

2020

BROADBAND SCORECARD REPORT

INTRODUCTION & SUMMARY

2020 has come and gone, and it will undoubtedly be a year that few forget. However, amidst the chaos and uncertainty caused by the pandemic, American networks operated with incredible efficiency and resilience. As user traffic peaked, broadband providers worked quickly to ensure that zoom calls went smoothly and Netflix videos streamed without incident. Tremendous investment in American networks has been at the core of this success.

But it has not been the carriers acting alone: local and state governments play a significant role in the deployment of broadband infrastructure. Deploying and operating broadband infrastructure is difficult and expensive, and these challenges can be compounded by artificial barriers caused by local and state governments. From right-of-way access and zoning to construction permits and franchising, state and local barriers to infrastructure deployment can have a major impact on Americans' access to broadband.

Over the last two years, the R Street Institute has published the Broadband Scorecard, a project which ranks every state according to how well their laws govern the various aspects of broadband deployment. When state laws provide a uniform and streamlined process

for deployment, it becomes easier and those states earn a higher grade. While some states did very well, no state received a perfect score.

This report updates the 2019 Broadband Scorecard data to incorporate legislative changes made across the country in 2020. However, with the pandemic, much state legislative action focused primarily on utilizing federal COVID-19 relief funding to subsidize the deployment of infrastructure rather than reforming these artificial barriers to gain access to public rights of way or construction permits.

Yet, reforming these artificial barriers can play a significant role in spurring additional private investment when subsidy programs fall short or fail to lower prices for consumers with access to broadband connectivity. As the Federal Communications Commission's (FCC) Broadband Deployment Advisory Committee found, some local governments struggled to keep pace with applications for permits or access to rights of way. Mainly, these localities struggled to meet the demands of work-from-home mandates or already lacked adequate staffing to process applications.

While the pandemic may lessen with the commercialization of a vaccination, it is critical that states continue to work to ensure local reviews do not go above what is necessary to manage the public rights of way and ensure telecom deployments adhere to the necessary codes.

While many states passed broadband-related laws this year, most scores remain unchanged as few laws addressed this critical component of deployment. Further, not all new broadband laws are actually good policy. For example, giving electric utilities or municipal cooperatives permission to deploy broadband infrastructure can be good, but if that permission allows them to exclude competitors and deny access to public rights of way,¹ that will hurt competition and diminish broadband service over the long run. Therefore, while most states received at least the same base score as they did in the 2019 scorecard, some states lost points in certain categories. These changes are all included in the provided data sheet, and our scoring methodology can be found below.

¹ ["Report and Recommendations: Covid-19 Response," Disaster Response and Recovery Working Group, Oct. 29, 2020, p. 12.](#)

METHODOLOGY

This scorecard examines laws that govern broadband infrastructure deployment in all 50 states and compiles these data into categories. In some categories, states were given points based on whether they had a law governing a specific aspect of broadband deployment. In categories that included costs or timelines, states were given points based on whether the cost or timeline provided in their law met a certain threshold. For example, a state may get one point for imposing a fee cap on permit applications, and a second point if the cap is \$100 or less.

In the absence of a law in a category, no points were awarded for that category. While regulators at the federal, state and local levels all work hard to promote broadband deployment, the broadband future should not rely solely on the discretion of bureaucrats. Good rules should be codified into law, because only laws can provide the long-term certainty needed to incentivize widescale deployment of broadband infrastructure. As such, we did not include any regulations in our analysis, including federal regulations issued by the FCC.

Although conflicting state or local regulations are pre-empted under the U.S. Constitution's Supremacy Clause, states should strive to do better by going above and beyond what federal regulations require. For example, fees on video franchises and some construction permits are capped by FCC regulations, but these are just a baseline. To be true leaders in broadband deployment, states should make their approval processes as efficient and streamlined as possible while still covering their costs and protecting their local citizens.

ACCESS TO PUBLIC RIGHTS OF WAY

To deploy or upgrade broadband infrastructure, providers need access to public rights of way, like streets, sidewalks and railways. Access to these rights of way should be non-exclusive in order to prevent one or more incumbent broadband providers from unfairly excluding competition. Access to public rights of way should also be non-discriminatory in order to avoid warping the broadband market in favor of one provider or type of provider and interfering with consumer choice.

Fees for access to public rights of way should be low, predictable and ideally limited to the actual costs incurred from upkeep and access administration. Also, permission to access rights of way and construct broadband infrastructure in them should be granted quickly and subject to firm timelines or shot clocks. Ideally, if a public authority fails to act on an application before the shot clock expires, the broadband provider should be allowed to gain the requested access without needing to file suit to compel action from the authority.

FRANCHISE AGREEMENTS

To provide video services, broadband providers must obtain franchises from either state or local authorities. Such franchises were originally given exclusively to cable companies, but advances in both wireline and wireless broadband technologies have enabled broadband providers to venture into cable video services, too.

Federal law now prohibits exclusive franchise agreements and limits the fees and conditions that can be imposed on franchises, but state and local authorities can improve upon this baseline. For example, while franchise agreements can come with large upfront or annual fees, the costs of which are at least partially passed on to consumers, they could be issued at cost or for no charge at all. Unreasonable delays or moratoria in processing new franchise applications are already prohibited, but states should be encouraged to further streamline and expedite the franchising process.

CONSTRUCTION PERMITS

Along with general approval to operate in public rights of way, broadband providers must seek approval individually for all construction they want to undertake in these areas. Such construction includes digging trenches, stringing wires along the ground or on utility poles, collocating wireless antennas on existing structures and deploying new structures to support broadband equipment. All this construction requires permission, and that means more applications, fees and delays.

As with other permits, fees for obtaining construction permits should be limited to the actual costs incurred by processing the permit applications and should be subject to a cap. Likewise, timelines for processing construction permits should be quick and subject to firm shot clocks, though legislators should keep in mind that the nature and degree of construction needed to deploy broadband infrastructure vary considerably.

For example, attaching new equipment to existing support structures, a practice known as “collocation,” is much easier than building entirely new infrastructure, and the fees and timelines associated with these construction projects should reflect that. Deploying a single 200-foot cell tower is vastly different than deploying a fleet of 100 small cells, so permission processes should be updated to reflect changes in technology and network architecture by shortening timelines or allowing multiple small cell installations to be included in the same permit application.

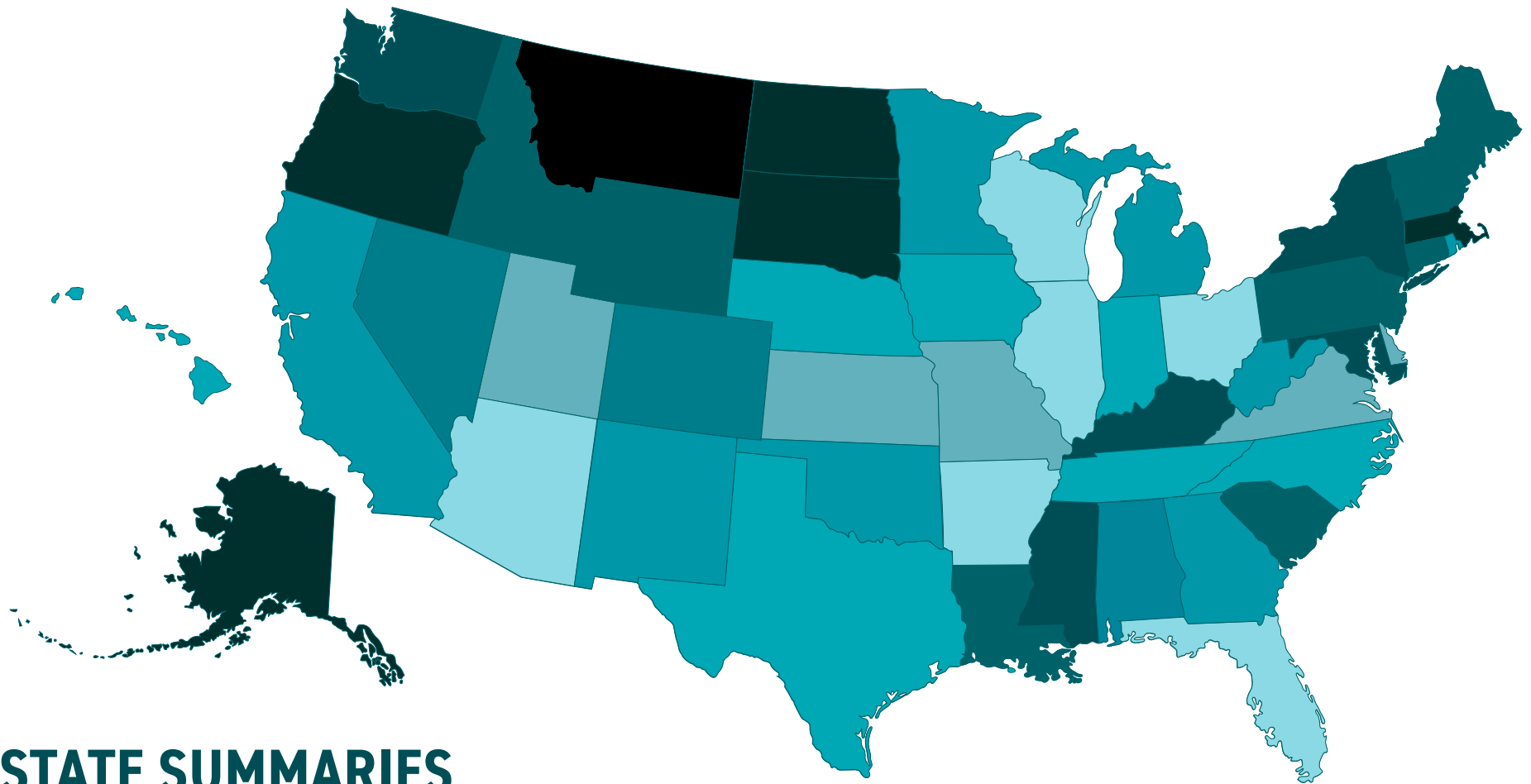
On the other hand, governments still need adequate time and resources to ensure new construction does not threaten public health and safety by causing electrical outages or disrupting traffic flows. Additionally, states should allow cities to review permit applications for reasonable design and concealment concerns to preserve the aesthetic character of their public areas. Broadband providers have begun designing new devices to blend in seamlessly with their surroundings, and cities should work hand-in-hand with these providers to address siting concerns when they arise.

MISCELLANEOUS

We also evaluated several measures that hinder broadband deployment but do not fall neatly into any categories. For example, some cities have tried enacting moratoria on all future broadband deployment, which is prohibited under federal regulations, but state law should prohibit these, too. Meanwhile, federal regulations restrict cities’ ability to extract “in-kind” contributions (i.e., non-monetary contributions such as free services for government buildings) from broadband providers, and states should move to restrict these contributions as well.

Cities often require broadband providers to undergo zoning reviews prior to new construction in public rights of way, which adds another regulatory barrier to the process. States can streamline this by exempting routine or minor construction work from such reviews.

Finally, states can further streamline deployment by adopting so-called “dig-once,” or “joint-trenching” laws, which require that all broadband providers receive public notice prior to any excavation in public rights of way. This allows multiple providers to access an excavated right of way during a single dig, increasing the efficiency of deployment and minimizing disruption to traffic flows.



STATE SUMMARIES

A	A-	B+	B	B-	C+	C	C-	D+	D
ARIZONA ARKANSAS FLORIDA ILLINOIS OHIO WISCONSIN	DELAWARE KANSAS MISSOURI UTAH VIRGINIA	HAWAII INDIANA IOWA NEBRASKA NORTH CAROLINA TENNESSEE TEXAS	CALIFORNIA GEORGIA MICHIGAN MINNESOTA NEW MEXICO OKLAHOMA RHODE ISLAND WEST VIRGINIA	ALABAMA	COLORADO NEVADA	CONNECTICUT IDAHO LOUISIANA MAINE NEW HAMPSHIRE NEW JERSEY PENNSYLVANIA SOUTH CAROLINA VERMONT WYOMING	KENTUCKY MARYLAND MISSISSIPPI NEW YORK WASHINGTON	ALASKA MASSACHUSETTS NORTH DAKOTA OREGON SOUTH DAKOTA	MONTANA



ALABAMA

RAW SCORE: 15

FINAL SCORE: 80

B-

After losing points in 2019 due to a law which allows electric co-ops to grant exclusive access to their utility poles and rights of way for broadband, and on rates and terms that unfairly discriminate against competing broadband providers, Alabama passed no relevant laws this year. Alabama receives a B- primarily due to laws governing shot clocks on construction permits, but can make improvements on franchising.

ALASKA

RAW SCORE: 4

FINAL SCORE: 69

D+

Alaska remains near the bottom of the rankings after a year with no new laws governing local oversight of broadband deployment. Alaska does prohibit right-of-way exclusivity, and also requires that localities limit fees for right-of-way access to the costs incurred by the municipality in question. However, construction permitting and franchising remain huge issues for the state.



ARIZONA

RAW SCORE: 32

FINAL SCORE: 97

A

After passing small cell legislation in 2018, Arizona ranks at the top of the Broadband Scorecard for the third straight year. Arizona did pass a law allowing electric co-ops to provide broadband service, but does not supersede existing laws regarding access to municipally owned poles. Therefore, the score remains unchanged. Moving forward, Arizona should look to improve the permitting process for wireline broadband construction projects and institute uniform statewide video franchising.



ARKANSAS

RAW SCORE: 29

FINAL SCORE: 94

A

Arkansas passed no relevant legislation this year. As with last year, right-of-way access in the state has a hard cap, but the fees are not limited to costs nor must they be applied in a non-discriminatory manner. The legislature could also facilitate the deployment of wireline infrastructure by passing a dig-once law.



CALIFORNIA

RAW SCORE: 19

FINAL SCORE: 84

B

California approved a new subsidy, but made no changes to existing laws covered by the scorecard. The state requires fees to be non-discriminatory, but does not establish a cap nor limit fees to the costs incurred by a given municipality. California could also improve by exempting utility pole replacements from zoning review, prohibiting localities from establishing moratoria on new applications for construction permits and placing restrictions on in-kind contributions.



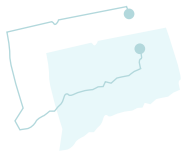
COLORADO

RAW SCORE: 14

FINAL SCORE: 79

C+

Colorado passed a law regarding mapping of underserved areas, which helps ensure that subsidy funding will go to the areas that truly need the support. However, this does not affect Colorado's score. The small cell legislation passed in 2018 helped in many respects, but fees are still a big issue. There are no limits on the cost of right-of-way access, or on the costs of obtaining construction permits for collocations, new poles or wireline broadband infrastructure, which ultimately prevents Colorado from scoring above a C+. Colorado also received zero points for its franchising laws, an area the state legislature could look to in 2021 to improve deployment of broadband infrastructure.



CONNECTICUT

RAW SCORE: 11

FINAL SCORE: 76

C

Last year, the legislature created a Council of 5G Technology to oversee construction applications and included some shot clocks on construction permitting. However, these shot clocks are too long to earn any points and there are no limits on the fees the council can charge. To improve, Connecticut could pass a new law that builds on the 5G council, streamlining the shot clocks for review and limiting the fees that can be charged.



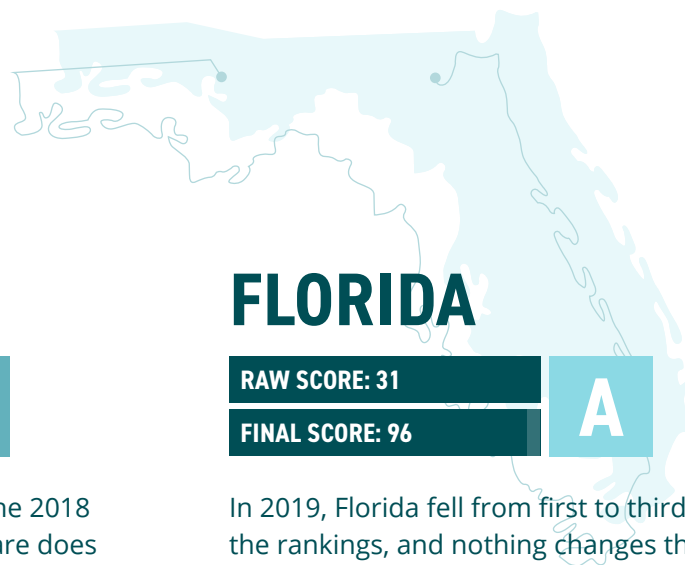
DELAWARE

RAW SCORE: 26

FINAL SCORE: 91

A-

Delaware saw no changes from the 2018 or 2019 scorecards. While Delaware does very well on right-of-way access and construction permitting, there is still room for improvement. First, state law does not place fee caps on review of new poles or wireline broadband infrastructure. Second, there are no limits on the cost of filing a franchise application nor the time it takes for a franchising authority to approve the application. Finally, there are no zoning exemptions for small wireless facilities or replacement utility poles.



FLORIDA

RAW SCORE: 31

FINAL SCORE: 96

A

In 2019, Florida fell from first to third place in the rankings, and nothing changes this year. The legislature did create a program to utilize existing funds for broadband infrastructure projects; however, moving forward, Florida should look to exempt small wireless facilities and new poles from local zoning review, as well as pass a dig-once policy to help deployment of wireline infrastructure while trenching occurs.



GEORGIA

RAW SCORE: 21

FINAL SCORE: 86

B

After massive improvements in 2019, Georgia's score remains the same in 2020. The legislature did pass a bill that requires electric co-op fees for broadband attachments must be non-discriminatory, but still lacks a non-discriminatory, cost-based review of wireline construction permits or a dig-once law.


HAWAII

RAW SCORE: 22

FINAL SCORE: 87

B+

Hawaii saw no improvement in 2020. The small cell legislation passed in 2018 covered construction permitting, but right-of-way access fees remain a potential area for improvement. Furthermore, Hawaii does not place restrictions on fees for construction permit review, nor does it impose any limits on franchise fees.



IDAHO

RAW SCORE: 11

FINAL SCORE: 76

C

While Idaho did not see any improvements on this year's scorecard, the state did move on a telehealth bill to expand coverage opportunities utilizing broadband connections. To help maximize the benefit of this expansion, it will be important to help spur the deployment of infrastructure. The state's laws on franchising and access to public rights of way are both commendable. However, placing limits on what localities can charge for this access, as well as strong timelines and fee caps for construction permitting, should be a major focus for 2021.



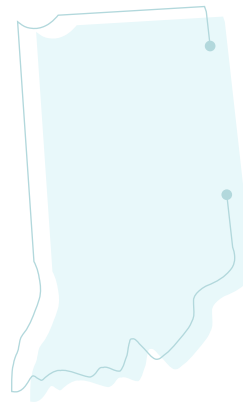
ILLINOIS

RAW SCORE: 28

FINAL SCORE: 93

A

Illinois received another strong score in the 2020 Broadband Scorecard. The state is exploring the ability to provide no-cost broadband access, but should be careful not to squander valuable taxpayer funds. Considering the excellent laws governing infrastructure, some communities may need additional subsidization to fully realize the benefits of broadband. However, there is still more the state could do, such as fee caps on franchise applications and construction of new poles, as well as lower fee caps on right-of-way access and collocation permits. Illinois should also prohibit localities from establishing moratoria on new filings.



INDIANA

RAW SCORE: 22

FINAL SCORE: 87

B+

Indiana passed a few laws that will affect deployment. Most notably, House Act 1093 which allows state agencies to accept electronic filings even if a statute requires a different means of filing. While not specifically a category on the scorecard, this type of reform is critical as more offices work virtually during the pandemic. The state also expanded telecom co-ops and subsidies. As for the scorecard, fees for right-of-way access and construction permits for new poles remain uncapped, and the shot clocks for collocations of small wireless facilities and the installation of their associated support structures do not include deemed-granted provisions. Indiana should also place restrictions on in-kind contributions and prohibit moratoria on new applications.



IOWA

RAW SCORE: 23

FINAL SCORE: 88

B+

Iowa's score remains unchanged. To improve its score, Iowa should pass laws exempting pole replacements and collocations from zoning review, and put shot clocks and fee caps on permitting review for wireline broadband deployment.



KANSAS

RAW SCORE: 27

FINAL SCORE: 92

A-

In 2020, Kansas continued to improve on local review processes by exempting review of micro-wireless facilities that a cable provider installs on their own facilities. Moving forward, Kansas should impose a hard cap on the fees for access to public rights of way and limit aesthetic review of wireless facilities to reasonable design standards. Moreover, the shot clocks and fees for construction permit reviews are higher than what other states have adopted, so lowering these categories could also earn Kansas more points in 2021.

KENTUCKY

RAW SCORE: 7

FINAL SCORE: 72

C-

Like many states this year, Kentucky moved forward with a broadband grant project but did not pass any infrastructure-related laws. Franchising laws remain a key issue, with no cap on fees, no uniform statewide franchising and no timeline for application reviews. Furthermore, while there are some restrictions on right-of-way exclusivity, there are basically no limitations on the fees that providers must pay for right-of-way access.



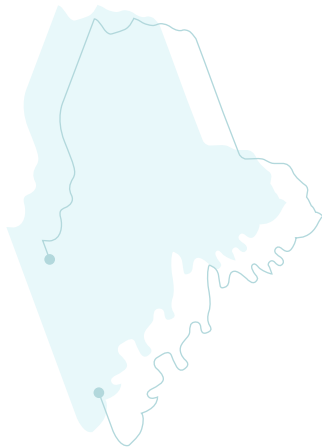
LOUISIANA

RAW SCORE: 11

FINAL SCORE: 76

C

Louisiana passed an electric co-op broadband bill that allows electric utilities to provide broadband, but also allows them to exclude competitors from their poles. While Louisiana already missed points on the access to municipally owned poles, it should revisit this to allow for more accessible interconnection. Positively, the state did pass a law directing a state agency to develop a dig-once policy. While this is not technically a state law, because the bill requires action, we are giving them a point for the category. Louisiana should also pass laws that limit how much a locality can charge to review a construction permit for wireline broadband infrastructure and impose shot clocks on the review process.



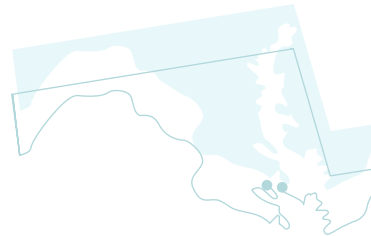
MAINE

RAW SCORE: 10

FINAL SCORE: 75

C

Despite passing a mapping law, Maine's continued low score is due to the lack of cost control on right-of-way access and construction permitting. There are limitations on franchise fees, but there is no uniform statewide franchising. This, paired with application fee caps and shot clocks, would drastically help with deployment throughout the state.



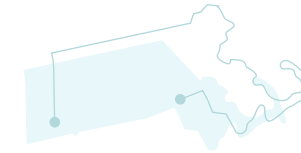
MARYLAND

RAW SCORE: 5

FINAL SCORE: 70

C-

This year, the state legislature passed changes which allow electric co-ops to exclude additional attachments, but specified that fees for access to infrastructure must be non-discriminatory. Because the exclusions only related to a lack of space or a safety hazard, Maryland will receive an additional point for the non-discriminatory fees provision.



MASSACHUSETTS

RAW SCORE: 3

FINAL SCORE: 68

D+

Apart from additional broadband grants, there were no major changes in 2020. Massachusetts receives points for prohibiting right-of-way exclusivity and extending these access rights to all utility poles. Furthermore, collocation aesthetic reviews are limited to reasonable design standards. However, Massachusetts earns no other points and therefore has a lot of work left to do in promoting broadband deployment.



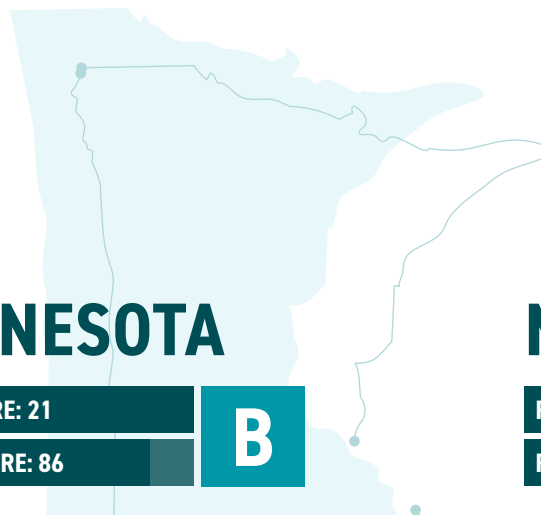
MICHIGAN

RAW SCORE: 21

FINAL SCORE: 86

B

For the second straight year, Michigan's score remains unchanged. It did pass a law allowing electric co-ops to provide broadband, but access to their infrastructure is consistent with existing laws regarding exclusivity and non-discrimination. Good laws governing franchising and small cell deployment give Michigan a well-balanced regime, but there is still room for improvement. The state places no limitations on in-kind contributions, has no dig-once law and fees for accessing rights of way are neither limited to costs nor capped outright.



MINNESOTA

RAW SCORE: 21

FINAL SCORE: 86

B

No changes in 2020. Minnesota scored similarly to Michigan, but for different reasons. With restrictions on in-kind contributions, a dig-once law and a ban on moratoria, Minnesota received a perfect score in the miscellaneous category. However, there is no uniform statewide franchising nor a limitation on the fees that a franchising authority can charge a provider. Improvements can also be made to the length of the shot clocks, but the fact that shot clocks exist at all is a positive for the state.



MISSISSIPPI

RAW SCORE: 6

FINAL SCORE: 71

C-

Apart from additional grants, Mississippi passed no broadband-related bills in 2020. Construction permitting remains a key issue as Mississippi received only one point for construction permitting, owing to a limit on aesthetic review to reasonable design standards rather than fee caps or shot clocks.



MISSOURI

RAW SCORE: 27

FINAL SCORE: 92

A-

Missouri receives another high score this year. The state still lacks a dig-once law, and localities have no caps on fees or timeframes for approving wireline construction permits. Furthermore, the fee cap for right-of-way access is \$50 higher than the \$100 baseline in the scorecard. However, Missouri receives strong scores on almost all other areas.

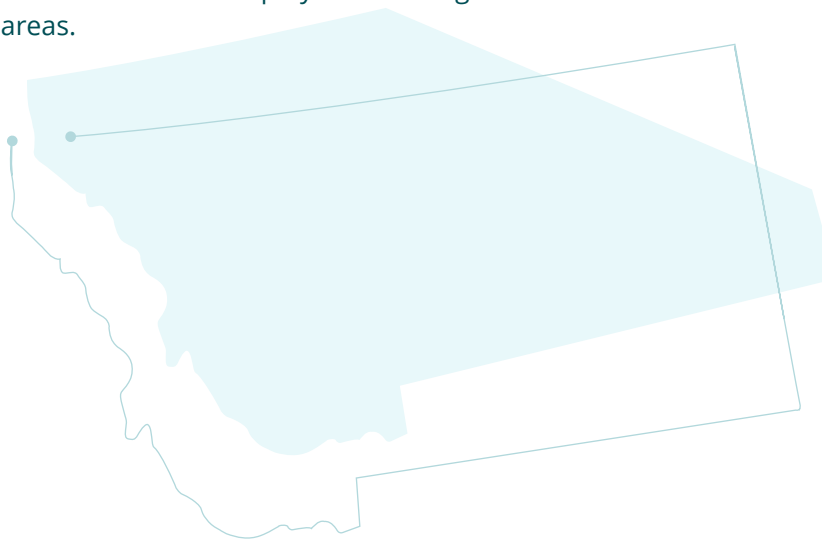
MONTANA

RAW SCORE: 1

FINAL SCORE: 66

D

Montana once again finishes in last place on the broadband scorecard. The state does prohibit right-of-way exclusivity, but receives no other points. The Montana legislature should provide greater clarity, guidance and protections for all aspects of broadband deployment throughout the state.



NEBRASKA

RAW SCORE: 23

FINAL SCORE: 88

B+

Nebraska took a few steps to improve broadband deployment this year, but none that alter its score. First, the state passed a law designed to improve local mapping of where broadband has and has not been deployed. Second, in allowing electric co-ops to provide broadband, Nebraska ensured that access and the costs to access utility infrastructure must be non-discriminatory, consistent with existing laws. This means that unlike states—such as Alabama—that allowed exclusivity from electric co-ops, the new bill does not cause Nebraska to lose any points. However, the state still lacks uniform statewide franchising for cable providers, no limitations on franchise fees or the application process and only a soft cap on fees for right-of-way access. In 2021, Nebraska should focus on improving these areas to promote infrastructure deployment for all types of broadband services.



NEVADA

RAW SCORE: 13

FINAL SCORE: 78

C+

Nevada saw no change in 2020. The state received most of its points from franchising laws, with non-discriminatory franchise fees and a 5 percent gross revenue fee cap, as well as uniform statewide franchising. Furthermore, the application fees for a construction permit for either a collocation or support structure are limited to the costs incurred by the approving authority. However, there are no shot clocks on this review process, nor a hard fee cap. Similarly, while right-of-way access fees must be non-discriminatory, the fees are neither capped nor limited to the costs of the locality. Paired with no zoning exemption for collocations or new support structures, no restrictions on in-kind contributions and no prohibition on localities establishing moratoria on filing for new applications, Nevada again comes in slightly below average on the 2020 scorecard.



NEW HAMPSHIRE

RAW SCORE: 11

FINAL SCORE: 76

C

As with a few other states this year, New Hampshire passed a law to provide better maps regarding where broadband currently is deployed within the states. Other than that, the state passed no new laws and receives the same score it did in 2019. New Hampshire law does not cap fees for franchises, construction permits or right-of-way access, nor does it limit these fees to the costs incurred by the regulator. Moreover, there is no uniform statewide franchising, meaning companies wishing to offer video service must individually negotiate all franchise terms with each locality. High costs can stifle deployment, so New Hampshire should work to limit costs at every stage of deployment.



NEW JERSEY

RAW SCORE: 9

FINAL SCORE: 74

C

New Jersey passed no relevant laws in 2020. The state receives points mainly in the franchising categories with a hard cap on franchise fees and a shot clock on application review. However, construction permitting remains a major problem. There are no shot clocks on application reviews for any type of construction permit, and the fees are neither capped nor limited to costs. Similarly, there are no limits to the fees charged for access to public rights of way. New Jersey should focus primarily on these issues in 2020 to supplement its solid franchising laws.



NEW MEXICO

RAW SCORE: 19

FINAL SCORE: 84

B

New Mexico passed no relevant laws in 2020. Wireline infrastructure deployment remains a significant challenge, as there are no limits on franchise fees, no uniform statewide franchising and no dig-once law. Furthermore, there are neither shot clocks nor fee caps for wireline construction permits. Improving the laws governing wireline infrastructure will be a key challenge for New Mexico in 2021.

NEW YORK

RAW SCORE: 7

FINAL SCORE: 72

C-

New York passed no relevant laws in 2020. The state does place a cap on fees for right-of-way access and franchising, but receives zero points on construction permitting. Lengthy and costly reviews for construction permits delay deployment of broadband infrastructure to those communities that need connectivity the most, so New York should look to make these processes faster and cheaper moving forward.



NORTH CAROLINA

RAW SCORE: 22

FINAL SCORE: 87

B+

Apart from a few additional grants, North Carolina passed no relevant laws in 2020. As recommended last year, the state should focus on wireline broadband construction and establish a fee cap for franchises. These steps will help with the deployment of wireline infrastructure to balance out the great work the state has done on wireless.



NORTH DAKOTA

RAW SCORE: 2

FINAL SCORE: 67

D+

North Dakota only receives points for a restriction on in-kind contributions and non-discriminatory right-of-way access fees, seeing no changes from last year.

OHIO

RAW SCORE: 29

FINAL SCORE: 94

A

Ohio receives another high score despite no changes this year. Franchise fees are neither non-discriminatory nor cost-based, but they are capped and imposed uniformly statewide. Ohio should also pass a dig-once law to help facilitate the deployment of wireline broadband infrastructure.



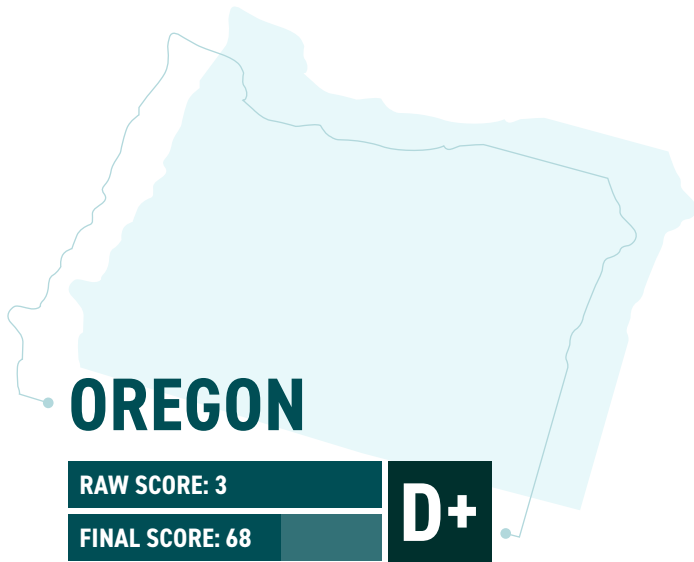
OKLAHOMA

RAW SCORE: 21

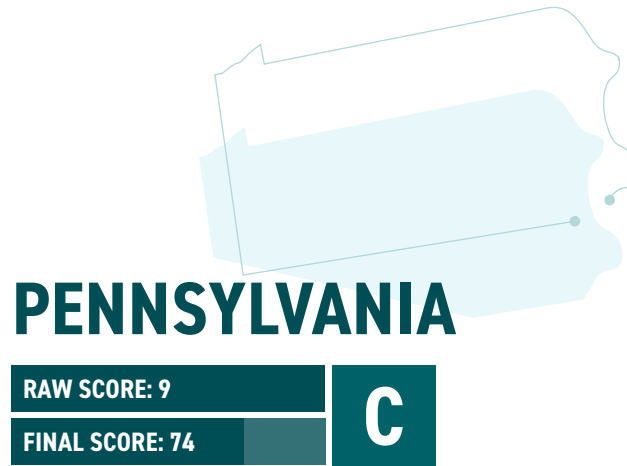
FINAL SCORE: 86

B

Oklahoma allocated additional funding to broadband deployment, but made no changes to make the deployment process less burdensome on providers. There are still no shot clocks or limitations on fees for wireline construction permits, and the state earned no points in the franchising category. In addition, passing a dig-once law would help balance out Oklahoma's laws to promote all types of broadband service.



Oregon's score remained unchanged in 2020. Oregon has a cap on fees for right-of-way access and an excellent cap on franchise fees, but receives no other points on the scorecard. Construction fees and timelines are the biggest areas where Oregon can improve, but progress can be made on all fronts.



Pennsylvania saw no major changes in 2020. Pennsylvania receives several points in multiple categories. Fees for wireline construction permits are limited to costs incurred by the regulator and must be non-discriminatory, franchise fees are capped and there are shot clocks for collocations. While these measures are all good, right-of-way access remains a major issue. Moving forward, Pennsylvania should work to ensure that access remains non-exclusive, cost-based and capped to no more than \$100 per year.



Rhode Island saw no changes in 2020. The state has a well-balanced approach to broadband infrastructure, but each area has room for improvement. Right-of-way fees should be capped and cost-based; permit fees should be capped; new-pole reviews should be subject to a shot clock and exempt from zoning review; and franchise application review should be subject to a shot clock. The state has done great work so far, but needs to build upon its past successes.



SOUTH CAROLINA

RAW SCORE: 11

FINAL SCORE: 76

C

South Carolina passed a bill allowing electric co-ops to provide broadband service, but maintained requirements regarding non-exclusive access to rights of way and non-discriminatory fees. In 2021, South Carolina should focus on exempting collocations and pole replacements from zoning review, establish a dig-once policy, restrict in-kind contributions, prohibit localities from establishing moratoria, and impose shot clocks and fee caps on construction permit reviews.

SOUTH DAKOTA

RAW SCORE: 3

FINAL SCORE: 68

D+

South Dakota received points for non-discriminatory franchise fees, a shot clock on the franchise review process and a prohibition on right-of-way exclusivity. No new laws were passed in 2020—apart from an additional grant for rural broadband—to help South Dakota earn more points, but they are still one point ahead of their neighbors to the north.



TENNESSEE

RAW SCORE: 23

FINAL SCORE: 88

B+

Tennessee passed no relevant laws in 2020. It scores well by limiting costs for access to rights of way, capping franchise fees, and placing fee caps and shot clocks on local application review for collocations.



TEXAS

RAW SCORE: 24

FINAL SCORE: 89

B+

After significant activity in 2019, Texas was quiet in 2020. While a B+ is a solid score, Texas should explore subjecting wireline broadband deployment to similar shot clocks and fee caps to those which currently apply to collocations and utility poles.



UTAH

RAW SCORE: 25

FINAL SCORE: 90

A-

Utah saw no changes in 2020. Despite receiving zero points in the franchising category, Utah's strong laws on construction permitting and right-of-way access carry the state to a commendable A- grade. Consistent with our recommendations last year, Utah should provide uniform franchising statewide, with caps on the fees enshrined into law. This could also be paired with shot clocks and fee caps on the application review process, spurring competition in video services.



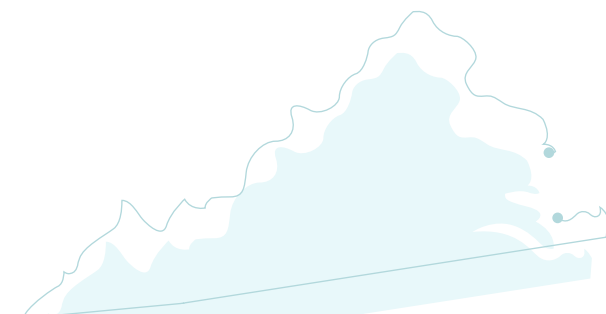
VERMONT

RAW SCORE: 11

FINAL SCORE: 76

C

Vermont saw no changes in 2020. It struggles primarily in right-of-way access, with no limits on what a municipality can charge a provider for access to public rights of way. Franchising also remains a problem. While video franchising is uniform statewide, there is no limit on the fees that can be charged for holding or obtaining that franchise. Improving in these areas will help supplement the construction permitting laws that are already on the state's books.



VIRGINIA

RAW SCORE: 26

FINAL SCORE: 91

A-

Virginia scores highly on the scorecard with good laws in all three of the major categories. However, there is no uniform statewide franchising, no zoning exemption for small wireless facilities or pole replacements and no dig-once law. Improvements in these areas, as well as in wireline broadband construction, could push Virginia to the top of the scorecard in 2021.

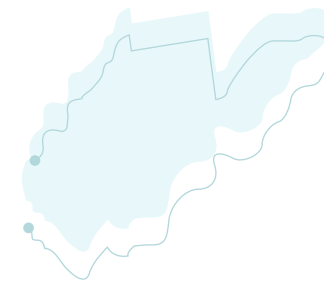
WASHINGTON

RAW SCORE: 6

FINAL SCORE: 71

C-

Washington's low score comes from having almost no laws governing access to public rights of way or construction permitting. However, the state does have a dig-once law, and it bans local governments from establishing moratoria on new deployments, preventing the state from falling into the D+ range. Moving forward, Washington should focus primarily on right-of-way access and construction permitting.



WEST VIRGINIA

RAW SCORE: 21

FINAL SCORE: 86

B

West Virginia passed a law that requires state infrastructure to be made available on a non-exclusive basis, but this simply builds on existing non-exclusivity requirements.



WISCONSIN

RAW SCORE: 32

FINAL SCORE: 97

A

Wisconsin passed additional tax relief for broadband providers in rural areas, which will likely help make the business case for additional deployments. Wisconsin continues to score excellently on the scorecard, but the state could still do more, including exemptions from zoning review for new poles and a statewide dig-once policy.

WYOMING

RAW SCORE: 8

FINAL SCORE: 73

C

Wyoming passed no relevant laws in 2020. In 2021, Wyoming should focus on ensuring that the permitting review process is governed by firm shot clocks and the fees localities can charge to review construction permits are subject to firm caps.



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NOTE

This scorecard includes legislative data through December 2020. Subsequent law changes will be incorporated in the 2021 edition.

