

RURAL HEALTH Fact Sheet


State Laws and Policies Affecting Broadband Access in Eight Northern Region States

Access to broadband is increasingly being recognized as an important social determinant of health. The [Federal Communications Commission](#) (FCC) and national organizations such as the [American Public Health Association](#) (APHA) have recently gone so far as to characterize broadband access as a “super-determinant” of health because it affects numerous other social determinants of health, such as education, employment, and healthcare access itself. This resource summarizes laws affecting broadband access in eight Northern Region states: Idaho, Iowa, Minnesota, Montana, North Dakota, South Dakota, Wisconsin, and Wyoming.

The term [broadband](#) generally refers to high-speed internet access that is always on and faster than dial-up access. Broadband is offered through several different mediums that transmit data at high speeds, including digital subscriber line (DSL), cable modem, fiber, wireless, satellite, and broadband over powerlines (BPL). From a transmission speed perspective, the [FCC](#) currently defines broadband to include connections with download speeds of at least 25 megabits per second (mbps) and upload speeds of at least 3 mbps.

The FCC measures deployment of both fixed residential broadband services and mobile internet services, delivered via cell phone towers to smartphones and other mobile devices. Most current mobile internet services (4G or “fourth generation” cellular mobile communications) do not technically qualify as “broadband” under the FCC’s definition, with [average 4G download speeds](#) falling below the 25 mbps threshold for broadband. The FCC and other entities have concluded that current mobile internet services with their more limited bandwidth capacities are not presently “[full substitutes](#)” for fixed services, though the promising high speeds of emerging [5G technologies](#) (“fifth generation” cellular mobile communications) may challenge that notion. While the number of U.S. adults who report accessing the internet [solely via smartphones](#) is growing, additional research on the adequacy of mobile substitutes is needed. This resource generally refers to broadband access in the context of fixed residential broadband services.

Despite progress in expanding connectivity, approximately [24 million people](#) in the United States still lack fixed broadband access. The “digital divide” is particularly acute in rural communities, where approximately 19



million rural residents lack broadband access at home. Racial minorities, [people living on Tribal lands](#), older adults, and individuals with lower levels of education and income are also [less likely](#) to have broadband service at home.

Nationally, over [90%](#) of the population has fixed access to the Internet at speeds of 25 megabits per second (mbps) download and 3 mbps upload or higher. However, the percentage of the rural population with fixed access at those speeds is only [62.2%](#). The Northern Region of the Network for Public Health Law serves many rural areas in an eight-state region, which includes Idaho, Iowa, Minnesota, Montana, North Dakota, South Dakota, Wisconsin, and Wyoming. Many areas in the Northern Region are underserved by local telecommunications providers and do not have broadband services. The majority (six of eight) of the Network's Northern Region states fall below the national average for rural broadband access. [Less than half](#) of the rural population in Wyoming (41.3%), Montana (43.3%), and Idaho (48.5%) have access to fixed broadband.

Lack of broadband access at home can serve to exacerbate disparities in other social determinants of health, such as by limiting educational and employment opportunities. Lack of broadband access can limit online educational opportunities for students living in rural and underserved areas. With online curricula and resources being increasingly part of the educational experience, this puts many rural students at a significant [disadvantage](#). Lack of broadband access can also limit employment opportunities. It may be difficult to draw businesses to communities lacking broadband access, and job-seekers also face logistical [challenges](#) in looking for work or applying for jobs online.

[Connectivity](#) also plays an important role in healthcare. In addition to accessing clinical services online via [telemedicine](#), individuals can learn about health topics online, access their electronic health records, and learn about programs and opportunities to improve their health. Individuals without broadband access at home may not be able to take full advantage of these opportunities for remote care and health promotion.

Law and policy directly affect the availability and cost of broadband services. Federal and state laws and policies, including funding broadband infrastructure, can facilitate expansion of broadband access. [Federal agencies](#) such as the Appalachian Regional Commission, the Federal Communications Commission, the Department of Agriculture, the Department of Commerce, the Department of Housing and Urban Development, the Department of Labor, and the Institute of Museum and Library Services all have [programs funding broadband-related access projects](#). The [federal E-Rate program](#) helps to connect the nation's schools and libraries to broadband.

State laws and policies can also facilitate broadband access in various ways. For example, states may fund broadband grant programs directly or may provide tax incentives or exemptions for broadband construction projects. States can also help to coordinate the efficient expansion of broadband through processing broadband permits expeditiously, overseeing the creation of broadband deployment maps, and coordinating “dig once” efforts so that broadband can be installed in conjunction with other infrastructure projects.

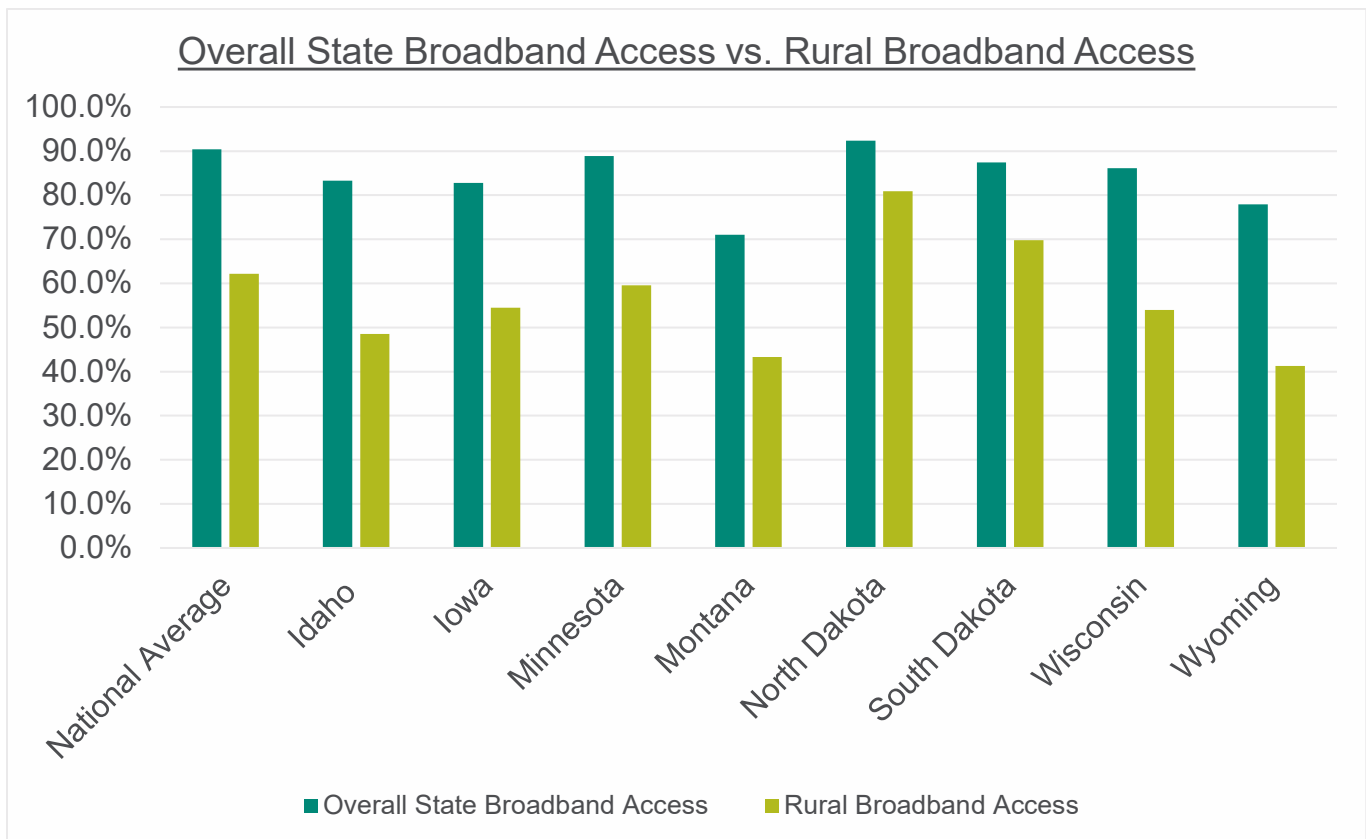
On the other hand, [state laws](#) can also serve to impede broadband access by preventing or discouraging the development of broadband at the local and municipal level. Some municipalities lacking affordable high-speed internet options have moved to build their own broadband networks, but are sometimes preempted from doing so by restrictive [state laws](#). These laws take a [variety of forms](#)—including laws that prohibit municipal broadband outright or laws that impose procedural barriers on municipal broadband. These procedural barriers include requiring feasibility studies, public ballot initiatives, or proof that private entities will not provide service

in the designated areas. Five Northern Region states—Iowa, Minnesota, Montana, Wisconsin and Wyoming—currently have state laws in place which act to discourage municipalities from developing their own broadband networks.

This resource summarizes state laws and regulations in eight Northern Region states that act to facilitate—or potentially pose barriers—to expanding broadband access. The author researched current laws and regulations (as of August 2018) relating to “broadband,” “internet,” and select “telecommunications” policy in Northern Region states in databases of state laws and regulations using Westlaw, an online legal research service. Relevant provisions impacting broadband access are summarized below.

[States](#) are increasingly turning to legal and policy approaches to support the expansion of broadband in underserved areas. As the impact of many of these policy approaches is just beginning to be seen, more research and policy surveillance is needed to evaluate the effect that various policy strategies have on bringing broadband access to communities. Expanding broadband access is key to achieving [more connected, healthier communities](#) in underserved areas in the Northern Region and across the United States.

Broadband Access in Northern Region States



Percentage of the overall state population vs. the rural population with fixed access to the Internet at speeds of 25 megabits per second (Mbps) download and 3 Mbps upload or higher. (Data Source: FCC data, 2017)



	<u>Overall State Broadband Access</u>	<u>Rural Broadband Access</u>
National Average	90.4%	62.2%
Idaho	83.3%	48.5%
Iowa	82.8%	54.5%
Minnesota	88.9%	59.6%
Montana	71%	43.3%
North Dakota	92.4%	80.9%
South Dakota	87.4%	69.8%
Wisconsin	86.1%	54%
Wyoming	77.9%	41.3%

Idaho

Broadband Definition	N/A
State Leadership Body/Initiative	LinkIDaho is a statewide initiative to promote broadband access launched by the governor. The initiative aims to expand the availability of broadband to 1) improve business competitiveness, 2) strengthen education, 3) promote better access to health care, 4) enhance the efficiency of government and public safety, and 5) improve overall quality of life.
Statutory Funding	<p>Broadband Infrastructure Improvement Grant Fund</p> <ul style="list-style-type: none"> • Administration. The broadband infrastructure improvement grant fund is administered by the state department of education. IDAHO CODE § 33-910 • Eligible Expenditures. Grants may fund up to ten percent of the cost of special construction projects for high-speed broadband connections. IDAHO CODE § 33-910 • Eligible Applicants. Eligible applicants are “E-rate eligible entities” including Idaho public schools grades K through 12, the Idaho digital learning academy, the Idaho department of juvenile corrections education programs, the school for the deaf and the blind and the Idaho public libraries. IDAHO CODE § 33-910 <p>Idaho Opportunity Fund</p> <ul style="list-style-type: none"> • Administration. The Idaho opportunity fund is administered by the Idaho department of commerce. IDAHO CODE § 67-4734 • Eligible Expenditures. The Idaho opportunity fund may fund the construction of broadband and other infrastructure costs that are directly related to specific job creation or expansion projects. IDAHO CODE § 67-4734; IDAHO ADMIN. CODE R. 28.03.01.014 • Eligible Applicants. Moneys in the fund may be allocated to local governments. IDAHO CODE § 67-4734; IDAHO ADMIN. CODE R. 28.03.01.014
Preemptive/Restrictive Laws Regarding Municipal Broadband	N/A
Other	<p>Income Tax Credit</p> <ul style="list-style-type: none"> • Broadband providers may receive an income tax credit for investment in broadband equipment. IDAHO CODE § 63-3029I; IDAHO ADMIN. CODE R. 35.01.01.750

Iowa

<p>Broadband Definition</p>	<p>“Broadband” means a high-speed, high-capacity electronic transmission medium, including fixed wireless and mobile wireless mediums, that can carry data signals from independent network sources by establishing different bandwidth channels and that is commonly used to deliver internet services to the public. IOWA CODE § 8B.1; IOWA ADMIN. CODE R. 129-20.1</p>
<p>State Leadership Body/Initiative</p>	<p>The Office of the Chief Information Officer</p> <ul style="list-style-type: none"> The office is created for the purpose of leading, directing, managing, coordinating, and providing accountability for the information technology resources of state government and for coordinating statewide broadband availability and access. IOWA CODE § 8B.3 Among other duties, the chief information officer shall “streamline, consolidate, and coordinate the access to and availability of broadband and broadband infrastructure throughout the state, including but not limited to the facilitation of public-private partnerships, ensuring that all state agencies’ broadband and broadband infrastructure policies and procedures are aligned, resolving issues which arise with regard to implementation efforts, and collecting data and developing metrics or standards against which the data may be measured and evaluated regarding broadband infrastructure installation and deployment.” IOWA CODE § 8B.4 <p>Iowa Communications Network</p> <ul style="list-style-type: none"> The Iowa Communications Network is an independent state agency that provides broadband, video conferencing, and telephone services to authorized users. Authorized users include K-12 schools, higher education, hospitals and clinics, state and federal government, and libraries. IOWA CODE § 8D.1 et seq. The Telecommunications and Technology Commission was established with the sole authority to supervise the management, development, and operation of the Network. IOWA CODE § 8D.3
<p>Statutory Funding</p>	<p>Connecting Iowa Farms, Schools, and Communities—Broadband Fund</p> <ul style="list-style-type: none"> Administration. The broadband grant program is administered by the office of the chief information officer. IOWA CODE § 8B.4; IOWA CODE § 8B.11 Eligible Expenditures. Grants may fund the installation of broadband infrastructure that facilitates broadband service at or above twenty-five megabits per second of download speed and three megabits per second of upload speed in targeted service areas. IOWA CODE § 8B.11; IOWA ADMIN. CODE R. 129-20.1 Eligible Applicants. Communications service providers may apply to the office for a grant. IOWA CODE § 8B.11 <p>Public Safety Interoperable and Broadband Communications Fund</p> <ul style="list-style-type: none"> Administration. The public safety interoperable and broadband communications fund is administered by the department of public safety. IOWA CODE § 80.44 Eligible Expenditures. Funds shall be used to plan and develop a statewide public safety interoperable and broadband communications system. IOWA CODE § 80.44 <p>State Bonds</p> <ul style="list-style-type: none"> The state treasurer may issue and sell bonds for public broadband. IOWA CODE § 12.87
<p>Preemptive/Restrictive Laws Regarding Municipal Broadband</p>	<p>A city that owns or operates a municipal utility providing telecommunications services shall not use general funds for the ongoing support of a telecommunications system. The city is also prohibited from using funds or revenue generated from electric, gas, water, sewage, or</p>

	garbage services for the ongoing support of any city telecommunications system. IOWA CODE § 388.10
Other	<p>Expeditious Processing of Broadband Permits</p> <ul style="list-style-type: none"> Broadband-related permits shall be processed expeditiously. A disposition on the permit (approved, approved with modification, or disapproved) shall be issued within 60 business days following the submission of the necessary application requirements. IOWA CODE § 8B.26 <p>Tax Exemption</p> <ul style="list-style-type: none"> The owner of broadband infrastructure may receive a tax exemption for the installation of broadband infrastructure in a targeted service area. IOWA CODE § 427.1 A targeted service area is defined as an area in which no communications service provider offers or facilitates broadband service at or above twenty-five megabits per second of download speed and three megabits per second of upload speed as of July 1, 2015. IOWA CODE § 8B.1. The tax exemption applies to infrastructure commenced and completed on or after July 1, 2015, and before July 1, 2020. IOWA CODE § 427.1

Minnesota

Broadband Definition	<p>“Broadband” or “broadband service” means any service providing advanced telecommunications capability and Internet access with transmission speeds that, at a minimum, meet the Federal Communications Commission definition for broadband. MINN. STAT. § 116J.39</p>
State Leadership Body/Initiative	<p>The Office of Broadband Development</p> <ul style="list-style-type: none"> The Office of Broadband Development is established to serve as the central broadband planning body for the state and shall remain in existence until the commissioner of the Minnesota Department of Employment and Economic Development certifies that the state has met the broadband goals established in MINN. STAT. § 237.012. MINN. STAT. § 116J.39 <p>State Statutory Goals</p> <ul style="list-style-type: none"> It is a state goal that all Minnesota businesses and homes have access to high-speed broadband by 2022, among other goals. MINN. STAT. § 237.012
Statutory Funding	<p>Border-to-Border Broadband Fund</p> <ul style="list-style-type: none"> Administration. The border-to-border broadband fund is administered by the Department of Employment and Economic Development. MINN. STAT. § 116J.396 Eligible Expenditures. Grants may be awarded under this section to fund the acquisition and installation of middle-mile and last-mile infrastructure that support broadband service scalable to speeds of at least 100 megabits per second download and 100 megabits per second upload. MINN. STAT. § 116J.395 Eligible Applicants. Eligible applications for grants include: (1) an incorporated business or a partnership; (2) a political subdivision; (3) an Indian tribe; (4) a Minnesota nonprofit organization; (5) a Minnesota cooperative association; and (6) a Minnesota limited liability corporation. MINN. STAT. § 116J.395
Preemptive/Restrictive Laws Regarding Municipal Broadband	<p>Procedural Barriers</p> <ul style="list-style-type: none"> A municipality seeking to construct a new exchange where an exchange already exists shall not be authorized to do so unless 65 percent of those voting thereon vote in favor of the undertaking. MINN. STAT. § 237.19 The council of a municipality shall have the power to improve, construct, extend, and maintain facilities for Internet access and other communications purposes, if the council finds that:



	<p>(i) the facilities are necessary to make available Internet access or other communications services that are not and will not be available through other providers or the private market in the reasonably foreseeable future; and</p> <p>(ii) the service to be provided by the facilities will not compete with service provided by private entities. MINN. STAT. § 429.021</p>
Other	<p>“Dig Once” Efforts</p> <ul style="list-style-type: none"> The Office of Broadband Development shall, in collaboration with the Department of Transportation and private entities, encourage and coordinate “dig once” efforts for the planning, relocation, installation, or improvement of broadband conduit within the right-of-way in conjunction with any current or planned construction, including, but not limited to, trunk highways and bridges. MINN. STAT. § 116J.391 <p>Fiber Collaboration Database</p> <ul style="list-style-type: none"> The purpose of the fiber collaboration database is to provide broadband providers with advance notice of upcoming Department of Transportation construction projects so that they may notify the department of their interest in installing broadband infrastructure within the right-of-way during construction in order to minimize installation costs. MINN. STAT. § 161.462 <p>Creation of Broadband Deployment Maps</p> <ul style="list-style-type: none"> The Office of Broadband Development shall oversee the creation of state and county maps showing the availability of broadband service at various upload and download speeds throughout Minnesota. MINN. STAT. § 116J.397

Montana

Broadband Definition	N/A
State Leadership Body/Initiative	The Montana Broadband Program (which has since been discontinued) worked to collect broadband coverage data across the state. The program ran from January 1, 2010 through December 31, 2014, and was funded through the State Broadband Initiative administered by the U.S. Department of Commerce, National Telecommunications and Information Administration.
Statutory Funding	The department of commerce was appropriated \$1 million dollars per year to use as state matching funds for special construction under the federal e-rate broadband program. MONT. CODE § 20-9-534
Preemptive/Restrictive Laws Regarding Municipal Broadband	<p>Government Competition With Private Internet Services Providers Prohibited</p> <p>(1) Except as provided in subsection (2)(a) or (2)(b), an agency or political subdivision of the state may not directly or through another agency or political subdivision be an internet services provider.</p> <p>(2)(a) An agency or political subdivision may act as an internet services provider if:</p> <ul style="list-style-type: none"> (i) no private internet services provider is available within the jurisdiction served by the agency or political subdivision; or (ii) the agency or political subdivision provided services prior to July 1, 2001. <p>(b) An agency or political subdivision may act as an internet services provider when providing advanced services that are not otherwise available from a private internet services provider within the jurisdiction served by the agency or political subdivision.</p> <p>(c) If a private internet services provider elects to provide internet services in a jurisdiction where an agency or political subdivision is providing internet services, the private internet services provider shall inform the agency or the political subdivision in writing at least 30 days in advance of offering internet services.</p> <p>(3) Upon receiving notice pursuant to subsection (2)(c), the agency or political subdivision shall notify its subscribers within 30 days of the intent of the private</p>



	<p>internet services provider to begin providing internet services and may choose to discontinue providing internet services within 180 days of the notice.</p> <p>(4) Nothing in this section may be construed to prohibit an agency or political subdivision from:</p> <ul style="list-style-type: none"> (a) offering electronic government services to the general public; or (b) acquiring access to the internet from a private internet services provider in order to offer electronic government services to the general public. MONT. CODE § 2-17-603
Other	<p>Cooperative Nonprofit Membership Corporations</p> <ul style="list-style-type: none"> • Cooperative nonprofit membership corporations may be organized for the purpose of making broadband generally available through the improvement and expansion of existing broadband facilities and the construction and operation of additional facilities. MONT. CODE § 35-18-105

North Dakota

Broadband Definition	N/A
State Leadership Body/Initiative	The Broadband ND program works with the federal government, private industry, public safety agencies, and with North Dakota citizens to collect broadband availability data and to help expand broadband access. In recent decades , North Dakota utilized state sales and use tax exemptions to facilitate private sector investment in broadband infrastructure.
Statutory Funding	N/A
Preemptive/Restrictive Laws Regarding Municipal Broadband	N/A

South Dakota

Broadband Definition	N/A
State Leadership Body/Initiative	The South Dakota Bureau of Information and Telecommunications received a grant from the National Telecommunications and Information Administration’s State Broadband Initiative to support the continuation of a state broadband working group to coordinate broadband access efforts in the state. Program activities have been “greatly reduced” since this federal grant lapsed.
Statutory Funding	N/A
Preemptive/Restrictive Laws Regarding Municipal Broadband	N/A

Wisconsin

Broadband Definition	N/A
State Leadership Body/Initiative	The Wisconsin Broadband Office , part of the state Public Service Commission, works with stakeholders to build partnerships with providers and consumers to promote broadband access across the state.
Statutory Funding	<p>Broadband Expansion Grant Program: Broadband Forward!</p> <ul style="list-style-type: none"> • Administration. The Broadband Forward! Program is administered by the public service commission. WIS. STAT. § 196.504



	<ul style="list-style-type: none"> • Eligible Expenditures. Grants shall be used for the purpose of constructing infrastructure in underserved areas. WIS. STAT. § 196.504 • Eligible Applicants. “Eligible applicants” include any of the following: (1) An organization operated for profit or not for profit, including a cooperative; (2) A telecommunications utility; or (3) A political subdivision that submits an application in partnership with an eligible applicant under subd. 1. or 2. WIS. STAT. § 196.504
Preemptive/Restrictive Laws Regarding Municipal Broadband	<p>Procedural Barriers</p> <ul style="list-style-type: none"> • Local governments may not enact an ordinance or adopt a resolution authorizing the local government to construct, own, or operate public broadband unless the local government meets certain requirements, including holding a public hearing, giving appropriate notice of the public hearing, and preparing a cost-benefit analysis report. WIS. STAT. § 66.0422

Wyoming

Broadband Definition	N/A
State Leadership Body/Initiative	<p>The Office of the State Chief Information Officer</p> <ul style="list-style-type: none"> • The office of the state chief information officer shall enhance statewide broadband adoption and coordination among all governmental users in coordination with the Wyoming business council and its broadband advisory council. WYO. STAT. § 9-2-2906
Statutory Funding	<p>Broadband Development Program</p> <ul style="list-style-type: none"> • Administration. The broadband development program is administered by the Wyoming business council. WYO. STAT. § 9-12-1501 • Eligible Expenditures. Funds may be provided under this article for the acquisition, deployment and installation of infrastructure that supports broadband service at a minimum of at least twenty-five (25) megabits per second download and three (3) megabits per second upload in residential areas and one (1) gigabits per second download speed and one hundred (100) megabits per second upload speed in business corridors. WYO. STAT. § 9-12-1501 • Eligible Applicants. Eligible applicants for funding awarded under this article are public private partnerships which include: <ol style="list-style-type: none"> i. A business entity authorized to be formed under title 17 of the Wyoming statutes, or the laws of another state that are the functional equivalent, which is authorized to transact business in this state and has experience installing broadband infrastructure and providing broadband services in rural areas; and ii. A government entity specified in the following: <ol style="list-style-type: none"> (A) A city, town or county or joint powers board; or (B) A tribal government of either the Northern Arapaho or Eastern Shoshone tribes of the Wind River Indian Reservation. WYO. STAT. § 9-12-1501
Preemptive/Restrictive Laws Regarding Municipal Broadband	<p>Procedural Barriers</p> <ul style="list-style-type: none"> • Political subdivisions may offer telecommunications services, but must first hold a public hearing and determine that no private provider is currently providing the same or similar service anywhere within the boundaries of the political subdivision. The city must submit a written request to all private providers to provide services and must wait 90 days to see if a private provider agrees to provide services. WYO. STAT. § 37-15-413 <ul style="list-style-type: none"> ○ Note this Chapter has a “sunset” provision and is scheduled to be repealed on July 1, 2019. WYO. STAT. § 37-15-101



SUPPORTERS



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