

Expanding Broadband Access via State Tax Policy

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Goal: Increased Broadband Investment

What can states do through their tax policies to increase investment in broadband networks and benefit consumers?

Overview

- NCSL Policies, Resolutions, and Reports
- Federal broadband funding
- What taxes influence the cost of broadband investment and how do states currently tax broadband investment?
- What policy changes would make state tax policy more favorable for broadband investment?

NCSL Policies – Broadband Taxation

Electronic Commerce and Taxation – CFI Committee

“Government policies should create a workable infrastructure in which electronic commerce can flourish. Policy makers must resist any temptation to apply tax policy to the Internet in a discriminatory or multiple manner that hinders growth. Government tax systems should treat transactions, including telecommunications and electronic commerce, in a competitively neutral and non-discriminatory manner. The federal government and America’s industries should work with state legislatures in ensuring equal tax treatment of all forms of commerce and should encourage state efforts to achieve simplification and uniformity through the streamlining of state and local sales and telecommunications tax systems.

NCSL supports the reform of the discriminatory taxation of communications services and believes that if state and local governments were to take such action, the need for the federal moratorium on Internet access would cease to exist.”

NCSL Policies – Broadband Taxation

Telecommunications – CFI Committee

“NCSL recognizes that communications tax policies should encourage a level playing field between communications service providers, enhance economic development, and avoid discrimination between new and existing providers. Other than the prohibition of taxes on internet access, NCSL opposes federal action that preempts the ability of states to determine their own tax policies in all areas, including communications services, unless where specifically supported by other NCSL policies.”

NCSL Resolutions – Broadband Taxation

Sales Taxes on Communications Network Equipment

Whereas, a study by Dr. Raul Katz at Columbia University found that (1) sales taxes on communications network investment reduce economic growth by increasing the cost of investment and slowing communications network investment, and (2) that the elimination of sales taxes on communications network investment in the states that impose such taxes could increase economic growth by \$33 billion and lead to the creation of 243,000 jobs in 3 years; and

Whereas, the National Conference of State Legislatures supports the policy goal of encouraging deployment of high-speed communications networks across all States, including rural and underserved areas;

Be it therefore resolved, that the National Conference of State Legislatures recommends that states who wish to encourage broadband deployment consider exempting communications network equipment from the sales and use tax.

Adopted by the NCSL Executive Committee -- SALT Task Force August 2, 2015

NCSL Reports – Broadband Taxation

“Property Taxation on Communications Providers: A Primer for State Legislatures” (October 2017)

“If they have not already done so, states seeking to enact policies favorable to investment in communications networks may want to modernize property tax policy related to communications property. Many states have antiquated property tax systems that have not been modernized since the telecommunications industry evolved from a regulated monopoly marketplace.”

NCSL SALT Task Force Report Issued November 2017

Federal Broadband Funding

FCC



TREASURY



NTIA



RUS



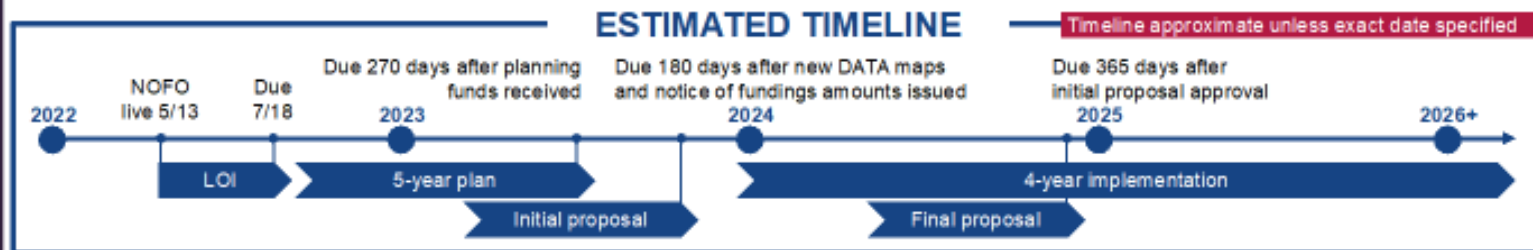
Federal Broadband Funding

BUCKETS OF FUNDING

FCC	NTIA	RUS	TREASURY
RDOF Phase 1: \$9.2B	BEAD Program: \$42.45B	Reconnect: \$3.63B	American Rescue Plan
Emergency Connectivity Fund: \$7.17B \$1M FCC OIG Oversight	Digital Equity Programs: \$2.75B		States, Territories & Tribes: \$219.8B
Affordable Connectivity Program: \$14.2B	Middle Mile Grants: \$1B		Cities, Counties, & other Local Governmental Entities: \$130.2B
	Tribal Broadband Program: \$3B		Coronavirus Capital Projects Fund: \$10B
	Connect Minority Communities: \$268M		
	BB Infrastructure Program: \$288M		

Federal Broadband Funding

NTIA BEAD TIMELINE



Source: May 2022 NTIA/InternetforAll.gov

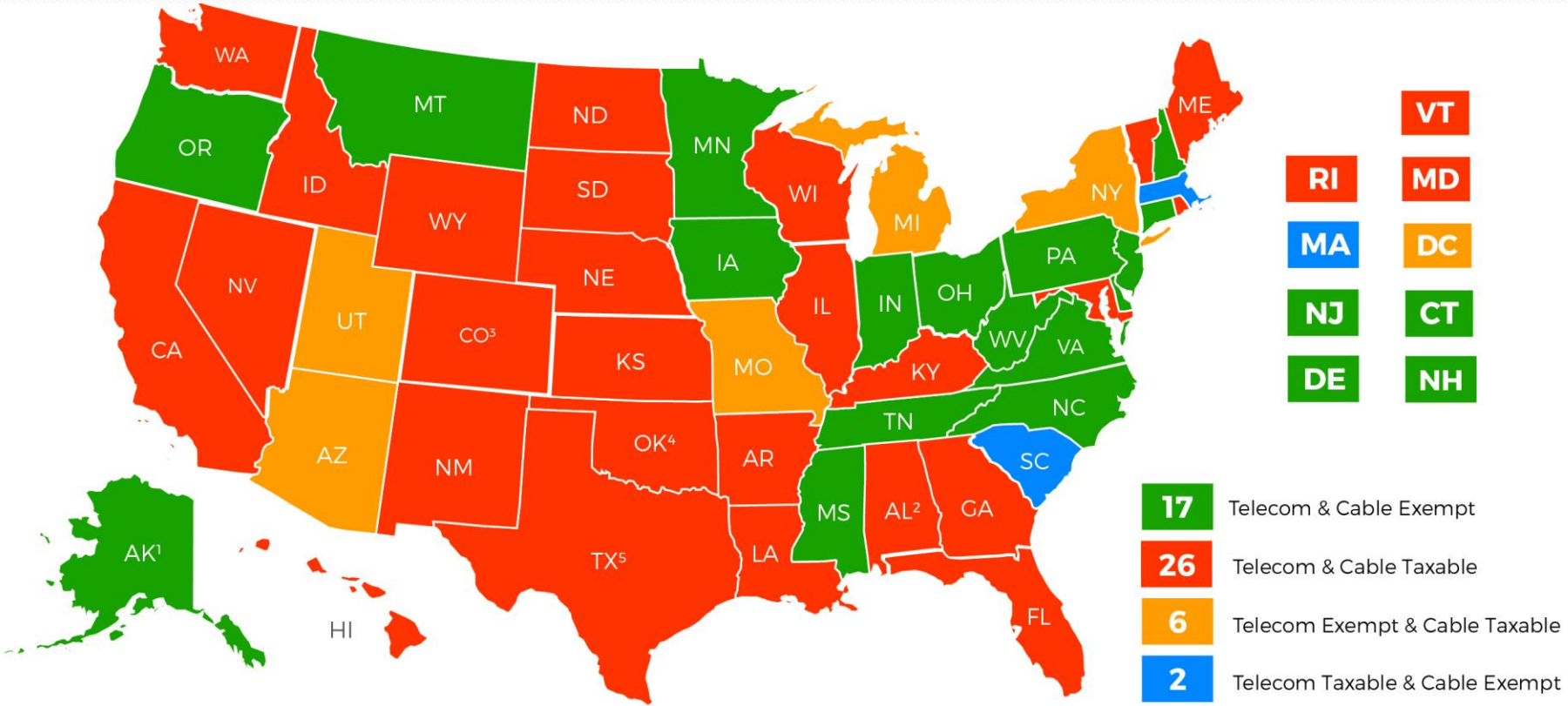
Taxes Impacting Investment

- Sales taxes on network equipment investment
 - Adds 5% to 10% to equipment costs
 - One-time tax impact
- Property taxes on network property
 - Rates vary from 1% to over 5% of value
 - Annual, ongoing expense

Sales Tax on Network Investment

- 17 states exempt broadband equipment for all providers
- 6 states exempt broadband network equipment purchased by telecommunications providers, but not cable providers
- 2 states exemption broadband network equipment purchased by cable providers, but not telecommunications providers
- Texas, Colorado, and Oklahoma provide limited refunds of sales tax paid on network equipment

Broadband Network Sales Tax Exemptions



1- Local sales tax may apply 2- Reduced 1.5% rate 3- Capped rebate \$1 million rural only 4- Capped rebate \$41 million rural only 5- Capped rebate \$50 million

Sales Tax on Network Investment

- Why the disparate treatment?
 - When some states deregulated telecom, they expanded sales tax to service but failed to exempt business inputs
 - When some states expanded sales tax base to include communications services, including video, they failed to exempt business inputs
 - Many states with business input exemptions for manufacturers do not provide similar exemptions for communications service providers

Sales Tax on Network Investment

- States need to modernize their tax treatment of communications network purchases:
 - Level the playing field for all providers
 - Ensure that as network usage changes, outdated language does not cause Departments of Revenue to disallow exemptions on audit

Sales Taxes on Network Investment

- Katz studies (2012 & 2019) – examined relationship between communications network investment and sales taxes using 10 years of data on per capita network investment in the states
- Each 1⁰% reduction in the sales tax rate on network investment would increase investment by 1.97⁰%

Recent State Actions – Sales/Use Tax

- **TN SB2480 (2022)** – exempts broadband network equipment from state and local sales/use tax for 3 years
- **VA HB1155/SB683 (2022)** – clarifies that sales/use tax exemption for equipment used to provide Internet access also applies to same equipment if used to provide telecom service
- **OK HB2040 (2021)** – exempts broadband network equipment from sales tax in rural & underserved areas
- **NE LB595 (2021)** – exempts lease payments for wireless towers if used to deploy broadband
- **LA HB69 (2020 Special Session)** – exempts fiber optic deployed in underserved areas from sales tax
- **MS HB1729 (2019)** – extends sunset on tiered sales tax exemption for broadband network equipment

Property Taxes

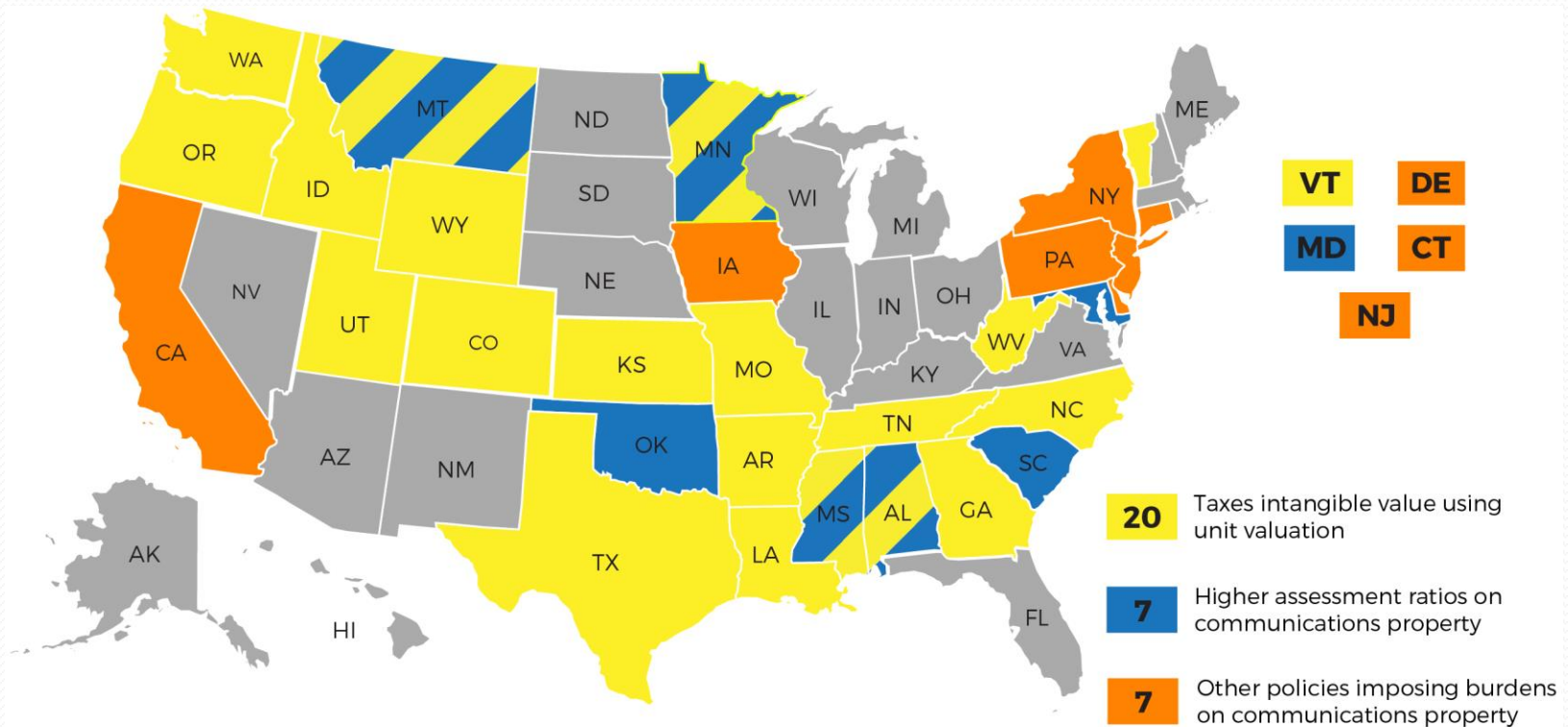
- Issue: property tax policies in many states result in higher property taxes on communications networks than on other competitive businesses. Why?
- Historical reasons dating back to monopoly era, when companies had exclusive service territories and simply built taxes into their rate base

Property Taxes

Four ways that state property tax policies result in higher taxes on communications providers than other businesses:

- Unit valuation captures intangible values
- Higher assessment ratios
- Higher property tax rates
- Defining communications personal property as real property

Property Tax Treatment of Communications Property



Property Tax: Recent Actions

- **UT SB20 (2022)** – shifted assessment of telecom property from central assessment to local assessment
- **AZ SB1093 (2022)** – reduced the classification ratio for class one property from 16% to 15%, phased in over two years
- **OK HB3082 (2022)** – reduced classification ratio for broadband network property from around 22% to 14% (**bill died**)
- **WI AB191 (2021)** – exempts all personal property from property tax, but excluded telecom property from exemption (**bill vetoed by Governor 7/8/2121**)

Property Tax: Recent Actions

- **WI AB344 (2019)** – exempts broadband property deployed in rural and underserved areas eff. 1/1/21
- **MS HB1729 (2019)** – extended sunset for 4 years on law exempting broadband property from tax for 10 years
- **VT H.360 (2021)** – exempts property leased by an electric company to a Communications Union District if used to provide broadband (CUD's already exempt)
- **MT SB51 (2021)** – exempts fiber optic cable from property tax for 5 years; phases in tax in years 6-10

Summary: Tax Policy Recommendations

- Exempt broadband network investment from sales and use tax if your state has not already done so
- Modernize sales and use tax exemptions to level the playing field for all providers and to ensure they accommodate changing network usage
- Eliminate property tax disparity between broadband providers and other businesses

Affordable Connectivity Program (ACP)

What is the Affordable Connectivity Program (ACP)?

The ACP is a U.S. Government program run by the Federal Communications Commission (FCC) to help low-income households pay for internet service and connected devices like a laptop or tablet. This program replaced the Emergency Broadband Benefit Program.

What are the benefits for eligible households?

- Up to a \$30/month discount on your internet service.
- One time discount of up to \$100 for a laptop, tablet, or computer

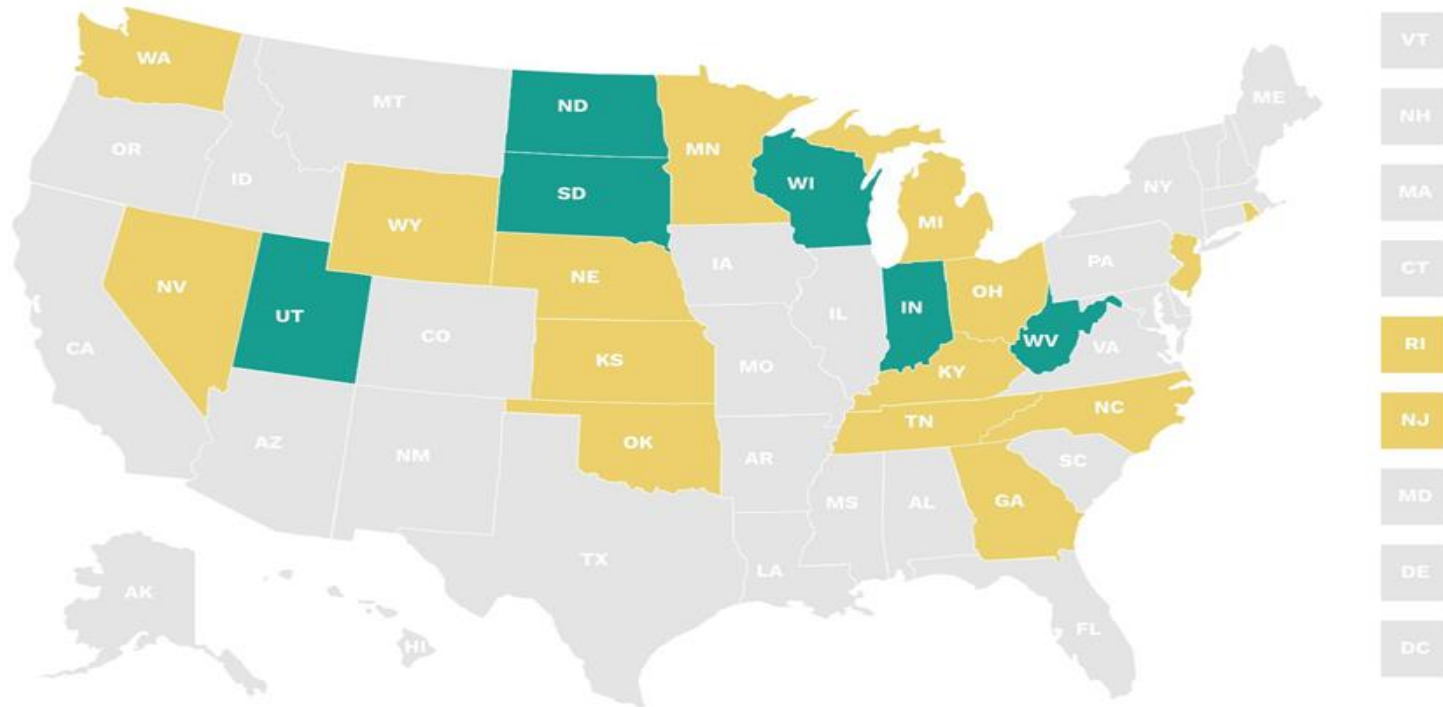
What is the State tax impact?

How does state sales tax apply to the transaction when the service that is subsidized by the federal government includes taxable components?

State Tax Treatment of ACP?

State Tax Treatment of Prior Emergency Broadband Benefit

- Calculate the tax on the full taxable portion of the price
- Calculate the tax the taxable portion after subtracting the subsidy
- No Sales Tax or No Response



Source: MultiState. Data based on survey of the States by the Streamlined Sales Tax Governing Board



Sources for Additional Information

NCSL State and Local Taxation Task Force, *Resolution on Communications Network Equipment Exemption*. Approved August 2, 2015. Available at: http://www.ncsl.org/documents/task_forces/Resolution_CTEE_2015.pdf

NCSL State and Local Taxation Task Force, *Property Taxation on Communications Providers: A Primer for State Legislatures*. August 2017. Available at: http://www.ncsl.org/documents/Task_Forces/PTCI_Report.pdf

Raul Katz, Ph.D. *Assessment of the Economic Impact of taxation of Communications Investment in the United States*, Telecom Advisory Services, LLP, November 2019. Available at: www.broadbandtax.org

Sources for Additional Information

NCSL Communications, Financial Services, and Interstate Commerce Committee -- link to policy on “Telecommunications” and “Electronic Commerce and Taxation”:

- <https://www.ncsl.org/ncsl-in-dc/task-forces/policies-communication.aspx#internet%20and%20electronic%20commerce>