

This brief is one of a series based on a review of broadband deployment policies in all 50 states, published in Pew's State Broadband Policy Explorer.



How State Policy Shapes Broadband Deployment

Efforts to expand access fall under five categories

Overview

States are playing a crucial role in efforts to expand broadband to the 21 million to 163 million Americans¹ who still lack access to this critical service, encouraging broadband investment and helping to bring more of their residents online.

To close gaps in access, almost every state has established broadband task forces or offices to centralize their efforts and many have set up dedicated funds aimed at reducing the number of state residents who lack broadband access. And by passing laws governing broadband construction and service, state legislatures have shaped how state agencies, local governments, internet service providers, and community anchor institutions—including hospitals, schools, and libraries—can boost connectivity.

Through the policies they adopt, states can:

- **Shape how broadband is deployed.** Legislatures do this by defining what broadband is; establishing which government entities have authority over broadband deployment; setting goals for deployment programs; requiring data collection about broadband access in the state; and providing guidance to state agencies and/or third parties on expanding access.
- **Clarify how stakeholders conduct and engage in deployment efforts.** State laws can help internet service providers, community organizations, researchers, and other government officials understand who may provide broadband service, establish available incentives, and create rules under which local governments may invest in expansion efforts.



Policy focuses on five key areas

State efforts to expand broadband access run the gamut, from setting connectivity goals to creating funding mechanisms to encourage investment in broadband infrastructure. But while the individual activities are wide-ranging, Pew's research shows that broadband-related state statutes can be grouped into five categories: establishing programs; defining service speed and goals; setting up funding and financing; designating who can provide service; and regulating access to the infrastructure that providers need to build and maintain broadband networks.



Most states have broadband deployment laws or policies in at least two of these categories.

Broadband programs: Many states have tasked a new office or existing agency with responsibility for broadband deployment and asked it to define activities and objectives, including planning, mapping which areas or entities lack it, and administering a broadband grant program. Minnesota,² for example, is one of seven states that have established a broadband office through a statute or executive order—in its case, the Office of Broadband Development, within the Department of Employment and Economic Development. Nevada,³ Alabama,⁴ and West Virginia⁵ are among states that task agencies with broadband responsibilities.

States also guide broadband expansion by setting planning requirements. Maine,⁶ Wyoming,⁷ and some other states require entities responsible for these efforts to draft formal plans, although states differ in how those plans are drafted and what they include. Some provide general overviews and goals while others lay out specifics for accomplishing objectives. Wisconsin,⁸ Georgia,⁹ Indiana,¹⁰ and Tennessee¹¹ have certification programs that designate “Broadband Forward!” or “Broadband Ready” communities. These certifications are awarded to communities that have completed activities aimed at streamlining deployment, such as identifying a single point of contact for broadband efforts, establishing project review timelines, and placing limits on permit application fees.



States are also encouraging engagement from community and private sector leaders. For example, Oregon’s “local broadband champions”¹² program aims to build local expertise on broadband issues. And Virginia requires that community plans address residents’ and businesses’ current and future broadband needs and provide support for local planning commissions through the state’s Center for Innovative Technology.

Defining service speed and goals: States are defining broadband and related terms to provide consistency, clarity, and guidance about broadband deployment and service. These definitions are important because they’re often tied to inducements to providers to expand service, such as tax incentives.¹³ Clear definitions also help determine which unserved or underserved areas are eligible for funding and other programs, factors that can help influence broadband deployment.

Some states use the Federal Communications Commission’s definition for broadband—internet speeds of 25 megabits per second (Mbps) download and 3 Mbps upload¹⁴ (25/3)—but vary in how they apply it. For example, Iowa states that communities without access to 25/3 are unserved,¹⁵ while Missouri defines communities without 25/3 as underserved.¹⁶ Wisconsin¹⁷ is also targeting underserved communities but defines “underserved” by the number of providers present—two or fewer—rather than speed. Some states also attach service speed to broadband goals: Vermont has set a goal for all emergency services, businesses, and residences to have access to speeds of 100 Mbps to upload and download by 2024.¹⁸ Minnesota takes a tiered approach to its speed goal, pursuing 25/3 for all homes and businesses by 2022 and speeds of 100 Mbps upload and 20 Mbps download by 2026.¹⁹

Funding and financing: States have also developed funding and financing mechanisms to incentivize companies, nonprofit organizations, and telephone or electric cooperatives to invest in the infrastructure needed to expand broadband. Twenty-five states have established broadband funds, including grant programs such as Minnesota's Border-to-Border Broadband Development Grant Program²⁰ and North Carolina's Growing Rural Economies with Access to Technology (GREAT) program.²¹ Vermont,²² Colorado,²³ and eight other states allow their universal service funds and high-cost support mechanisms to support broadband expansion. For more information on how states finance and fund broadband efforts, please see "**How States Support Broadband Projects.**"

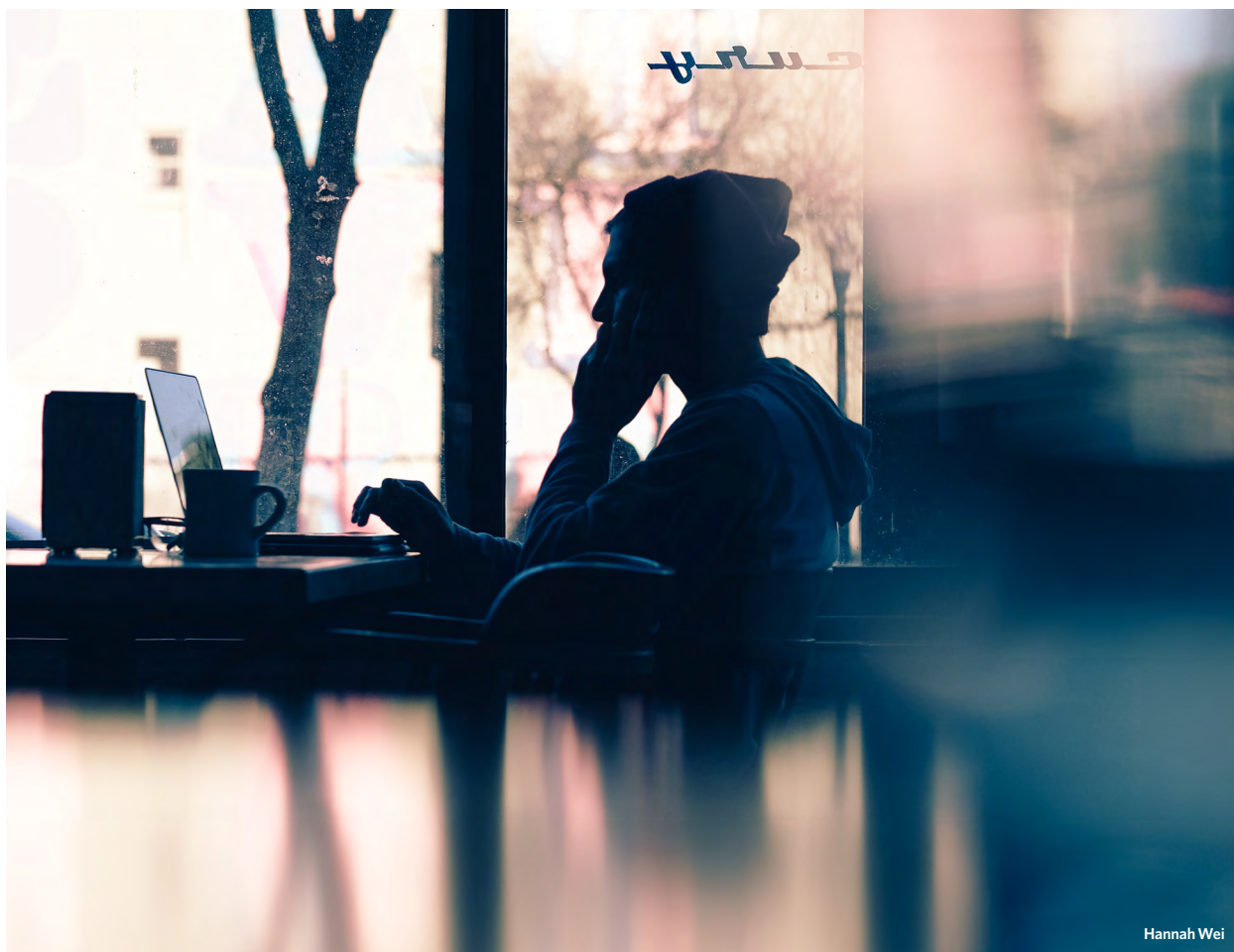
Competition and regulation: More than half of states have statutes identifying which entities outside the private sector can provide broadband service, including cities and towns, municipal utilities, and electric and telephone cooperatives. Missouri²⁴ and West Virginia²⁵ are among a handful of states that have adopted laws clarifying that electric cooperatives can provide commercial broadband service. Some of these stipulate how and where cooperatives can provide service. For example, Tennessee allows electric and telephone cooperatives to provide broadband access as long as they don't compete with existing cooperatives in markets with fewer than 100,000 customers.²⁶ And Maine allows regional utility districts to be created so that they can provide broadband services.²⁷

Some states limit the provision of internet service by local governments. Minnesota, for example, allows municipalities to "improve, construct, extend, and maintain" broadband networks, but only if the service will not compete with a private provider—and no company is expected to provide broadband to the area in the foreseeable future.²⁸ Nevada prohibits municipalities with populations over 25,000 and counties with populations over 55,000 from providing broadband service,²⁹ though they can own and construct infrastructure.³⁰

Infrastructure access: State laws also address how internet service providers can access publicly owned infrastructure, such as sidewalks, roads, and telephone poles, to build their systems. One way is through "dig once" laws, which require states or localities to install conduit—the empty pipe that internet cables run through—when building or upgrading infrastructure, such as roads, sidewalks, and bridges. These statutes are meant to encourage fiber investment because the land will not need to be dug up for future projects—minimizing frustration for residents and limiting costs for providers and government.

Some states focus on collaboration with the private sector, such as California³¹ and Colorado,³² where internet service providers must receive advance notification of construction projects that could allow broadband conduit placement. Minnesota requires state agencies to collaborate in order to facilitate conduit deployment on state-owned lands and encourage local governments to adopt dig once policies.³³ Nevada has adopted a law that incentivizes dig once³⁴ and allows the state Department of Transportation to enter into agreements with telecommunications providers to give them access to conduit in return for a payment, which is reinvested in the State Highway Fund,³⁵ or in-kind compensation, such as a fiber trade agreement.

States are also trying to accelerate deployment by refining permitting processes to establish a single point of contact, speed up timelines, and set transparent fee structures. For example, in Hawaii, the state must approve all permits required for broadband infrastructure, including cable installation, tower construction, and right of way, within 60 days.³⁶ Maryland removed fees it had charged nonprofits for access to state rights of way in rural or unserved areas³⁷ to encourage deployment in these areas, which have historically low returns on investment.



Conclusion

State policies shape the way that broadband reaches our doorsteps and enable stakeholders from the public and private sectors to participate in connectivity efforts. As all levels of government engage in these activities, policymakers can look to states for different models to ensure that all Americans have access to reliable, high-speed internet access.

Endnotes

- 1 Federal Communications Commission, “2019 Broadband Deployment Report” (2019), <https://www.fcc.gov/document/broadbanddeployment-report-digital-divide-narrowing-substantially-0>; John Kahan, “It’s Time for a New Approach for Mapping Broadband Data to Better Serve Americans,” Microsoft on the Issues, April 8, 2019, <https://blogs.microsoft.com/on-the-issues/2019/04/08/its-time-for-a-new-approach-for-mapping-broadband-data-to-better-serve-americans/>
- 2 Minn. Stat. 116J.39.2, <https://www.revisor.mn.gov/statutes/cite/116J.39>.
- 3 Nev. Rev. Stat. 408.55029 (2017), <https://www.leg.state.nv.us/nrs/nrs-408.html#NRS408Sec55029>.
- 4 Ala. Executive Order 704, <http://adeca.alabama.gov/Divisions/energy/broadband/Broadband%20Docs/Broadband%20Executive%20Order.pdf>.
- 5 W. Va. Code §31G-1-3
- 6 35-A M.R.S. 9218
- 7 Wyo. Stat. § 9-12-105
- 8 Wis. Stat. 196.504
- 9 Ga. Code Ann. 50-40-40
- 10 Ind. Code. 5-28-28.5-6
- 11 Tenn. Code Ann. 4-3-709
- 12 Ore. Laws 2018 chapter 51 (1)
- 13 Colo. Rev. Stat. 39-26-129
- 14 Federal Communications Commission, “2018 Broadband Deployment Report” (2018), <https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2018-broadband-deployment-report>
- 15 Iowa Code 8B.1
- 16 Mo. Rev. Stat. 620.2450 (1)
- 17 Wis. Stat. 196.504
- 18 Vt. 30 V.S.A. 202c
- 19 Minn. Stat. 237.012.1
- 20 Minn. Stat. 116J.395
- 21 N.C. Gen. Stat. § 143B-1373
- 22 Vt. 30 V.S.A. 7515
- 23 Colo. Rev. Stat. 40-15-208
- 24 Mo. Rev. Stat. 394.085 (1)
- 25 W. Va. Code §31G-2-4
- 26 Tenn. Code Ann. 65-25-134
- 27 Maine 30-A M.R.S. 2203
- 28 Minn. Stat. 429.021
- 29 Nev. NRS 268.086
- 30 Nev. NRS 710.147
- 31 Cal. Gov. Code. 14051
- 32 Colo. Rev. Stat. 38-5.5-109
- 33 Minn. Stat. 116J.391.2
- 34 Nev. NRS 408.200 (2)
- 35 Nev. NRS 408.55024 et seq.
- 36 Hawaii Rev. Stat. 27-45
- 37 Md. Code. Transportation 8-654

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