



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

February 9, 2018

Chairman Ajit Pai
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

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William T. Pound
Executive Director

Re: For Filing, BDAC State and Local Model Code and Removing State and Local Regulatory Barriers
(GN Docket No. 17-83)

Dear Chairman Pai:

The National Conference of State Legislatures (NCSL) respectfully submits this letter in response to the Federal Communications Commission (FCC) Broadband Deployment Advisory Committee (BDAC) recommendations on Removing State and Local Regulatory Barriers and discussion draft Model Code for States. NCSL supports efforts to streamline regulations to promote greater broadband deployment and believes the FCC should work with industry and state and local elected officials to understand the unique priorities and regional specific solutions to this issue. As outlined in NCSL's [Communications Infrastructure Policy](#):

Government and industry should strive for a communications policy framework that promotes and ensures fair and open competition, removes obsolete barriers that result from outdated burdensome regulation and requirements, ensures similar government regulation for all technologies that provide similar services in markets that are competitive, encourages innovation and investment, and allows consumers and the marketplace to determine winners and losers not government regulation... The federal government must recognize that states have unique priorities that require state and regional specific solutions.

Furthermore, NCSL agrees that removing regulatory barriers will enhance the development and deployment of advanced telecommunications services:

State legislatures and state regulators have been at the forefront of deregulation of the telecommunications industry, removing barriers to competition in local markets and advocating the infrastructure for the delivery of advanced telecommunications. State legislators recognize that deregulation and competition are among the means to reach the goals of advanced infrastructure development, universal service, expanded consumer choice, availability of services and cost effectiveness for our constituents.

However, the membership of the BDAC, and therefore the recommendations and discussion drafts currently under consideration, do not reflect balanced viewpoints between industry and state and local interests. Serving as an advisory body to the FCC, the BDAC's recommendations hold influence over FCC efforts to identify and remove regulatory barriers to broadband infrastructure deployment and therefore

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the BDAC membership should reflect those significantly impacted by the recommendations. As admitted by former members of the BDAC through the [Minority report](#) and San Jose Mayor [Letter of Resignation](#), previous efforts to meaningfully engage state and local members have been ignored or actively discouraged. Therefore, the FCC should allow for a greater number of elected state legislators on the BDAC. On December, 2017 [State legislators approved NCSL policy](#) in support of greater state legislative representation on the BDAC:

The FCC should increase the representation of state legislators in BDAC membership; work collaboratively with states to identify methods for accelerating the deployment of high speed broadband internet access; NCSL further opposes efforts to preempt traditional authority of states around rights of way, pole attachments and policies governing telecommunications facilities.

Additionally, the FCC has not effectively used the Intergovernmental Advisory Committee (IAC), as a key conduit to state and local governments, to discuss wireless, wireline or 5G deployment. IAC's purpose is to facilitate intergovernmental dialogue and provide greater and more meaningful consideration of the viewpoints and experiences of state legislators as it relates to our changing communications landscape. We respectfully request that you meet with the IAC and allow the advisory committee to offer meaningful input into the Commission's decision making process.

Should the FCC use the BDAC state model code and removing state and local regulatory barriers recommendations to preempt states' authority on broadband policy, NCSL will oppose.

We appreciate the FCC's stated goal to collect input from important stakeholders through institutionalized venues within the FCC and hope that it will deliver on that promise with increased representation from elected state legislators.

Thank you again for your consideration of our recommendations. If you have any questions regarding this matter please contact Danielle Dean in our Washington, D.C. office at (202) 624-8698 or danielle.dean@ncsl.org.

Sincerely,



Deb Peters
Senate Senior Assistant Majority Leader
South Dakota
President, NCSL



Toi Hutchinson
State Senator
Illinois
President-Elect, NCSL

Attachment: NCSL Policy Resolution Requesting Increased Representation on the Broadband Deployment Advisory Committee

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**COMMITTEE: COMMUNICATIONS, FINANCIAL SERVICES, & INTERSTATE
COMMERCE**

**POLICY: NCSL REQUESTS INCREASED STATE REPRESENTATION ON
THE FEDERAL COMMUNICATIONS COMMISSION
BROADBAND DEPLOYMENT ADVISORY COMMITTEE**

TYPE: NEW RESOLUTION

SPONSOR: SENATOR DEB PETERS

WHEREAS, states actively establish, fund and promote broadband internet policies, authorities and projects across the country;

WHEREAS, broadband is fundamental in furthering the education, economic development, and health of all Americans;

WHEREAS, states want to close the digital divide and ensure equal access to broadband internet across all regions of the state;

WHEREAS, under the Federal Communications Commission's (FCC) statutory authority, the Communications Act of 1934 and the Telecommunications Act of 1996 acknowledge the dual but collaborative role state and federal government have in providing, regulating and promoting communications services;

WHEREAS, on January 31, 2017, FCC Chairman Ajit Pai announced the formation of the Broadband Deployment Advisory Committee ("BDAC"), a federal advisory committee tasked with providing advice and recommendations to the FCC on how to identify and remove regulatory barriers to accelerate the deployment of high speed broadband internet access;

WHEREAS, FCC Chairman Pai has appointed 31 members of the BDAC, only two (2) BDAC members represent state entities, two (3) city government, and one (1) tribal;

WHEREAS, the BDAC released on November 9, 2017 draft proposals for a Model Code for States, Competitive Access to Broadband Infrastructures, Removing State and Local Regulatory Barriers, and a Model Code for Municipalities;

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WHEREAS, serving as of an advisory body to the FCC, the BDAC's recommendations hold influence over FCC efforts to identify and remove regulatory barriers to broadband infrastructure deployment;

WHEREAS, the BDAC membership should equally reflect constituencies significantly impacted by the recommendations, and therefore a greater number of state government representatives should be on the BDAC;

NOW, THEREFORE, BE RESOLVED, the FCC should increase the representation of state legislators in BDAC membership;

BE IT FURTHER RESOLVED, NCSL urges the FCC to work collaboratively with states to identify methods for accelerating the deployment of high speed broadband internet access;

BE IT FURTHER RESOLVED, NCSL opposes FCC efforts to pre-empt the traditional authority of states around rights-of-way, pole attachments and policies governing telecommunications facilities;

BE IT FINALLY BE RESOLVED, to submit this resolution to the Federal Communications Commission and the Chairman, Ajit Pai.