



## League of Oregon Cities Testimony in Support of HB 3201 with the -1 and -2 Amendments:

Chair, Bynum, Vice-Chairs Morgan and Nguyen, and Members of the Committee. My name is Nolan Pleše, lobbyist for the League of Oregon Cities.

The LOC supports HB 3201 with the -1 and -2 amendments.

I would like to address some of the key concerns that have been raised.

First, for the unserved and underserved conversation, we purposefully left off a specific definition based on our experience with SB 1603.

It became clear that one reason the digital divide exists is because we have relied on those strict definitions at the state and federal level for defining basic high-speed internet. This has left many communities behind because the assumption is made that since they meet those definitions, they are served. Technology changes rapidly and it's more difficult for rural, frontier and historically underserved communities to keep up. Strict definitions give the false premise that these communities are served while other jurisdictions are more easily able to advance.

The question has been asked, why we don't tie it to the FCC or federal definitions? The current FCC definition for unserved is still 10/1 and underserved is 25/3. While ARPA and BEAD specify that program funds should go to 100/20 and below and BEAD specifically defines unserved and underserved, it's clear that tying our definitions to the FCC will once again set us back to where we are today and conflict with how we can spend the federal funding. I don't think any of us want our communities to be stuck back in the old definitions.

Additionally, the Chair of the FCC, Jessica Rosenworcel, [proposed in July 2022](#) a long term national standard of 1000/500Mbps or 1 Gbps/500Mbps. This is in addition to proposing the FCC update their current definitions to 100/20Mbps, although no clear timeline for that change has been set. Coming back to the legislature to have this debate on the definition of speed does not make sense considering how quickly technology changes and the needs of our communities to remain competitive in a global market. Rural, frontier and historically underserved communities are hurt the most when we box our state in with strict definitions.

By having a group of committed expert stakeholders on OBAC help decide a definition based on current technology and potential funding sources, we are ensuring that Oregon always has the ability to adapt to ensure its communities do not fall behind on the digital divide once again.



In addition, the Legislature provided the specific authority to the Oregon Broadband Advisory Council (OBAC) in the 2022 legislative session to address service speeds with HB 4092:

**Section 1(10)(d) Review and update state goals regarding broadband service speeds in consideration of federal requirements and to ensure that Oregon residents and businesses are prepared for future needs.**

Having strict definitions for unserved and underserved conflicts with this authority and their ability to update state goals. This language was accepted and supported by the opponents of HB 3201.

Second, I want to note again that the main purpose of HB 3201 is to ensure that we have a fund that is flexible enough to support multiple funding sources. While there may be similarities, they are different in their implementation. As an example, ARPA dollars are designed to support anything below 100/20 while BEAD recognizes that funding must be available and set aside to support all unserved communities before additional funding may be able to be set aside for underserved communities. While both can happen at the same time, there is an additional focus to ensure funding is available for unserved communities in BEAD.

If the legislature says we must prioritize unserved, **then** underserved, Oregon must only provide funding to unserved areas before providing any funding to underserved areas. This is a direct conflict in spending expectations under ARPA and BEAD. Language is important in statute and if we follow this, Oregon could be leaving tens of millions of dollars on the table, if not more.

Additionally, ARPA and BEAD both require challenge processes, accountability, and reporting, yet each are different in their specificity. Being too prescriptive for one or the other may impact how much money Oregon will receive because we cannot spend it or adhere to the guidance in one program or the other. The -1 amendment clarifies accountability for the Oregon Broadband Office (OBO) and the Oregon Business Development Department (OBDD) as part of the Administrative Procedures Act (APA). The -2 amendment for HB 3201 specifically calls out the need for a challenge process, recognizing it's important and necessary, but avoids details for the reasons listed above.

Lastly, I want to address the inclusive process that created HB 3201 versus the process that created SB 1603. During those discussions, a very small group of stakeholders was convened that included the main opponents of HB 3201. Community and rural voices were not involved in those discussions and it's clear now that leaving out additional voices is not the best way to create policy and current statute reflects that. I take responsibility for that as a staffer at the time.



We tried to correct this in HB 3201 by including a wide range of stakeholder voices, including the main opponents of the bill. One lesson we learned from SB 1603 was the importance of including more voices, rural voices, and historically disadvantaged community voices, early and often throughout the process. I believe HB 3201 is reflective of those efforts, even if there is always room to improve.

With so much money on the line, it's important that we get this right. HB 3201 with the -1 and -2 amendments ensures that we provide the flexibility needed to maximize varying fundings sources, keep up with technology advancements, while guaranteeing a strong public process and checks and balances that include a challenge process. This will allow Oregon to move quickly and methodically to address the digital divide in our rural, frontier, and historically underserved communities and ensure Oregon communities are not left behind digitally again.

I urge this committee to support HB 3201 with the -1 and -2 amendments. Thank you for your time.

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