

Memo

To: State broadband offices

From: Jake Varn, The Pew Charitable Trusts

Date: May 3, 2023

Subject: What Makes a Community ‘Unserved’ or ‘Underserved’ by Broadband?

The following memo contains information on how states have defined unserved and underserved areas in statute and authorized their state broadband programs to adjust these definitions as needed, especially in the context of the recent influx in federal funding for state programs.

Unserved and Underserved Definitions by State

As of April 2023

Overview

The terms “unserved” and “underserved” have been used to differentiate between where broadband service is available and where it is at a speed sufficient for high-speed use based on current applications. The federal government and individual states use a variety of methods for defining these terms. Most are grounded in measures of speed—how fast data moves across a network—but others include population size or measures of performance. These differences reflect the complexity of the digital divide and how policy may be employed to alleviate the market challenges that created the gap. With states taking a larger role in bridging the digital divide, it will be increasingly important for their broadband offices to retain enough flexibility to adhere to federal funding requirements while also maximizing those dollars for their communities.

Defined by speed

The Federal Communications Commission (FCC) has historically been responsible for defining what internet speed is sufficient to be classified as broadband. In 1996, the FCC defined broadband as 200 kilobits per second (Kbps) upload and 200 Kbps download before increasing it to 4 megabits per second (Mbps) download and 1 Mbps upload in 2010. The definition was most recently increased to 25 Mbps download and 3 Mbps upload in [2015](#). These definitions not only help inform the public’s understanding of broadband availability but are also used to determine federal funding decisions for broadband.

The Infrastructure Investment and Jobs Act (IIJA) defines an “unserved” location as one without any broadband service at all or with internet service offering speeds below 25/3 Mbps. It defines an “underserved” location as one without broadband service offering speeds of 100/20 Mbps. Distinguishing between these categories offers two benefits: It helps lawmakers prioritize funding decisions, and it decreases the likelihood that funds are spent on outdated technology.

Before the passage of IIJA in 2021, state legislatures throughout the country have defined unserved and underserved in several ways. Many states have created statutory definitions for these terms independently of any program; others have set speed thresholds within enabling language for a specific state program or deferred to either the state broadband office or to the definition used by a relevant federal program. Notably, during this period, several states set definitions for unserved and underserved without providing funding for deployment or tying the definitions to a specific program.

Over a dozen states have only defined unserved areas in statute, with most defining the term as areas lacking broadband service speeds of at least 25/3 Mbps. Similarly, of the states that define both unserved and underserved areas in statute, most typically define the former as areas lacking broadband speeds of 25/3 Mbps and the latter as areas lacking broadband speeds of at least 100/20 Mbps.

Critically, these speed definitions have changed over time to reflect the increasing technological requirements to functionally use the internet. For example, Alabama had codified a definition for unserved as 200 Kbps in 2012 but updated their definition to a minimum of 25/3 Mbps in 2019; in 2022, the state further updated the definition to “areas without at least one provider of terrestrial broadband service that 1) offers internet connections meeting the minimum service threshold (which is currently 100/20 Mbps) or 2) is required by a state or federal grant to provide internet connections meeting the minimum service threshold.” The higher speed definitions for unserved and underserved areas included in IIJA and the American Rescue Plan Act have led to a need for states to pass higher and/or more adaptable definitions that allow their broadband offices to adjust their thresholds to comply with the available federal funding requirements. Additionally, these updated definitions reflect a changing view that internet access should be measured by more than a binary assessment of “available” or “unavailable.” Instead, a rise of the inclusion of words like “terrestrial” and “reliable” —in reference to the technology used to deliver a connection—illustrate that state lawmakers, like their colleagues in Congress and other stakeholders in the field, recognize that other factors are as important as availability.

A full table of state statutory definitions is included in the appendix below.

Alternative Definitions

States must account for not only their own program definitions but also for the varying broadband definitions used by numerous federal programs. For example, a May 2022 report from the [Government Accountability Office](#) illustrated that the U.S. Department of Agriculture's (USDA) Rural Utilities Service defined eligible unserved areas as those lacking service of at least 10/1 Mbps, while the FCC's Rural Digital Opportunity Fund simultaneously defined it as those without at least 25/3 Mbps connections.

In response, a few states have taken alternative approaches, including allowing the state broadband office to define underserved and unserved areas as needed, deferring to the definition used by the FCC or another relevant agency, or by defining these terms in ways that are not tied to specific broadband service speeds.

Washington and Maine both give their broadband offices the authority to set the standard for broadband service, which effectively determines what areas would be considered unserved. Minnesota, South Carolina, West Virginia, and Wisconsin define unserved or underserved as areas lacking broadband service, and they use the FCC's current measurement of broadband speed to set those standards.

Finally, some states omit broadband speeds entirely in their definitions of unserved areas. Colorado defines unserved areas as places outside municipal boundaries or cities with fewer than 7,500 people and without access to at least one satellite and one nonsatellite provider; the state also includes highway corridors lacking broadband network access under the definition. From 2015 to 2021, Vermont defined an unserved area as one having access only to satellite or dial-up internet. In addition to adopting the FCC's definition of broadband service, Wisconsin uses the number of available providers to make unserved determinations and defines the term as an area served by fewer than two service providers. These definitions mirror those from federal programs (e.g., USDA's Reconnect program), which have also used populations or measures of performance to define eligibility.

State-Specific Program Definitions

Some state legislatures have also tied specific definitions of unserved and underserved to the rules of the state's broadband program(s).

- In 2021, South Carolina passed a law that would prioritize projects in areas without access to 100/20 Mbps for broadband grant funding.
- New York defined unserved and underserved for its broadband grant program as areas without access to 25/3 Mbps and 100/20 Mbps service, respectively.
- Maine's statute gives its broadband program the authority to define unserved and underserved areas for the purposes of administering broadband grant funding.

- Virginia defines unserved areas as ones where less than 10% of residents and businesses have broadband access but grants the state broadband program the authority to alter the percentage as it sees fit.

Legislative Speed Requirements for Broadband Programming

State	Year	Description	Statute or legislation
Kentucky	2020	Defines unserved area as any project area without available broadband speeds of at least 25/3 Mbps	Ky. Rev. Stat. Ann. 224A.011
Kentucky	2020	Defines underserved area as any project area without available broadband speeds of at least 100/20 Mbps	Ky. Rev. Stat. Ann. 224A.011
Maine	2015	Gives the ConnectME Authority the power to define unserved and underserved areas for the purpose of determining which areas are eligible for ConnectME grant funding	35-A Maine Rev. Stat. 9202-5
Mississippi	2022	Defines broadband service as mass-market retail service that provides internet service of at least 100/20 Mbps	Miss. Code Ann. 77-19-3
Missouri	2018	Defines underserved as a project area lacking 25/3 Mbps	Mo. Rev. Stat. 620.2450
Missouri	2018	Defines unserved as a project area lacking 10/1 Mbps	Mo. Rev. Stat. 620.2450
New York	2022	Defines unserved as broadband-serviceable locations without service of at least 25/3 Mbps and underserved as broadband-serviceable locations with access to service of at least 25/3 Mbps but below 100/20 Mbps for the ConnectALL deployment program	N.Y. S 8008C
North Carolina	2020	Defines "unserved household or business" as a household or business that does not have access to service of 25/3 Mbps	N.C. Gen. Stat. 143B-1373
South Dakota	2021	Prioritizes grant-funded projects in areas without broadband service of at least 100/20 Mbps	S.D. Session Law Chapter 218
Virginia	2019	Defines unserved areas as ones in which less than 10 percent of residents and businesses have access to	Va. Code 15.2-2403

		broadband for the purpose of establishing whether a local government can contract with a provider to serve the area; the Virginia Telecommunication Initiative may alter the percentage as it sees fit	
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Appendix: State Statutory Definitions of Unserved and Unserved Areas

State	Year	Term defined	Description	Statute
Alabama	2022	Unserved areas	Areas without at least one provider of terrestrial broadband service that 1) offers internet connections meeting the minimum service threshold (which is currently 100/20 Mbps) or 2) is required by a state or federal grant to provide internet connections meeting the minimum service threshold	Ala. Code 41-23-212
California	2022	Unserved areas	Areas without facility-based providers offering broadband service at speeds of at least 25/3 Mbps and latency sufficiently low to allow real-time interactive applications	Calif. PUC Code 281
Colorado	2018	Unserved areas	Locations outside municipal boundaries or cities with fewer than 7,500 people that lack access to at least one satellite and one nonsatellite provider; the term also includes highway corridors lacking broadband network access	Colo. Rev. Stat. 40-15-102
Florida	2020	Underserved areas	Areas where no broadband service provider offers an internet connection with download speeds of at least 10/1 Mbps	Fla. Stat. 364.0135
Georgia	2018	Unserved areas	A census block where broadband service (defined in statute as speeds of at least 25/3 Mbps) is not available to 20 percent or more of the locations, as determined by the Department of Community Affairs	Ga. Code Ann. 50-40-1

Illinois	2018	Unserved areas	A community that has no broadband service (which is <u>defined</u> in statute as internet service of at least 200 Kbps)	220 Ill. Comp. Stat. 80/10
Indiana	2018	Unserved areas	an area of the state, at a census block level, where there is not at least one terrestrial broadband service offering an internet connection at a speed of at least 10/1 Mbps	Ind. Code 4-4-38-6
Iowa	2020	Underserved areas	Areas with no broadband providers (using the FCC definition)	Iowa Code 8B.1
Louisiana	2020	Unserved areas	Areas with fixed broadband download speeds below 25/3 Mbps	La. Stat. Ann. 47:305.73 A
Maine	2015	Unserved and underserved areas	Areas defined according to criteria established by the ConnectME Authority under section 9204-A	35-A Maine Rev. Stat. 9202-5
Michigan	2014	Unserved areas	Areas determined by the Connect Michigan broadband service industry survey to be without advertised speeds of at least 3 Mbps for downloads and 786 Kbps for uploads	Mich. Comp. Law. 28.283
Minnesota	2016	Unserved areas	Places lacking service that meets the FCC's definition for broadband service	Minn. Stat. 116J.394
Minnesota	2016	Underserved areas	Areas lacking wireline service at a speed of 100/20 Mbps	Minn. Stat. 116J.394
Montana	2021	Unserved areas	Areas where at least 10% of delivery points have no access to broadband speeds of at least 25/10 Mbps with low latency	Mont. Code Ann. 90-1-602
Montana	2021	Underserved areas	Areas where at least 10% of delivery points have no access to broadband speeds of at least 100/20 Mbps with low latency	Mont. Code Ann. 90-1-602
Nebraska	2021	Unserved areas	Areas lacking broadband service providing access to the internet at speeds of at least 25/3 Mbps	Neb. Rev. Stat. 86-1302

Nebraska	2021	Underserved areas	Areas lacking broadband service providing access to the internet at speeds of at least 100/20 Mbps	Neb. Rev. Stat. 86-1302
Oregon	2020	Underserved areas	Areas within one or more census blocks that have no provider offering broadband service with download speeds of at least 25/3 Mbps	Or. SB 1603
Oregon	2020	Unservd areas	Areas within one or more census blocks that have no provider offering broadband service with download speeds of at least 10/1 Mbps	Or. SB 1603
Pennsylvania	2020	Unservd areas	Places without access to broadband services with download speeds of at least 25/3 Mbps	Penn. 2020 Act 132
South Carolina	2012	Unservd Areas	Areas where more than 90% of households lack nonsatellite broadband access (as defined by the FCC), or 75% of households if it is in a persistent poverty area	S.C. Code Ann. 58-9-2610
Vermont	2015	Underserved areas	Locations that have access only to internet speeds of at least 4 Mbps download and 1 Mbps upload but less than 25 Mbps download and 3 Mbps upload	30 V.S.A. 7515b
Vermont	2015	Unservd areas	Locations that have access only to internet speeds of less than 4 Mbps download and 1 Mbps upload	30 V.S.A. 7515b
Washington	2022	Unservd areas	Areas in which households and businesses lack access to broadband service, as defined by the broadband office	Wash. Rev. Code 54.16.530
West Virginia	2017	Unservd areas	Areas with no access to internet that meets the FCC's definition of broadband	W.Va. Code 31G-1-2
Wisconsin	2015	Underserved areas	Areas served by fewer than two service providers	Wis. Stat. 196.504
Wisconsin	2015	Unservd areas	Areas that are not served by at least one fixed wireless or wireline provider providing actual upload	Wis. Stat. 196.504

			and download speeds of at least 20% of those defined by the FCC	
Wyoming	2019	Unserved areas	Areas in which no fixed terrestrial broadband service is available or where the service reaches a maximum speed of 25/3 Mbps	Wyo. Stat. 9-12-1501