, Science &  
Transportation

**Re: HR 1870: Streamlining Program Efficiency and Expanding Deployment (SPEED) for  
BEAD Act**

Dear Chairs Guthrie and Hudson,

We are writing with regard to the recently introduced legislation, HR 1870: SPEED for BEAD Act.<sup>1</sup>

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<sup>1</sup> <https://hudson.house.gov/press-releases/hudson-leads-legislation-to-speed-up-broadband-deployment>  
<https://www.congress.gov/bill/119th-congress/house-bill/1870>

We are a national coalition, with a reach of over 30,000 people across all parts of the country. Together with our coalition partner groups, we have a reach of close to one hundred fifty thousand people. As your staff knows, we advocate for the safe deployment of broadband technology.

While we take no position on many parts of the bill, there are a few provisions that we urge you to amend, as set out below. These provisions go against the stated goals of this bill and of the majority on the Communications & Technology Subcommittee:

- to ensure states have flexibility, rather than being hamstrung by Washington DC
- to end the digital divide in rural areas, rather than perpetuate it
- to be responsible stewards of taxpayer funding, and allow states to use the most cost-effective options

Finally, we remind the committee of our letter of March 5, 2025, in which we highlight President Trump's priority of Making America Healthy Again.<sup>2</sup> His MAHA Commission Executive Order includes electromagnetic radiation in connection with our chronic disease epidemic.<sup>3</sup>

**Please note that the amendments below would bring HR 1870 into alignment with the MAHA imperative. Ignoring these amendments puts the committee in direct opposition with the White House MAHA Commission's priorities and the Secretary of HHS's priorities.<sup>4</sup>**

BEAD is a generational moment to bridge the digital divide. We urge you to allow states to make their own decisions, which includes allowing them to invest in fiber infrastructure that has a 50-70 year lifespan, rather than being compelled to deploy wireless, which has only a five year lifespan. Unfortunately, the current draft of the bill kneecaps state discretion and cedes to industry the authority to decide how to spend taxpayer resources.

Below are proposed amendments, listed in the order in which they appear in the bill, not by order of priority. We welcome the opportunity to discuss these amendments.

### **Amendment #1: Remove Digital Redlining**

Section (d)

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<sup>2</sup> National Call for Safe Technology, Written Testimony for the Hearing on Rural Broadband on March 5, 2025 <https://thenationalcall.org/wp-content/uploads/2025/03/NC4ST-to-House-EC-on-Broadband-Hearing-3-5-25-FINAL.pdf>

<sup>3</sup> See §4a

<https://www.federalregister.gov/documents/2025/02/19/2025-02871/establishing-the-presidents-make-america-healthy-again-commission>

<sup>4</sup> Secretary Kennedy Delivers Welcoming Remarks to HHS Staff, 2/18/25, at 16m45s [https://youtu.be/o-BCMG198Yc?si=bn0rwMIr3\\_1IsZwF&t=1005](https://youtu.be/o-BCMG198Yc?si=bn0rwMIr3_1IsZwF&t=1005)

Preferred amendment: strike this subsection completely

Second choice alternative: amend (D)(i) by replacing the words “prospective subgrantee” with “eligible entity”

“for a prospective subgrantee to remove from such project area a location that the ~~prospective subgrantee~~ **eligible entity** determines would unreasonably increase costs or is otherwise necessary to remove”

### **Rationale:**

This section will be a disaster for rural America. It allows providers to engage in “digital redlining” or what the majority’s own witness before the C&T subcommittee described as “Swiss cheese” coverage.<sup>5</sup> The provision allows providers to cherry pick and connect the most profitable homes within a geographic area and exclude the higher-cost homes from being connected. These high-cost locations will be in an even worse position than they are now; once the Swiss cheese network is deployed, other providers will be even further disincentivized from connecting these “leftover,” less profitable locations. The issue is similar to the concept of insurance risk pooling, and the pitfalls of allowing insurance companies to cherry pick only healthy patients while excluding patients with pre-existing conditions. Under this provision, it’s hard to envision the next opportunity that these high-cost locations will have to get connected to wired or fiber Internet – they may need to wait 50-70 *more* years until BEAD’S Swiss cheese wired infrastructure reaches the end of its useful life and there is another replacement cycle. In the meantime, they will be forced to suffer inferior wireless connections.

To be clear, states already have latitude under BEAD to create Swiss cheese maps. The problem with this provision is that it takes away states’ discretion and instead forces them to cede control to providers to create these Swiss cheese maps at the providers’ discretion. It therefore *reduces* states’ flexibility and state decision-making authority to craft solutions that best fit their local areas.

### **Amendment #2: preserve states’ discretion over service quality**

Subsection (e)(4)(J)

Preferred amendment: strike this subsection completely

Second choice alternative: amend

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<sup>5</sup> Shirely Bloomfield, Chief Executive Officer, NTCA – The Rural Broadband Association, testifying before the Communications & Technology Subcommittee, September 10, 2024. See 1h30m: <https://www.youtube.com/live/RbkIZ-1sOjY?si=Eck148tdapsstbh2&t=5403>

(J) regulation of network management practices, ~~including~~ **excluding** data caps **and throttling**;

### **Rationale:**

A Sixth Circuit decision in January 2025 affirmed states' long-held discretion over these topics.<sup>6</sup> This provision would go against decades of established precedent. While we take no position on the broader net neutrality debate, this particular provision is designed to favor wireless. Wireless networks have dramatically less capacity to carry data than wired networks. This is why many wireless providers, including satellite providers, have data caps, restricting the amount of data that a user can download from the Internet. In addition, many wireless providers, including satellite, "throttle" or slow down a user's Internet connection during times of peak usage or if they exceed their data cap.<sup>7</sup> In effect, providers are restricting users' ability to access the Internet because wireless networks cannot handle the load. Wired networks on the other hand, especially fiber, do not have these limitations – which is one of the reasons they are superior. State broadband offices should be able to take this into account when evaluating proposals.

For reference, a typical household in Q4 2024 used nearly 700 GB per month of data. This is up from 344 GB just five years earlier.<sup>8</sup> By comparison, some satellite plans have a data cap as low as 50 GB. Mandating that states ignore data caps perpetuates the digital divide, between areas that have wired and those relegated to wireless-only.

Again, to be clear, states already have the ability to fund wireless. This provision preempts and restricts states' decision-making flexibility and forces them to accept wireless as equal to competing proposals, even when the wireless proposals are not equal and include data caps. Again, this favors wireless and discriminates against wired.

### **Amendment #3: preserve states' ability to experiment with different business structures**

Preferred amendment: strike this subsection completely

- strike (e)(4)(K)

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<sup>6</sup> Ohio Telecom, et al. v. FCC (Sixth Circuit, 2025)

<https://www.opn.ca6.uscourts.gov/opinions.pdf/25a0002p-06.pdf>

<sup>7</sup> <https://www.starlink.com/legal/documents/DOC-1469-65206-75>

"If bandwidth patterns consistently exceed what is allocated to a typical residential user, Starlink may take network management measures, such as temporarily reducing a customer's speeds, to prevent or mitigate congestion of the Services. Bandwidth intensive applications, such as streaming videos, gaming, or downloading large files are most likely to be impacted by such actions."

<sup>8</sup> Q4'2024 Open Vault report <https://openvault.com/resources/ovbi/>

## **Rationale:**

This provision prohibits states from considering “open access” proposals. Under these systems, one company builds the physical infrastructure while other service providers use that infrastructure to provide broadband services. Some large companies, such as AT&T, have experimented with these business models.<sup>9</sup> We have no particular opinion on whether these make sense; however, prohibiting states from experimenting with different business models is in conflict with the Subcommittee’s stated goal of preserving state flexibility and free market principles.

## **Amendment #4: Remove language that is discriminatory towards wired broadband**

Subsection (f)

Preferred amendment: strike this completely

Second choice alternative:

Insert after “any broadband service” the following text “that the eligible entity determines” and strike “without regard to the type of technology by which such service is provided.”

“(5) ALL TECHNOLOGIES ELIGIBLE.—An eligible entity, in awarding subgrants for the deployment of a broadband network using grant funds received under this section, shall treat as satisfying the definition of the term ‘reliable broadband service’ any broadband service that the eligible entity determines meets the performance criteria established under subsection (a)(2)(L) ~~without regard to the type of technology by which such service is provided.~~”

## **Rationale:**

The idea of being “technology neutral” may sound good, but provisions like this actually accomplish the opposite. If two technologies or services are not equivalent, forcing states to treat them as equivalent is actually **discriminatory** to the superior service. In effect the committee is forcing states to ignore the inferiority of wireless and treat it as equal. The losers of this calculus will be rural residents – as their state broadband offices will not have the flexibility to ensure they have the best available broadband.

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<sup>9</sup> “AT&T Announces Wholesale Agreements with 4 Open Access Fiber Providers” 9/9/24.  
<https://broadbandbreakfast.com/at-t-announces-wholesale-agreements-with-4-open-access-fiber-providers/>

As an analogy, imagine if federal highway dollars required state departments of transportation to treat vehicle and bicycle traffic on a technology neutral basis when allocating road construction dollars. Bicycles can go 20 mph and vehicles 65 mph, roughly 3x faster. By comparison, wireless struggles to meet upload speeds of 20 Mbps, whereas fiber can already handle 2000 Mbps upload speed, which is 100x faster. And once deployed, fiber infrastructure can scale to *tens of thousands* of times faster with minimal upgrades. Of course, this ignores the fact that a traveler has to pedal very hard to maintain 20 mph, may have difficulty going uphill, or in inclement weather. Treating these modes of transportation equally would be discriminatory.

As with prior amendments in this letter, states already have the ability to make awards to wireless providers who can meet the same standards as wired. The fact is that wireless providers cannot meet the same standards, which is why they are asking your committee to intervene in favor of wireless.

**Amendment #5: preserve states' ability to consider the higher costs of wireless**

Preferred amendment: Subsection (g)(D)(ii), strike the words “~~or the use of rates as part of an application scoring process~~”

**Rationale:**

Wired infrastructure is inherently cheaper over the life of the infrastructure.<sup>10</sup> BEAD grantors see this both in the upfront capital expenditure (capex) cost to deploy a network and in the ongoing operating expenses (opex), which together form the basis for the rates charged by providers. It's important to note that even in remote rural areas fixed wireless costs are higher than fiber because of the ongoing need to regularly replace wireless equipment, with 40% to 80% of its capital investment needing to be replaced every five years. In contrast, only 1% to 10% of capital investment in a fiber network needs to be replaced every 10 years. Presumably the Committee does not expect to continue subsidizing fixed wireless investment every five years. “[F]iber offers the greater long-term value as compared to fixed-wireless technologies because of fiber’s long life, capabilities, scalability, and flexibility.”<sup>11</sup>

Allowing states to consider the price that end-users will pay is not a form of rate regulation; we take no position on the ongoing debate regarding rate regulation and preemption. We are focused on allowing state broadband offices to have flexibility in their decision-making and consider that infrastructure which is lower cost to deploy will result in lower costs for consumers. See table below for the dramatically lower prices that can be achieved over fiber. Fiber upload speeds are

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<sup>10</sup> <https://www.benton.org/blog/how-fixed-wireless-technologies-compare-fiber>.

<sup>11</sup> Ibid.

already 100x faster than satellite. As an example, a Starlink “unlimited” plan, which still may be subject to data limits and throttling, costs \$120 per month for 120 Mbps download/ 20 Mbps upload service. In contrast, areas with fiber typically pay less than \$50 per month for 300/300 service. This information is relevant for state broadband offices to consider.

<b>Comparison of residential data plans</b>			
	Starlink <sup>12</sup>	Verizon FIOS (fiber) – slow option	Verizon FIOS (fiber) – fast option <sup>13</sup>
Data plans (download/upload speed)	100/20 Mbps	300/300 Mbps	2000/2000 Mbps
Monthly cost	\$120	\$35	\$95
Limits such as throttling in the event of high usage	Yes	No	No

If the committee is concerned about NTIA implementing rate regulation via rulemaking or guidance, it could insert language to prohibit NTIA from doing so. But that is very different than the current language which restricts state discretion to consider services’ end-user pricing when evaluating proposals. By prohibiting them from considering pricing, they are essentially being forced to treat higher-cost wireless on the same playing field as lower-cost wired. It is not only **discriminatory**, but is inconsistent with the Subcommittee’s goals of preserving state flexibility, nondiscriminatory decision-making, and free-market principles (by preserving price signals in the market).

#### **Amendment #6: Incentivize FCC compliance with Congressional mandates**

Preferred amendment: insert the text below after subsection (g):

**Notwithstanding anything to the contrary in this Chapter, no funds under this chapter shall be disbursed or used for deploying wireless or satellite infrastructure until the FCC complies with, and satisfies the requirements contained in, the mandate issued October 5, 2021 by the U.S. Court of Appeals D.C. Circuit in case number 20-1025. Such compliance shall consider, without limitation, input from other federal agencies with relevant expertise and materials submitted at any time prior to the date of this Act in FCC Dockets 13-84, 03-137, and 19-226.**

<sup>12</sup> Accessed March 16, 2025 <https://www.starlink.com/residential>

<sup>13</sup> Accessed March 16, 2025 <https://www.verizon.com/home/internet/fios-fastest-internet/>

**Rationale:** taxpayers should not be funding densification of wireless emissions until an expert agency has determined safe levels of human exposure. For additional information, see section below “Background on exposure limits.”

**Amendment #7: focus BEAD resources on providing fixed broadband, not mobile services**

**IIJA Section 60102 (47 USC §1702) (a)(2)(I)(ii)(II)<sup>14</sup>**

Preferred amendment: strike this clause by inserting the following text into HR 1870:

**Public Law 117-328 is hereby amended by deleting clause (a)(2)(I)(ii)(II) of Section 60102 (47 USC 1702).**

The deleted text is as follows:

~~(II) support the deployment of 5G, successor wireless technologies, and other advanced services~~

**Rationale:**

BEAD funding is intended to deliver high-speed, home broadband across the United States. Congress should not have burdened the BEAD program with this additional requirement in the first place. The siting of cell towers around the country is a highly contentious matter. Congress should not be mandating that states fund the deployment of cell towers, and especially not before Congress has 1) restored liability from injuries from cell towers and 2) restored local government discretion over the placement of cell towers to protect the health of their residents.<sup>15</sup>

As with most other amendments in this letter, state broadband offices already have the flexibility to require that their BEAD grants support deployment of wireless technology. However, Congress should not be mandating that states do this – particularly given the majority’s stance on burdensome government mandates and regulations.

**Amendment #8: Ensure the safety of current spectrum auctions**

**Amend HR 5009 (118<sup>th</sup>)**

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<sup>14</sup> [https://uscode.house.gov/view.xhtml?req=\(title:47%20section:1702%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:47%20section:1702%20edition:prelim))

<sup>15</sup> National Call for Safe Technology, Congressional Briefing, 5/19/24  
<https://thenationalcall.org/wp-content/uploads/2024/05/Congressional-Briefing-5-19-24-FINAL.pdf>



We urge the committee to insert as soon as possible the text below into HR 1870, and/or *any other legislation* that is likely to pass (given that FCC is already moving ahead with rulemaking to conduct the AWS-3 auctions)<sup>16</sup>:

**The Spectrum and Secure Technology and Innovation Act of 2024 (Public Law 118-159) is hereby amended as follows: by inserting the following text at the end of section 5403:**

**Notwithstanding anything to the contrary in this Act, subsections (a) and (b) of this section shall have no force or effect and shall not go into effect until the FCC complies with, and satisfies the requirements contained in, the mandate issued October 5, 2021 by the U.S. Court of Appeals D.C. Circuit in case number 20-1025. Such compliance shall consider, without limitation, input from other federal agencies with relevant expertise and materials submitted at any time prior to the date of this Act in FCC Dockets 13-84, 03-137, and 19-226.**

#### **Rationale:**

The 118<sup>th</sup> Congress passed legislation known as the “Spectrum and Secure Technology and Innovation Act of 2024” (Public Law 118-159), which was inserted in the National Defense Authorization Act (NDAA) of 2025 (HR 5009, 118<sup>th</sup>).<sup>17</sup> The Act granted FCC authority to auction the AWS-3 band of spectrum.

This spectrum legislation initially failed to advance on its own (as HR 9340/ S.4049, 118<sup>th</sup>); it was later inserted into the 794-page NDAA at the last minute, with no opportunity for public input. The text of the NDAA was not made available to the public until Saturday, December 7, 2024,<sup>18</sup> and was quickly put for a must-pass vote on Wednesday, December 11. This left almost no time for the public to weigh in on whether this spectrum authority should be included in the bill. And at that point it was difficult to make changes without delaying passage of the NDAA in the Senate prior to the December 20 deadline to maintain defense operations.

Importantly, Congress did not require that the FCC comply with the law and a federal appeals court order prior to auctioning this AWS-3 spectrum. This Committee should rectify this immediately. See next section for further background.

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<sup>16</sup> Notice of Proposed Rulemaking: Enhancing National Security Through the Auction of AWS-3 Spectrum Licenses, FCC-CIRC2502-01

<https://docs.fcc.gov/public/attachments/DOC-409404A1.pdf>

<sup>17</sup> Public ‘Spectrum and Secure Technology and Innovation Act of 2024, Title LIV

<https://www.congress.gov/118/bills/hr5009/BILLS-118hr5009enr.pdf>

<sup>18</sup> Text of Bills for the Week of Dec. 9, 2024 <https://docs.house.gov/floor/Default.aspx?date=2024-12-09>

## Background on exposure limits

Since 2021, the FCC has ignored the US Court of Appeals DC Circuit order, issued in the successful lawsuit *Environmental Health Trust et al. v. FCC*, to provide a “reasoned explanation” for why the FCC decided not to update its human exposure limits for wireless radiation.<sup>19</sup> The FCC has not considered the latest science since 1996, as it is otherwise obligated to do under the law. Making more spectrum available while failing to update its exposure limits puts all Americans at risk, and is harming millions of Americans.<sup>20,21</sup>

Current wireless exposure standards are based largely on 11 monkeys and 12 rats, which were exposed for less than one hour, over 40 years ago, with no control group.<sup>22</sup> GAO first recommended that the FCC revisit these limits back in 2012 and the FCC has not yet done so.<sup>23</sup>

Amendments #6 and #8 above would incentivize FCC to follow the law. Complying with laws passed by Congress and a court order is not optional for the FCC – this is an administrative agency acting with impunity, while 100% of its budget is paid for by the industry it is supposed to be regulating.<sup>24</sup>

Making spectrum available for commercial use will automatically trigger heavy-handed preemption of states’ rights over wireless facilities, known as Section 6409.<sup>25</sup> In fact, as soon as more spectrum is made available, carriers across the country can add almost unlimited additional antenna and additional power output on their existing facilities to emit radiofrequency radiation using the new spectrum – despite no US government agency assessing these emissions for

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<sup>19</sup> *Environmental Health Trust, et al. v. FCC* (DC Circuit, 2021) <https://media.cadc.uscourts.gov/opinions/docs/2021/08/20-1025-1910111.pdf>

<sup>20</sup> National Call for Safe Technology, Congressional Briefing, 5/19/24 <https://thenationalcall.org/wp-content/uploads/2024/05/Congressional-Briefing-5-19-24-FINAL.pdf>

<sup>21</sup> See “Comments of Advocates for the EMS Disabled,” In the Matter of Advance Notice of Proposed Rulemaking- Public Comment on Changes to Requiring Accessibility and Prohibiting Discrimination on the Basis of Disability in HUD -Assisted Programs, Docket FR 6257-A-01. 7/24/23 <https://thenationalcall.org/wp-content/uploads/2023/09/HUD-Submission-7-24-23-Final.pdf>

<sup>22</sup> International Commission on the Biological Effects of Electromagnetic Fields (ICBE-EMF). Scientific evidence invalidates health assumptions underlying the FCC and ICNIRP exposure limit determinations for radiofrequency radiation: implications for 5G. *Environ Health* 21, 92 (2022). <https://doi.org/10.1186/s12940-022-00900-9>

<sup>23</sup> Exposure and Testing Requirements for Mobile Phones Should Be Reassessed, GAO-12-771, Jul 24, 2012 <https://www.gao.gov/products/gao-12-771>

<sup>24</sup> FCC Budget in Brief, FY 2025. <https://docs.fcc.gov/public/attachments/DOC-401129A1.pdf>

<sup>25</sup> Section 6409 states:

***“a State or local government may not deny, and shall approve, any eligible facilities request”***

See Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 47 USC 1455.

safety.<sup>26</sup> Hundreds of localities around the country have sued the FCC over its rules implementing section 6409.<sup>27</sup>

We would be happy to discuss this letter and related matters further with you.

Respectfully submitted,



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<sup>26</sup> Testimony submitted to Senate Commerce Committee, March 27, 2024  
<https://ehtrust.org/wp-content/uploads/EHT-Testimony-to-Senate-Commerce-Committee-on-S3909-03272024.pdf>

<sup>27</sup> See, e.g., *Montgomery County et al. v. FCC* (Fourth Circuit, No. 15-1240, 2015)  
*T-Mobile v. San Francisco* 658 F. Supp. 3d 773 (N.D. Cal. 2023)  
*League of California Cities et al. v. FCC* (Ninth Circuit, No. 20-71765, 2024)