



2026 NATOA ANNUAL BUSINESS MEETING REPORT:

Policy & Legal Committee, Oct. 5, 2026

Here is a snapshot on the federal telecom, broadband, cable, ROW permitting, and broadband affordability and consumer issues facing local governments since ~ January 2025 and discussed on a monthly basis within the Policy & Legal Committee (P&L) Committee via monthly calls, listserv activity, and three subcommittee forums:

- ***Community Broadband and Digital Equity & Inclusion (Brian Donoghue, chair)***
- ***Franchising (Jeff Leuders, chair)***
- ***Rights-of-Way (vacant chair.)***

The Policy and Legal Committee is chair by Nancy Werner of Bradley Werner and staffed by Mike Lynch & Lani Williams.

- *Please contact Mike Lynch to participate in the monthly call on the 1st Wednesday of each month, 3:00 pm Eastern; 2:00 pm Central; 1:00 pm Mountain; 12 Noon Pacific.*
- *The Franchising & RoW Forums Calls are held the 3rd Thursday of each month in alternating fashion at 2 pm Eastern/1 pm Central/Noon pm Mountain/11 am Pacific.*
- *The Community Broadband, Digital Equity & Inclusion (CB-DE&I) Calls are held the 4th Tuesday of each month at 1 pm Eastern/Noon Central/11 am Mountain/10 am Pacific.*

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The National Association of Telecommunications Officers and Advisors

(NATOa) is the local government association supporting our members by advocating for broadband deployment, digital equity, cable services, Public, Educational and Governmental Access (PEG), public safety communications and the preservation of local authority in our public rights of way.

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Major Federal Telecom, Broadband & Cable Issues Facing Local Governments, ~ January 2025 — August 2026

I. FCC – Permitting & Public Rights-of-Way (PROW) Preemption

A. Wireline NPRM — Build America: Eliminating Barriers to Wireline Deployments (WC Docket No. 25-253)

The FCC adopted a Notice of Inquiry in September 2025, followed by an NPRM circulated and approved at the June 25, 2026 FCC open meeting. The NPRM proposed rules including:

- *a 120-day shot clock for all wireline authorizations,*
- *a cost-based fee standard with safe harbors,*
- *limits on in-kind compensation, and*
- *restrictions on requirements for commingled facilities.*

The FCC's Build America Wireline NPRM was published in the Federal Register on August 7, 2026, triggering formal comment deadlines for Comments of September 21, 2026.

- *NATOA joined the coalition filing effort with USCM, NLC, and NACo, and a number of local governments coalitions did, as well. (See Sept. 25, 2026 P&L email.)*
- **Reply comments due: November 5, 2026**

Key provisions commented on:

- 120-day rebuttable presumption of effective prohibition under Section 253 if state/local governments don't act on all authorizations
- Cost-based fee limits with safe harbor levels
- In-kind compensation value must count toward fee limits
- Delegation of Section 253 preemption petitions to the Wireline Competition Bureau (accelerating disputes)
- Commingled facilities discussion now includes "state rate regulation of broadband" as example of presumptively unlawful regulation

Critical clarification: The NPRM does NOT propose automatic approval when the 120-day deadline expires. It creates a presumption that providers could use in FCC preemption petitions or court challenges — an important distinction from a pure "deemed granted" framework, but still consequential.

Local government engagement in the Wireline NPRM:

NATOA members, coalitions, attorneys and affiliates contributing Comments in **Build America: Eliminating Barriers to Wireline Deployments, WC Docket No. 25-253:**

- The United States Conference of Mayors (USCM), the National League of Cities (NLC), the National Association of Counties (NACo), and the National Association of Telecommunications Officers and Advisors (NATOA), ("the Local Government Associations").
- American Public Power Association
- Local Government Coalition of Arlington, Tx Bellevue, WA Boston, MA, Bowie, MD, Chicago, IL, Culver City, CA, Dallas, TX, District Of Columbia, Gaithersburg, MD, Henderson, NV, Hillsborough, CA, Howard County, MD, Huntsville, AL, Las Vegas, NV, Marin County, CA, Montgomery County, MD, Ontario, CA, Overland Park, KS Palo Alto, CA, Piscataway, NJ, Plano, TX and Texas Coalition Of Cities For Utility Issues
- National Association of Towns and Townships
- Mike Bradley - Minnesota LFAs filing
- League of Minnesota Cities, Patricia Beety, General Counsel
- League of Oregon Cities by Nancy Werner, Bradley Werner
- Michigan Coalition to Protect Public Rights-of-Way, City of Ann Arbor & Grand Valley Metropolitan Council
- New York State Department of Transportation
- Cambridge, Massachusetts
- Austin, Texas (filed in NOI as well.)
- Pierce County WA
- Rural County Representatives of California & California State Association of Counties
- City of Waukeg, Iowa (from template)
- Kentucky League of Cities
- Washington Public Utility Districts Association (WPUDA)
- The Massachusetts Municipal Association
- League of California Cities
- Jefferson Parish, Louisiana,
- City of Sacramento, CA, Maraskeshia Smith, City Manager

NLC published a comprehensive guidance article on September 8, 2026, "FCC Proposal Could Reshape How Cities Manage Wireline Deployment," authored by Daniel Lightfoot from the League of Minnesota Cities, urging city filings with concrete local examples of:

- Steps and time required to review wireline projects
- Problems from incomplete or batched applications
- Staff and consultant costs

- *Utility strikes or infrastructure damage*
- *Restoration and accessibility needs*
- *Provider-caused delays*

B. Wireless NPRM — Build America: Eliminating Barriers to Wireless Deployments (WT Docket No. 25-276)

The companion wireless NPRM, adopted the same day as the wireline NOI, proposes to expand and strengthen the FCC's 2018 Small Cell Order framework. The approved Notice of Proposed Rulemaking addresses state and local limits on deployment of macro cell towers and other wireless facilities, imposition of unreasonable delays or fees, conditioning of approval on aesthetic or similar criteria, and other impediments to building. Key proposals include expanding Section 6409(a)'s scope and potentially adding a "deemed granted" remedy for shot clock violations — a significantly stronger enforcement tool than anything currently available in the wireline context. The United States Conference of Mayors has passed a resolution expressing strong opposition to federal preemption of local authority for the benefit of the telecommunications industry, opposing both the wireless and wireline FCC proceedings.

C. Pole Attachment Proceedings (WC Docket No. 17-84)

The FCC has been aggressive on pole attachment reform throughout this period. In July 2025, the FCC unanimously approved a Fifth Report and Order establishing timelines for large pole attachment requests, improving the overall pole attachment timeline, and speeding up the contractor approval process. A companion declaratory ruling addressed whether light poles are covered "poles" under Section 224 and whether utilities may impose blanket restrictions on pole access. These rules directly affect municipal utilities and government-owned poles, since the FCC is exploring whether to take actions under its wireless proceeding including codifying the definition of a concealment element, and what might constitute a defeat of a concealment element — with direct implications for local design standards.

D. How the FCC's "Direct Final Rule" (DFR) Impacts Local Governments

Adopted by the FCC on July 24, 2025 (FCC 25-40) by a 2-1 vote, the Direct Final Rule procedure allows the Commission to:

1. ***Publish a rule as immediately final*** — *bypassing the standard notice-and-comment rulemaking sequence*
2. ***Provide only a 10-day comment window*** *after Federal Register publication*
3. ***Take effect automatically 60 days after publication*** *unless significant adverse comments require reversion to traditional rulemaking*
4. ***Delegate authority to all FCC Bureaus and Offices*** — *meaning career staff, not just Commissioners, can eliminate rules*
5. ***Require "multiple objections"*** *before reconsidering — a higher threshold than ACUS-recommended single significant adverse comment*
6. ***Reject comments as "non-substantive"*** *without publicizing the reasoning in the Federal Register*

The DFR collapses the established rule-making process that normally takes 12-24 months into a short a window as 70 days with only 10 days for comment.

A 10-day comment window in DFR is nearly impossible for local governments to meaningfully engage. By the time a city's IT/telecom director learns of a DFR; understands its implications, brings it to legal counsel's attention; and coordinates with NATOA, USCM, NACo or NLC for coalition response, the comment window may have closed.

DFR has been used aggressively since adoption. The cumulative count exceeds several hundred rule provisions eliminated within months. The concern is what the mechanism enables going forward. DFR operates within the framework of the "Delete, Delete, Delete" proceeding (GN Docket No. 25-133), launched March 2025, which explicitly asks stakeholders to identify "every rule, regulation, or guidance document that the FCC should eliminate."

Industry stakeholders have filed comments requesting elimination of:

- PSAP (Public Safety Answering Point) outage reporting requirements
- Data caps regulation proceedings
- Bulk billing rules for tenant broadband
- Various consumer protection rules
- Preemption expansion (Vonage Doctrine reinforcement)
- State-level consumer protection requirements
- State AI regulation

E. FCC Adopts E-Rate Review; Local governments, school and library groups, consumer advocates strongly oppose

In June 2025, the FCC approved a review of its \$2.5 billion-per-year subsidy program for broadband in schools and libraries. E-Rate funds discount broadband and telecom services for schools and libraries, supporting more than 96% of U.S. public schools.

- The FCC's draft proposal is asking whether the E-Rate program should be "**limited or sunset**." This attack poses an existential threat to E-Rate and the more than 100,000 schools and 11,000 libraries it serves and supports.
- The most harm would fall on the communities that can least afford it. E-Rate's largest discounts go to schools and libraries in lower-income areas. Pull that funding, and the digital divide grows.
- The proposal also asks whether E-Rate support should be limited to rural areas, which would draw a line between a disadvantaged child in a rural town and a disadvantaged child in a city.

F. NTIA BEAD Supplemental Deployment Policy Notice — September 3, 2026

Major development. After months of delay, NTIA released guidance on the "non-deployment" BEAD funds — but not the guidance many expected.

What NTIA did:

The September 3 Policy Notice allows states to use leftover BEAD savings for a **second round of BEAD bidding** — essentially another deployment round to address locations that fell through the cracks due to:

- Defaults in other federal/state programs
- Provider misreporting
- Changes to the FCC broadband DATA maps since Final Proposals were approved

What NTIA did NOT do:

- Did not issue comprehensive non-deployment guidance for digital literacy, adoption programs, workforce development, or other statutorily-permitted uses
- Did not address the December 2025 AI Executive Order conditions
- Did not resolve the fundamental question of whether states can spend on non-deployment activities Congress explicitly authorized

The critical framing: NTIA announced that "leftover BEAD funds can be used for deployment" — which is technically the opposite of what "non-deployment funds" means under the statute. Gigi Sohn and other advocates have noted that this "partial guidance should not serve as a promise kept."

What NTIA said about remaining non-deployment uses: Other non-deployment uses "will be addressed in subsequent guidance." No timeline provided.

Timeline impact: The supplemental deployment round will likely add nine months or more to the BEAD process.

Statutory context: The bipartisan infrastructure law mandates that non-deployment funds must be usable for: (1) data collection, broadband mapping and data collection; (2) low-cost connectivity in multiple dwelling units; and (3) broadband adoption programs. The Secretary of Commerce has discretion for other uses, but those three are mandatory. NTIA's September 3 guidance addresses none of these mandatory categories.

Congressional response: Sens. Deb Fischer (R-Neb.) and Shelley Moore Capito (R-W.Va.) publicly stated they want their states to retain non-deployment dollars, floating cybersecurity as a potential use.

For local governments: The September 3 guidance means:

- Digital equity, workforce development, and adoption programs remain unfunded
- Additional deployment funding is available but with 9+ month process
- Community broadband providers face additional competitive rounds
- Non-deployment funds for local digital inclusion still frozen

G. Network Modernization & Copper Retirement

A. IP Transition / Copper Retirement Order (March 2026)

In March 2025, the FCC took an initial set of actions to accelerate the transition from aging copper lines to modern network infrastructure, adopting a waiver that allows providers to retire copper networks not only in cases where replacement voice services are available on a stand-alone basis, but in cases where those services are available on a bundled basis. The FCC then adopted a full Network and Services Modernization Order in March 2026: the March 2026 order proposes to eliminate all filing requirements in the Commission's network change disclosure rules and the Commission's process of issuing public notices for short-term network changes and copper retirements and the associated objection process for interconnected service providers. This is significant for local governments because copper retirement eliminates legacy voice service protections and affects 911, disability accessibility, and rural service continuity.

B. Aerial, UG & Pedestal Abandonment Concerns for Local PROW

- See the Qwest Corporation d/b/a CenturyLink July letter in Colorado.
- Network Modernization & Copper Retirement — And the Local Abandonment Gap

What Local Governments Can Actually Do

Franchise-Based Approaches - Where local franchise authority exists (increasingly limited):

- Include removal obligations in new franchise agreements
- Include restoration requirements upon service discontinuance
- Include performance bonds or escrow requirements for eventual removal
- Include ongoing maintenance obligations during any transition period

Rights-of-Way Management Approaches - Under existing local authority (also under federal preemption pressure):

- Adopt ROW ordinances requiring removal of abandoned infrastructure
- Impose fees on abandoned but not removed facilities
- Establish permitting requirements for facility abandonment (separate from service discontinuance)
- Coordinate with pole owners on abandoned attachments

State Legislative Approaches - Working with state legislatures:

- Advocate for state laws requiring physical removal on service discontinuance
- Ensure any COLR reform includes removal obligations
- Establish state funds for abandoned infrastructure removal
- Create state-level enforcement mechanisms

C. IP Interconnection / Intercarrier Compensation Reform (WC Docket No. 25-45)

In October 2025, the Commission adopted a Notice of Proposed Rulemaking aimed at revising incumbent local exchange carriers' interconnection obligations to better align with modern technologies. A January 2026 NPRM followed, proposing to move remaining

intercarrier compensation charges to a bill-and-keep framework. Local governments that rely on intercarrier compensation to fund rural telecommunications connectivity and state universal service funds have significant stakes in this proceeding.

II. CONGRESS – Advancing Legislation in the 119th Congress

A. H.R. 2289 — The (un)American Broadband Deployment Act of 2025/2026 (ABDA)

The most sweeping permitting preemption legislation considered by Congress in this period. The legislation would create a shot clock from 60 to 150 days during which a state or local government must approve or deny a request for a permit to construct a wireless or wireline project. If the locality doesn't respond in that time frame, the request is automatically assumed to be "deemed granted." The legislation would create similar shot clock rules for any carrier seeking a cable franchise. It would also eliminate NEPA and historic preservation reviews for certain broadband projects. Local government associations strongly opposed the bill, stating: "H.R. 2289 does not address the actual bottleneck and instead micromanages the level of government that is actively working to get broadband built." As of mid-2026, the bill has been reported by the House Rules Committee but has not received a full House floor vote.

H.R. 2289 Remains on House Calendar

The American Broadband Deployment Act appears on the House Calendar for September 8, 2026, indicating continued potential for floor consideration. Key developments:

- Bill remains on Union Calendar No. 532
- Rules Committee Print 119-24 has been prepared, showing modifications from the reported version
- House Majority Leader indicated on April 16, 2026 that the bill could be considered — that consideration was pulled April 20 but the legislative infrastructure remains ready
- Sponsor Rep. Buddy Carter has consistently indicated confidence the bill will return

For NATOA: The bill can be scheduled for floor consideration on short notice. Coalition readiness for immediate reactivation of April 2026 opposition remains essential.

Charts: Pending Cong’l Legislation:

Local Broadband & Rights-of-Way (PROW) Permitting (119th Congress)

The 119th Congress became increasingly active on broadband permitting legislation. Here's the current landscape, organized by category and impact on local government authority:

Category 1: Major Preemption Legislation (Local Government Priority Opposition)

Title	Sponsor	Status	Key Provisions	Local Gov Position
H.R. 2289 - American Broadband Deployment Act of 2026	Rep. Buddy Carter (R-GA-1)	Union Calendar No. 532; pulled from House Rules Committee April 20, 2026; sponsor "confident" bill will return	100-page omnibus incorporating 21+ bills; federal shot clocks; deemed granted; changes ROW compensation from "fair and reasonable" to "actual and direct" costs; effectively eliminates cable franchise renewals; new pole/conduit federal standards	STRONGLY OPPOSED by Big Four (USCM, NLC, NACo, NATOA)

H.R. 2298 - Broadband Environmental/Historical Review Exemption Act	Rep. Russ Fulcher (R-ID-1)	Referred to House E&C and Natural Resources; introduced March 24, 2025	Exempts certain broadband projects from environmental/historical preservation reviews	Concerns about environmental review erosion
H.R. 5264 - SPEED for Broadband Infrastructure Act of 2025	(House sponsor)	Referred to committees; introduced 2025	Height/size limitations on wireless facilities; expands eligible facilities requests under Section 6409(a); federal authorization framework	Concerns about aesthetic control loss

Category 2: Federal Lands Permitting (Generally supportable)

These bills focus federal reform on federal lands processes — consistent with local government position that federal permitting is the actual bottleneck.

Title	Sponsor	Status	Key Provisions	Local Gov Position
H.R. 5419 Enhancing Administrative Reviews for Broadband Deployment Act	Rep. Tom Kean Jr. (R-NJ-7)	PASSED HOUSE March 3, 2026 by unanimous voice vote; referred to Senate Energy and Natural Resources	Requires DOI and USDA to study/report on barriers and staffing needs for communications use authorizations on federal lands	GENERALLY SUPPORTIVE
S. 323 - PLAN for Broadband Act	(Senate sponsor)	Reported by Senate Commerce Committee May 21, 2026; placed on Senate Legislative Calendar No. 421	Requires federal agencies to address delays in ROW/easement/lease reviews on federal property; agencies must alert employees at risk of missing 270-day deadline; lowers FAST Act broadband cost threshold from \$200M to \$5M	GENERALLY SUPPORTIVE
H.R. 2805 - PLAN for Broadband Act (House companion)	(House sponsor)	Referred to committee; introduced 2025	National broadband strategy; interagency coordination; federal permitting reform focus	GENERALLY SUPPORTIVE
H.R. 1343 - Federal Broadband Deployment Tracking Act	(House sponsor)	Referred to committee; introduced 2025	Requires NTIA to submit plan for tracking communications use authorization applications on federal lands	GENERALLY SUPPORTIVE

Category 3: BEAD Non-Deployment Funds

Title	Sponsor	Status	Key Provisions	Local Gov Position
Bill S. 3565 SUCCESS for BEAD Act	Sens. Roger Wicker (R-MS) and Shelley Moore Capito (R-WV)	Introduced December 18, 2025; referred to Senate Commerce Committee	Authorizes competitive subgrants for non-deployment BEAD funds; priority for rural infrastructure, public safety, cybersecurity, workforce; requires 25% match (waivable); mandatory challenge process before wholesale fiber subgrants	MIXED — supports state authority but excludes digital equity/adoption uses

Category 4: Railroad Rights-of-Way

Title	Sponsor	Status	Key Provisions	Local Gov Position
Bill H.R. 6046 - Broadband and Telecommunications RAIL Act	Reps. Scott Peters (D-CA-50), Greg Landsman (D-OH-1), John Joyce (R-PA-13)	Passed House Energy and Commerce Subcommittee on Communications and Technology November 18, 2025	Streamlines permitting where public ROW intersects private railroad ROW; allows providers with public ROW approval to notify (rather than seek approval from) railroad	GENERALLY NEUTRAL — addresses private ROW barrier, not local authority

Category 5: Additional Broadband Bills

Bill	Title	Sponsor	Status	Focus
S. 4448	Accelerating Broadband Permits Act of 2026	(Senate sponsor)	Introduced 2026	Permits acceleration; specific provisions require verification of current text
S. 4438	Promoting Access to Broadband Act of 2026	(Senate sponsor)	Introduced 2026	Broadband access provisions; requires verification of specific provisions
H.R. 9286	Broadband Deployment and Economic Impact Study Act of 2026	(House sponsor)	Introduced 2026	Study of broadband deployment economic impact

Legislative Status Chart

Bill	Introduced	Committee	Floor Passed	Other Chamber	Enacted
H.R. 2289	✓ 3/24/2025	✓ 12/3/2025 (E&C, party-line 26-24)	✗ Pulled 4/20/2026	—	—
H.R. 5419	✓ 9/17/2025	✓ 2/11/2026 (Natural Resources) Federal Lands	✓ 3/3/2026 (House, voice vote)	🗳️ Senate ENR	—
S. 3565	✓ 12/18/2025	🗳️ Senate Commerce	—	—	—
S. 323	✓ 1/29/2025	✓ 5/21/2026 (Senate Commerce)	🗳️ On Senate Calendar	—	—
H.R. 6046	✓ Nov 2025	✓ 11/18/2025 (E&C Subcommittee)	🗳️ Awaiting full committee	—	—
H.R. 2298	✓ 3/24/2025	🗳️ Referred to E&C, Natural Resources	—	—	—
H.R. 5264	✓ 2025	🗳️ Referred	—	—	—
H.R. 1343	✓ 2025	🗳️ Referred	—	—	—
H.R. 2805	✓ 2025	🗳️ Referred	—	—	—
S. 4448	✓ 2026	🗳️ Referred	—	—	—
S. 4438	✓ 2026	🗳️ Referred	—	—	—
H.R. 9286	✓ 2026	🗳️ Referred	—	—	—

Legend: ✓ Completed | 🗳️ In Process | ✗ Failed/Withdrawn | — Not Yet

Caveats on Charts

Legislative status changes frequently. This chart reflects information available through recent searches, but readers should verify current status through Congress.gov for any bill they're actively tracking. Additionally, several of the smaller bills (S. 4448, S. 4438, H.R. 9286) have limited publicly available information about specific provisions, which may reflect their early status or limited advocacy attention.

The most reliable ongoing tracking sources include:

- Congress.gov for official status
- GovTrack.us for readable summaries and prediction data
- Association tracking by NATOA, NLC, NACo, and USCM
- Industry/trade publications (Broadband Breakfast, Communications Daily, LAW360, etc.)

The overall legislative environment in the 119th Congress reflects sustained industry pressure for preemption combined with successful local government resistance to the most aggressive versions of that agenda.

Whether this equilibrium holds through the 120th Congress and beyond depends significantly on the outcomes of the 2026 midterm elections and the trajectory of parallel FCC proceedings that could achieve some of the same preemption goals through administrative action.

Local Government Advocacy

1. Sustain opposition infrastructure on H.R. 2289.

The bill's status on the Union Calendar means it could return at any time. Coalition readiness to reactivate advocacy on short notice is essential.

2. Support federal lands reform.

Active support for H.R. 5419, S. 323, and similar federal lands bills reinforces the "federal permitting is the actual bottleneck" narrative and provides political cover against preemption bills.

3. Engage on S. 3565.

Push for amendments that would restore digital equity and adoption uses to eligible non-deployment BEAD activities.

4. Watch for omnibus attachments.

Preemption provisions from H.R. 2289 or similar bills may attempt to hitch onto year-end appropriations, NDAA, or other must-pass legislation.

5. Prepare for 120th Congress.

Even if 119th Congress ends without preemption legislation, sponsors will likely reintroduce in January 2027. Preparation for that fight begins now.

6. Document H.R. 2289 opposition record.

The April 2026 victory establishes an important precedent. The coalition's success is staying close and active for future opposition.

The Most Active Threats

H.R. 2289 remains the primary legislative threat. Despite being pulled from the House Rules Committee on April 20, 2026. Sponsor Rep. Buddy Carter has publicly stated he's "confident" House leadership will bring it back, though Carter did not run for reelection, instead pursuing a Senate seat and losing the election. The bill sits on Union Calendar No. 532 and can be moved to floor consideration at any time.

Local government associations are vigilant on H.R. 2289 in case we need to reactivate opposition on short notice.

H.R. 5264 (SPEED for Broadband Infrastructure Act) represents a lower-profile but still consequential preemption vehicle, particularly its expansion of Section 6409(a) eligible facilities requests to more categories of wireless deployment.

The Federal Lands Reform Pathway

The House's unanimous voice vote passage of **H.R. 5419** on March 3, 2026 demonstrates that federal lands permitting reform enjoys bipartisan support. This is politically important because it validates the local government position (advanced in NATOA/USCM/NLC/NACo filings) that federal lands are the real permitting bottleneck. Passage of H.R. 5419 and similar bills could reduce political pressure for local preemption by addressing the actual delays.

Local government advocates may want to actively support these federal lands bills to reinforce the "federal permitting is the actual problem" narrative.

The BEAD Funding Question

S. 3565 (SUCCESS for BEAD Act) provides a legislative framework for BEAD non-deployment funds that could supersede the December 2025 AI Executive Order's conditioning of funds on state AI policy. However, the bill's exclusion of digital equity and adoption uses is a significant concern for local governments that had planned to use non-deployment funds for digital literacy, device distribution, and other community programs.

Bipartisan Areas

Several bills show genuine bipartisan potential:

- **H.R. 5419** (Enhancing Administrative Reviews) — passed unanimously
- **H.R. 6046** (RAIL Act) — bipartisan introduction (Peters/Landsman/Joyce)
- **S. 3565** (SUCCESS for BEAD) — Republican-led but has drawn cross-industry support

119th Session Calendar through e/o year.

With the 119th Congress ending January 3, 2027, there is limited legislative runway. Bills that don't advance to floor consideration in fall 2026 face significant challenges.

The most likely path for H.R. 2289 or similar preemption legislation is either:

- Attachment to must-pass legislation (year-end appropriations, defense authorization)
- Standalone floor consideration during fall 2026 session
- Reintroduction in 120th Congress (2027-2028) with likely modifications

Key Members to Watch

Pro-preemption:

- Rep. Buddy Carter (R-GA-1) — H.R. 2289 lead sponsor (& leaving Congress e/o year.)
- Rep. Russ Fulcher (R-ID-1) — H.R. 2298
- Rep. Tom Kean Jr. (R-NJ-7) — H.R. 5419 (federal lands focus, more measured. Was AWOL from Congress for 4-5 months, health issue.)

Bipartisan/moderate:

- Sen. Roger Wicker (R-MS) — S. 3565 (BEAD funds)
- Sen. Shelley Moore Capito (R-WV) — S. 3565
- Rep. Scott Peters (D-CA-50) — H.R. 6046 (RAIL)
- Rep. Greg Landsman (D-OH-1) — H.R. 6046
- Rep. John Joyce (R-PA-13) — H.R. 6046

Congressional Committees of Interest

House:

- Energy and Commerce Committee — Chair Brett Guthrie (R-KY); Ranking Member Cong. Frank Pallone (D-NJ)
- E&C Subcommittee on Communications and Technology -- Chairman Richard Hudson, (R-NC); Ranking Member Cong. Doris Matsui (D-CA)
- Natural Resources Committee — Chair Bruce Westerman (R-AR)
- Rules Committee — for floor scheduling decisions - Chairwoman Virginia Foxx (R-NC); Ranking Member Jim McGovern (D-MA)

Senate:

- Commerce, Science, and Transportation Committee, Sen. Ted Cruz (R-TX), Chairman; Ranking Member Maria Cantwell (WA), Sens. Amy Klobuchar (MN), Brian Schatz (HI), Ed Markey (MA), Tammy Baldwin (WI)
- Energy and Natural Resources Committee (for federal lands bills)

Joint Cong'l Working Group on USF (Universal Service Fund)

The 119th Congress has launched a bicameral, bipartisan working group to develop new legislative solutions for the Universal Service Fund in June 2025 to evaluate and propose long-term legislative reforms for the FCC-administered USF programs. The working group opened a public comment portal through late summer/fall 2025 to collect feedback on modernizing the four core USF programs (High-Cost, Lifeline, E-Rate, and Rural Health Care.) The USF Working Group is focused on shrinking traditional interstate voice (telecom) revenue, potential contribution base expansions (such as assessing fees on edge or tech providers), and increasing transparency following the Supreme Court's June 2025 decision upholding the constitutional authority of the USF following persistent challenges by the free market group, Consumers' Research.

NATOA responded to the 119th Congress' Universal Service Fund (USF) Working Group's Request for Comment and expects some forward movement this Summer.

We urged Congress and the FCC to explore ways to expand local government engagement in USF programs, including infrastructure and network deployment funding and support; active participation of local governments as direct funding recipients; and engaging local governments as partners. NATOA supports:

- *Exploring USF contributions being drawn from "Big Tech" internet edge providers who dominate the digital landscape and unduly tax the resources of our broadband networks;*
- *Identifying the future contributions of tech firms that do not currently register with the FCC;*
- *Expanding the FCC's authority to assess contributions on the broadest range of revenues, such as digital advertising and certain other online services that benefit from broadband networks;*
- *Requiring the FCC to consider possible Big Tech revenue for digital advertising and user fees; and,*
- *Recognizing that commercial users of the public rights of way who benefit from the protections of 47 USC Sec. 2539 or Sec. 33210 should be contributors to USF based upon the income generated by any public rights of way assets.*

USF (Universal Service Fund) Survives — But Now Under Pressure

While the Supreme Court upheld the USF funding mechanism in FCC v. Consumers' Research (June 2025), the contribution base continues to erode. Local governments rely on E-Rate (schools/libraries), Rural Health Care, and Lifeline programs that depend on USF. Industry and administration pressure to restructure USF contributions could affect future funding.

III. NTIA/COMMERCE DEPT. BROADBAND FUNDING CUTS

A. Digital Equity Act (DEA) Funding Eliminated

In May 2025, NTIA cancelled the Digital Equity Act funding programs — including the State Digital Equity Capacity Grant Program and the Digital Equity Competitive Grant Program — which had been authorized by the Infrastructure Investment and Jobs Act. This directly eliminated a significant local government tool for bridging the adoption gap separate from infrastructure deployment.

NDIA & advocates sue Trump Admin over Digital Equity Competitive Grant Program (Digital Equity Act); NDIA & NTIA/DoJ submit plan to move forward

August 2026: A NTIA/DoJ status report in NDIA v Trump et al, No. 1:25-cv-3606-JDB notes NTIA is: “currently preparing a new Notice of Funding Opportunity (NOFO) for the Competitive Grant Program.”

- A joint report to the Court indicated this is likely by the e/o the year. NTIA is working on a new notice of funding opportunity (NOFO) under the Digital Equity Competitive Grant program, the \$1.25 billion program that supported broadband adoption efforts by nonprofits and local governments.
- NTIA is prepping this new notice of funding opportunities (NOFO) for the Digital Equity Act's Competitive Grant Program, with the aim of accepting applications starting in December, 2026. The DOJ and National Digital Inclusion Alliance told a federal court in mid-August. In a joint status report filed with the U.S. District Court for the District of Columbia (docket 1:25-cv-3606), the parties said the NOFO will have to go through several layers of executive branch review first.
- NDIA had sued in 2025 over the White House's elimination of the \$2.5 billion grant program, and in July 2026, U.S. District Judge John Bates denied a motion to dismiss the legal challenge.

B. BEAD Program Cut in Half; ‘Non-Deployment’ Funding Hal Uncertain, Undefined

In June 2025, a sweeping rewrite of the **\$42.45 billion Broadband Equity, Access, and Deployment** program drew talk of lawsuits and political blowback, as awardees under the original rules said they may not reapply. The new rules abandoned the Biden-era fiber preference in favor of a technology-neutral, lowest-cost-per-location model. Key changes affecting local governments include:

- **Technology neutrality** — Low Earth Orbit (LEO) satellites and fixed wireless now compete on equal footing with fiber, despite local governments' preference for fiber's permanence and reliability
- **Digital equity stripped from eligibility** — Workforce development, digital literacy programs, and community outreach, previously reimbursable under the NOFO, are no longer covered
- **Re-bidding required** — States that had provisional subgrantee awards had to conduct new application rounds

- **Local permitting pressure** — NTIA has signaled that states should expedite local permitting as a condition of BEAD implementation, using the federal program as leverage for permitting reform

IV. BROADBAND AFFORDABILITY & CONSUMER ISSUES

A. ACP Ended — No Federal Replacement

Funding for the **Affordable Connectivity Program (ACP)** expired June 1, 2024 due to a lack of additional funding from Congress.

The FCC ended the program and shut off support that made broadband affordable for so many people across the country. The ACP enrolled more than 23 million subscribers across rural, suburban and urban America — one in six U.S. households.

- Congress has not approved additional funding as of early 2026, though legislation to revive the program has been introduced. N
- o single program has replaced the ACP at the federal level.
- Local governments are left holding the burden of digital inclusion without a federal subsidy vehicle, at precisely the moment BEAD is deploying infrastructure without adoption support.

B. Lifeline — The Only Remaining Federal Affordability Program

The FCC's Lifeline program — providing \$9.25/month discounts for qualifying low-income households — remains the only active federal broadband/phone affordability program. However, it covers only a fraction of what the ACP provided, and the Carr FCC has shown no interest in expanding it.

C. Broadband Label / Transparency Rules

In late 2025, the FCC proposed changes to broadband nutrition label rules under its "Delete, Delete, Delete" deregulatory initiative (GN Docket No. 25-133), including proposals to end new requirements that would take labels out of alignment with the authorizing statute. Local governments have an interest in broadband transparency as a consumer protection and digital equity tool.

V. FEDERAL COURTS — KEY DECISIONS AFFECTING LOCAL AUTHORITY, NET NEUTRALITY & BROADBAND CLASSIFICATION

Case / Action	Date	Impact on Local Governments
Sixth Circuit strikes net neutrality	Jan. 2, 2025	Broadband classified as information service; limits FCC and local authority over ISPs
Loper Bright v. Raimondo applied	Ongoing	Courts no longer defer to FCC statutory interpretations — cuts both ways on Section 253 preemption authority
City of Portland v. United States (9th Cir. 2020)	Still controlling precedent	Upheld FCC cost-based fee standard for small wireless; FCC citing it to justify wireline fee caps
H.R. 2289 litigation threat	Pending	If enacted, local governments have signaled litigation over constitutionality of "deemed granted" remedies and cable franchise preemption
State AGs filing in WC 25-253	Dec. 2025	23 state AGs filed in the wireline NOI opposing FCC preemption of AI-related state laws

A. Sixth Circuit Strikes Net Neutrality (January 2, 2025)

A panel of the U.S. Court of Appeals for the Sixth Circuit set aside the Federal Communications Commission's net neutrality rules, writing that broadband is subject to light-touch regulation under the best reading of the law. The court said the FCC misread the 1996 Telecommunications Act, arguing it required the agency to keep broadband Internet Service Providers lightly regulated.

The court held that broadband Internet Service Providers offer only an "information service" under the Act, not a "telecommunications service." This classification prevents the FCC from imposing common carrier obligations, including net neutrality requirements, on broadband providers.

The ruling has profound downstream implications for local governments: it reinforces the classification of broadband as an information service — the same classification that, if applied to wireline infrastructure carrying broadband, could narrow the FCC's own Section 253 preemption authority in the wireline permitting NPRM. The Loper Bright decision overturned Chevron deference, eliminating the principle that courts defer to federal agencies' interpretations of ambiguous laws. That removed the FCC's legal footing for classifying broadband as a utility under Title II.

Post-Net Neutrality Consumer Impact

With no federal net neutrality rules in effect, local governments face constituent concerns about ISP throttling, blocking, and paid prioritization — with no federal remedy available. State net neutrality laws in California and other states remain in effect but face their own legal pressures.

B. Supreme Court Win: Universal Service Fund Upheld

A rare bright spot for local interests. On June 27, 2025, the U.S. Supreme Court affirmed, in FCC v. Consumers' Research, the constitutionality of the funding mechanism for the FCC's Universal Service Fund. The 6-3 opinion held that the USF funding mechanism does not violate the Constitution's nondelegation doctrine, overturning a previous en banc Fifth Circuit decision.

This was the outcome sought by local governments. The USF programs furnish billions of dollars in annual funding for essential telecommunications and broadband services to local governments' residents, businesses, and educational and healthcare institutions.

Now that the USF has survived judicial challenges (though Consumers' Research is still plugging away!), advocates will look to Congress and the FCC to expand the contribution base. The current scheme is unsustainable. See USF section in Congress.

VI. CABLE FRANCHISING

The FCC has not initiated a major new cable franchising rulemaking since January 2025, but several ongoing issues affect local governments:

- **H.R. 2289's cable franchise provisions** would impose shot clocks on cable franchise renewals and new franchise grants, a direct assault on local franchise authority under Title VI
- **The FCC's 2019 Third Report and Order** (MB Docket No. 05-311) remains in effect and continues to limit local governments' ability to require in-kind PEG support and regulate broadband over cable systems
- **PEG funding pressures** have intensified as cable subscriber counts decline and franchise fee revenues fall, while the FCC's proposed wireline in-kind compensation restrictions could further constrain local governments' ability to negotiate PEG support in franchise agreements

- **Cable franchise deregulation** is part of the broader deregulatory agenda; the FCC's "Delete, Delete, Delete" proceeding invited comment on eliminating cable regulatory requirements

VII. DEPARTMENT OF JUSTICE

Local Governments and PEG Channels - The Web Content Accessibility Guidelines Req'ts (WCAG 2.1)

A lobbying push by NLC & NACo last Spring resulted in a deferment win on the Web Content Accessibility Guidelines (WCAG 2.1) for PEG government access and local gov web content providers.

WCAG 2.1 compliance deadlines are now: April 26, 2027, for localities >50,000 in pop & April 27, 2028, for localities <50,000 in population

The proposed rule, years in development, is delayed by one year for each category after local government association leaders and disability advocates met with the feds ahead of the April deadline.

The Department of Justice referred [a rule](#) to the Office of Management and Budget's Office of Information and Regulatory Affairs requiring that government websites comply with various internationally recognized [standards](#) from the World Wide Web Consortium under Title II of the Americans with Disabilities Act. But it did so with amendments as an Interim Final Rule, which would become effective immediately after publication and does not have a pre-publication public comment period. The rule had initially been put forward under the Notice of Proposed Rulemaking by the Biden administration in 2024, which required a public comment period before a final rule was issued.

DOJ antitrust actions

There are no major DOJ antitrust actions specifically targeting the telecommunications sector as of August 2026 that directly affect local government authority. However, areas warrant monitoring:

- **T-Mobile/Sprint merger compliance** — was completed in 2020. The DOJ's 2020 merger conditions, including the DISH network buildout requirements, are in their final years and affect competitive broadband availability in many local markets. Regulatory compliance obligations tied to making Dish Network (now EchoStar/Dish), a fourth national carrier underwent massive changes following Dish's financial distress and spectrum sell-offs. Dish Wireless and parent entities filed for Chapter 11 bankruptcy protection in mid-2026 and the Chapter 11 bankruptcy filing of Dish Wireless and Dish DBS directly impacts local governments (municipalities, counties, and local school districts) across property tax revenues, real estate lease assets, and zoning administration. Dish had deployed more than 144,000 radios across 24,000 tower sites nationwide, and hundreds of jurisdictions are forced to navigate the wind-down of its 5G infrastructure.

The escrow fund access portal (for local governments' access to funds) has not yet been opened, but here's a link to those that have filed in bankruptcy – which include many local governments: <https://dm.epiq11.com/case/dbs/claims> . Local government entities qualify for preferential timelines under federal bankruptcy rules to recoup unpaid funds from Dish.

- **Claim Deadline:** While standard commercial vendors faced an August 7, 2026, deadline, the Texas bankruptcy court granted **governmental units until December 27, 2026**, to submit their official proofs of claim. [1]

- **Consequence of Delay:** Cities or counties that fail to catalog and file claims by the December deadline lose their right to receive payouts under the final Chapter 11 reorganization plan
- **Broadband market concentration** — The end of ACP, the elimination of fiber preference in BEAD, and the removal of net neutrality have collectively raised antitrust concerns about ISP market power that consumer advocates are pressing DOJ to address, but no formal proceeding has been announced

VIII. OMB's New Federal Funding and Grants Rules: Impact on Local Governments

The Core Change: From Uniform Guidance to Uniform Grants Regulation

On May 29, 2026, the Office of Management and Budget (OMB) issued significant changes to federal grants management guidance and processes. These changes affect how billions of dollars in federal funding flow to state and local governments across dozens of programs — with particular consequences for broadband, digital equity, and telecommunications-related grants that local governments have historically relied on. The OMB — joined by 41 other executive branch agencies — published a Notice of Proposed Rulemaking that would fundamentally overhaul 2 CFR Part 200, currently known as the "Uniform Guidance." The proposed rule would rename it the "Uniform Grants Regulation" (UGR) — a change that appears semantic but is legally significant, transforming what has been treated as agency guidance into binding government-wide regulation.

Timeline:

- Executive Order 14332 issued August 7, 2025 ("Improving Oversight of Federal Grantmaking")
- Proposed rule published May 29, 2026
- 45-day comment period (unusually short for a rule of this magnitude)
- Comments closed July 13, 2026
- Over 49,000 comments filed — among the most commented federal financial assistance rulemakings in history
- Target effective date: October 1, 2026 (start of FY2027)
- Senate Continuing Resolution language would delay implementation to December 11

Changes for Local Governments:

- Codifies and expands the termination authority the administration has already used to end billions in grant funding (including the Digital Equity Act)
- The "as they exist at the time of termination" language directly addresses legal challenges to prior terminations
- Creates persistent uncertainty for multi-year grant programs
- Local governments cannot rely on awarded funds even after they've been obligated
- Injects political review into what has historically been career staff-driven grant decisions
- Creates delays in grant issuance
- Provides mechanism for political filtering of grant recipients
- Local governments with priorities inconsistent with administration policy may find themselves systematically disadvantaged
- Codification of Executive Order Policy Priorities
 - The proposed rule would embed multiple 2025 Executive Orders directly into regulatory text as conditions of receiving federal funds:
 - Restrictions on Diversity, Equity, and Inclusion (DEI) programs Gender ideology provisions Merit-based opportunity requirements Foreign collaboration restrictions E-Verify requirements for grant recipients

Why this matters for local governments:

- Local governments must certify compliance with policies they may not politically support
- Creates litigation risk from state constitutional or civil rights conflicts
- Requires monitoring subrecipients (contractors, nonprofit partners) for compliance
- May force local governments to alter existing programs to accept federal funds

Expanded Compliance and Cybersecurity Obligations

New requirements would include:

- Enhanced payment documentation
- Expanded subrecipient monitoring
- New cybersecurity compliance obligations
- Enhanced reporting requirements

Practical impact:

Additional administrative burden — particularly on smaller jurisdictions that lack dedicated grants management staff.

Elimination of Agency-Specific Rulemaking

The proposed structure "dispenses with future grantmaking agency rulemaking" — meaning individual agencies (NTIA, HHS, DOT, etc.) would no longer have separate implementing regulations. Everything would be governed by the central OMB framework.

Why this matters for local governments:

- Removes flexibility for agency-specific circumstances
- Concentrates rulemaking authority in OMB
- Reduces avenues for stakeholder engagement on program-specific issues
- Creates single-point-of-failure for grant recipient interests

Specific Broadband and Telecom Impacts

BEAD's Special (But Limited) Exemption

BEAD is explicitly exempt from the discretionary termination provision (§ 200.340(b)(2)), as required by EO 14332 itself. This protects BEAD deployment funds already flowing to states.

But BEAD recipients are NOT exempt from other provisions:

- Pre-issuance political appointee review for any new competitive awards
- All the new policy conditions (DEI restrictions, E-Verify, foreign collaboration)
- Enhanced compliance and cybersecurity obligations
- Subrecipient monitoring requirements

The practical effect: BEAD's substance is protected but its administration becomes more politically controlled.

IX. Digital Equity Act — Cancelled, Codified, now Court-ruled

The Digital Equity Act cancellation in May 2025 has shifted significantly since.

(Digital Equity Act — Cancelled by Social post!) The Trump Administration cancelled the Digital Equity Act grant program as of May 9, 2025. The \$2.75 billion program, part of the 2021 Bipartisan Infrastructure Law, was designed to close the digital divide by establishing grants to support broadband access and digital skills training for underserved communities. The administration deemed the program "unconstitutional" on social media and froze all Digital Equity Act funding to states.)

A July 15, 2026 court ruling produced a partial reinstatement — followed by a joint status report on August 3 in which the Department of Commerce agreed to reinstate the DEA Competitive Grant Program, but without the racial provisions that had been central to its original design.

NATOA signed onto an amicus brief in National Digital Inclusion Alliance (NDIA) v. Trump to support National Digital Inclusion Alliance's suit against the Trump Administration for cancelling the Digital Equity Act with legal representation Samuelson Law, Technology & Public Policy Clinic at UC Berkeley School of Law. We were one of 22 organizations signing onto the brief coordinated by Erik Stallman, Associate Director of the Samuelson Law, Technology & Public Policy Clinic at UC Berkeley, School of Law, in support of the NDIA's suit challenging the Trump Administration cancelling the Digital Equity Act grant programs (including the Digital Equity Competitive Grant Program which NATOA participated in.)

The Lawyers' Committee for Civil Rights Under Law

The Lawyers' Committee for Civil Rights Under Law has represented NDIA from the initial filing on October 7-8, 2025 through the current litigation. Gillian Cassell-Stiga, senior counsel at the Lawyers' Committee, is the named attorney who has provided public statements about the litigation. The Lawyers' Committee is a nonpartisan, nonprofit organization formed in 1963 at the request of President John F. Kennedy to mobilize the nation's leading lawyers as agents for change in the Civil Rights Movement.

Co-counsel: Crowell & Moring LLP

By the time of the July 2026 motion hearing, NDIA was jointly represented by both the Lawyers' Committee for Civil Rights Under Law and Crowell & Moring LLP. Crowell & Moring is a major international law firm headquartered in Washington, DC, and its involvement significantly expanded NDIA's litigation capacity.

Why This Matters for NATOA

The pro bono structure is significant for local government advocacy strategy as it demonstrates that:

- **Major civil rights litigation infrastructure exists** to challenge federal telecommunications and grant terminations without requiring the plaintiff organization to bear massive legal costs
- **The Lawyers' Committee/Crowell & Moring partnership model** could potentially support other similar challenges affecting local government interests
- **Coalition amicus participation** (like NATOA's May 18, 2026 amicus brief) is generally low-cost to individual associations while building the record
- **Litigation risk for federal preemption actions** is meaningfully increased when pro bono civil rights infrastructure is available to challenge them
- Tracking this for advocacy-planning purposes, the costs to NDIA are less consequential than the demonstrated pattern: sophisticated civil rights litigation can be mounted against unilateral federal grant terminations with substantial pro bono legal support, and that support has been successful in securing partial reinstatement even under adverse political conditions.

The July 15, 2026 Ruling — Mixed Outcome

Judge John D. Bates, U.S. District Court for the District of Columbia issued a partial ruling in *National Digital Inclusion Alliance v. Trump* (Civil Action No. 25-3606):

- The Trump Administration lacked authority to unilaterally cancel the Digital Equity Act's Competitive Grant Program

- Congress created the program by statute; the President cannot rewrite or eliminate it without congressional action
- However, the provision "that authorizes the use of race to award federal funds" was ruled unconstitutional
- The unconstitutional "race provision" was ruled **severable** from the rest of the program
- NDIA's equitable constitutional claims were dismissed
- The program can proceed — but with racial and ethnic minority covered populations removed from the framework Congress originally enacted.

The August 3, 2026 Joint Status Report

In a joint status report filed August 3, 2026, (NDIA with The Lawyers' Committee for Civil Rights Under Law & the Department of Commerce/NTIA with the Dept. Of Justice) NTIA agreed to reinstate the Digital Equity Act Competitive Grant Program without the racial provisions, with the aim of reopening funding applications in December 2026.

NDIA did NOT agree to the removal of racial and ethnic minority covered populations from the Digital Equity Act. The joint status report reflects the government's implementation approach, not a negotiated compromise on the substantive scope.

Program-by-program DEA status:

DEA Program	Original Purpose	Current Status
Competitive Grant Program	Direct grants to local governments, nonprofits, libraries, community anchor institutions	Being reinstated (without racial provisions); applications expected December 2026
Capacity Grant Program	Formula funding to states	Status unresolved; not directly addressed by NDIA suit
State Digital Equity Planning Grant Program	Initial planning grants	Largely already distributed pre-cancellation

The NDIA lawsuit specifically challenged only the Competitive Grant Program. The Capacity Grant Program's status remains murky.

Ongoing Litigation:

- NDIA's lawsuit will continue until the government reinstates the Competitive Grant Program (the NTIA proposes to launch a new NoFO by e/o year, not resumption of the current funding cycle.)
- NDIA has proposed the agency provide status reports every 30 days during the court pause to ensure prompt attention to reinstatement
- NTIA Administrator Arielle Roth has declined to answer congressional questions about DEA implementation, citing active litigation
- NDIA continues to advocate for full inclusion — including restoration of the covered populations the court severed

The Practical Implications for Local Governments

1. December 2026 Application Window

- If the government meets its stated timeline, competitive grant applications should open in December 2026. Local governments planning to apply should begin preparation now.

2. Modified Eligibility Framework

- The severance of racial provisions means the covered populations framework will be narrower than Congress originally enacted. Applicants will need to structure proposals around the remaining covered populations:
 - Low-income households
 - Aging populations
 - Incarcerated individuals
 - Veterans
 - Individuals with disabilities
 - Individuals with a language barrier
 - Individuals who are members of a rural community

3. Uncertainty About Full Restoration

- a. The court decision only addressed the Competitive Grant Program. The Capacity Grant Program (formula funding to states, which many local governments would have received as subgrants) remains in limbo.

4. **FY2027 Budget Threat Persists**

- a. The administration's FY2027 budget still proposes complete elimination of NTIA Digital Equity Act programs. Even if the Competitive Grant Program is reinstated in December 2026, congressional appropriations for FY2027 will determine whether it continues.

5. **Amount Uncertainty**

6. The original \$2.75 billion program had specific allocations across the three grant categories. How much of the original Competitive Grant Program funding will actually flow — and on what schedule — remains unclear.

7. **Now (as of September 28, 2026):**

1. Partial court victory July 15, 2026
2. Joint status report August 3, 2026 agreeing to reinstate Competitive Grant Program
3. Applications expected to reopen December 2026
4. Racial provisions severed as unconstitutional
5. Capacity Grant Program status unresolved
6. FY2027 budget elimination threat continues

7. **What's next?**

- **December 2026:** Can NTIA actually open the reinstated Competitive Grant Program applications as promised?
- **30-day status reports:** If the court adopts NDIA's proposal, these will provide public visibility into implementation progress.
- **Congressional FY2027 appropriations:** The most consequential political battle. Even a reinstated program can be defunded through appropriations.
- **Capacity Grant Program:** Whether NTIA takes any action on the formula funding component that wasn't directly addressed by the NDIA suit.
- **Appeal possibilities:** Either party could potentially appeal aspects of the July ruling, though the government's agreement to reinstate suggests they've decided not to pursue that path on the reinstatement question.
- **Coalition advocacy:** Will NDIA and coalition partners successfully pressure NTIA on both the timing of reinstatement and the scope of covered populations?

Other NTIA Programs at Risk

Several NTIA programs would be subject to discretionary termination:

- Tribal Broadband Connectivity Program
- Middle Mile Grant Program
- Public Safety Broadband programs
- Various technical assistance programs

USDA Rural Broadband Programs

USDA's ReConnect and Community Connect programs would be subject to the new termination authority, creating uncertainty for rural cooperatives and municipal utilities that have relied on USDA funding.

FCC Programs

FCC-administered programs including **E-Rate and Rural Health Care** would fall under the new framework, though their statutory foundations provide some protection.

The Cascading Effect for Local Broadband Efforts

Local broadband initiatives typically combine multiple funding streams:

- Federal BEAD or ReConnect funding for infrastructure

- State broadband office grants
- Local matching funds
- Digital equity/adoption program funding (formerly DEA)
- Workforce development funding

The OMB rule affects nearly every layer of this stack, creating uncertainty about whether multi-year projects will maintain funding continuity.

Local Government Associations' Responses

National League of Cities

NLC has been actively engaged, urging members to submit comments before the July 13 deadline. NLC has framed the proposal as advancing "some" federal goals but also "permit[ting] federal over-reach into choices and values best determined at the local level."

NLC's core concerns:

- Termination authority undermines federal-local partnership
- Political review creates delays and uncertainty
- Compliance costs constitute unfunded mandates
- Embedded EO policy conditions override local authority

National Association of Counties

NACo has been mobilizing member response and successfully advocated for delay language in the Senate Continuing Resolution.

NACo's win: The Senate Appropriations Committee released CR language that would fund government through December 11 AND delay the OMB proposed rule on Uniform Guidance — characterized by NACo as "a major win for counties."

This is one of the few significant successes local governments have had against the current administration's regulatory agenda.

U.S. Conference of Mayors

USCM has engaged in coalition advocacy, joining NLC, NACo, and other associations in coordinated opposition.

National Council of Nonprofits

While not a local government association per se, NCN has provided detailed analysis particularly relevant to local governments that partner with nonprofits — noting that the proposal would "create significant risk and instability for federal grantees, including nonprofits, making it more difficult to provide vital services to communities."

Senate Democrats

On July 1, 2026, Senate Democrats requested OMB rescind the proposed rule, arguing that:

- Proposed changes exceed OMB's statutory authority
- Changes would undermine Congress's constitutional power of the purse
- Broad termination authority is inconsistent with congressional appropriations intent

X. Bottom Line for Local Government Advocates

The January 2025 — August 2026 period represents the most aggressive period of federal preemption pressure on local government telecom authority in a generation, operating simultaneously on four fronts:

- *FCC regulatory proceedings — Wireline NPRM, wireless NPRM, copper retirement, and pole attachment rules all constrain local authority*
- *NTIA funding programs —*
- *Congressional legislation — H.R. 2289 would codify preemption with deemed-granted remedies into statute, removing FCC discretion*
- *Federal courts — Loper Bright and the Sixth Circuit net neutrality ruling reshape the legal landscape in ways that cut in complex directions for local government arguments both defending and challenging federal preemption*

The Cumulative Impact.....

Taken individually, any of the action/rulings/bills might be defensible as streamlining or updating technology. Taken together, they represent a coordinated federal strategy that:

- *Reduces local authority over rights-of-way, permitting timelines, fees, and franchise terms*
- *Eliminates federal funding for digital inclusion work that local governments deliver*
- *Restructures broadband investment toward lower-capacity technologies favored by satellite and wireless providers*
- *Conditions remaining funding on state policy concessions in unrelated areas (AI regulation)*
- *Weakens cable franchise frameworks that have historically funded PEG access and ensured community accountability*
- *Shifts financial burden from providers and federal programs back to local governments and end users*

What Local Governments Have Lost or Are Losing

Area	Pre-2025 Status	Current/Pending Status
Digital Equity Act funding	\$2.75B program active	Cancelled, in litigation
BEAD non-deployment funding	~\$21B expected for local programs	Frozen, conditioned on AI policy
Cable rate authority	Basic tier rate regulation	Eliminated nationwide
Wireless permitting authority	2020 Ninth Circuit limits on 2018 Order	Under expansion via new FCC rulemaking
Wireline ROW authority	"Fair and reasonable" compensation standard	Threatened by H.R. 2289 ("actual cost")
Cable franchise renewals	Local renewal authority	Threatened by H.R. 2289 elimination
PEG funding	5% franchise fee cap with in-kind limits	Further erosion via effective competition presumption
Tower lease revenue	Stable carrier obligations	DISH disputing lease obligations

Local Government Response

The "Big Four" (NATOA, NLC, NACo, USCM) have mounted what may be their most coordinated advocacy effort in over a decade — joint comments at the FCC, joint letters to Congress, amicus participation in litigation, and successful coordination to pull H.R. 2289 from the House floor in April 2026.

But the pressure is multi-directional and continuous: even where local governments win one fight (H.R. 2289 pulled), the same goals advance through parallel tracks (FCC rulemaking, EO conditions, NTIA guidance delays). The strategy appears designed to win on aggregate even when individual battles are lost.

Bottom Line

Since January 2025, local governments have experienced what may be the most significant federal rollback of local telecommunications authority in over 25 years — affecting permitting authority, franchise frameworks, funding for digital inclusion, and the broader regulatory environment in which local broadband decisions are made. The cumulative effect is greater than any single action would suggest, and the trajectory points toward continued contraction of local authority absent successful litigation, Congressional pushback, or a change in administration priorities.

XI. ADDENDA: AI & Data Center Buildout:

Issues Facing Local Governments

January 2025 — August 2026: FCC, Congress, States & Federal Courts

I. THE SCALE OF THE CHALLENGE

The AI-driven data center boom has become one of the most significant land use, energy, water, and local governance challenges facing municipalities in a generation. The numbers define the pressure:

- Hyperscaler spending on data centers is on pace to reach approximately \$700 billion globally in 2026, according to the Senate Finance Committee.
- Active opposition has blocked or delayed 75 projects worth \$130 billion in Q1 2026 alone — a single-quarter total that roughly matched the entire scale of opposition seen throughout 2025.
- A Gallup survey conducted in March 2026 found that 71% of Americans now oppose having a data center built near them — a higher opposition rate than for nearby nuclear plants.
- At least 25 U.S. projects were canceled due to local opposition in 2025 alone, according to an Electric Power Research Institute study published in June 2026.
- Over 200 bills were introduced across all 50 states in 2025, with more than 40 enacted into law. In 2026, more than 300 state data center bills were filed in 30+ states within six weeks.

II. FEDERAL EXECUTIVE ORDERS — A LAYERED PREEMPTION THREAT

A. Biden Executive Order (January 14, 2025) — Quickly Revoked

President Biden's final days in office included an executive order advancing U.S. leadership in AI infrastructure, directing federal agencies to identify federal lands for private data center siting and establishing climate and equity requirements for such development. The new Trump executive order on accelerating data center permitting revoked EO 14141 of January 14, 2025, "Advancing United States Leadership in Artificial Intelligence Infrastructure," which the Trump administration argued had "saddled AI data center development on Federal lands with DEI and climate requirements."

B. Project Stargate (January 21, 2025)

On his first day in office, President Trump announced Project Stargate — a \$500 billion public-private initiative to build AI data center infrastructure across the United States. This framing of AI data centers as a national economic and security priority set the tone for all subsequent federal action and created immediate pressure on local governments where Stargate sites were proposed.

C. Executive Order on Accelerating Federal Permitting of Data Center Infrastructure (July 23, 2025)

On July 23, 2025, the White House released Executive Order 14318, accelerating federal permitting of data center infrastructure in alignment with the goal to "facilitate the rapid and efficient buildout of this infrastructure by easing federal regulatory burdens." The order applies to data centers requiring more than 100 MW new electricity load, costing at least \$500 million to build, or those that protect national security.

Critically for local governments: the order's reach is largely limited to federal policies. It does not preempt state permitting requirements, zoning laws, or energy regulations, meaning a data center that meets federal requirements can still face significant state and local challenges.

The EO also: directed federal agencies to identify suitable federal lands for data center siting; streamlined NEPA environmental review for qualifying projects; directed the Secretary of Commerce to provide financial support and incentives; and prioritized use of brownfield and Superfund sites. The EPA announced actions to prioritize data center Clean Air Act permitting, but this did not affect state air quality programs.

D. December 11, 2025 AI National Framework Executive Order — The Preemption Threat

On December 11, 2025, President Trump signed an executive order, "Ensuring a National Policy Framework for Artificial Intelligence," intending to weaken state-level regulations of AI through a combination of targeted litigation led by the Department of Justice, administrative reinterpretation of existing laws, conditional federal funding, and the preemption of existing state laws through a federal policy framework.

Key provisions and their limits:

- The final text expressly prohibits the federal preemption of otherwise lawful state AI laws, including those relating to child safety, AI compute and data center infrastructure, except for generally applicable permitting laws.
- A separate executive order from December 2025 directed the Secretary of Commerce to publish a list of state AI laws deemed invalid — a step that would have had direct implications for state-level AI and data center regulation — but that list has not been published to date.
- Trump's December 11, 2025 AI National Framework Executive Order directs the FCC, FTC, and DOJ to preempt or litigate against conflicting state AI laws — but this directive has not yet produced concrete FCC action.

The political significance was immediate: the order frames a fragmented state landscape as a national competitiveness problem, even if its practical impact depends on agency action, funding conditions grounded in statutory authority, and litigation outcomes.

III. THE FCC CONNECTION — AI PREEMPTION IN THE WIRELINE NOI

The FCC's Build America wireline proceeding (WC Docket No. 25-253) directly intersects with AI and data center siting, and local governments flagged this in their comments and reply comments.

Industry groups attempted to use the wireline NOI to preempt state and local AI regulations. In 2025 alone, states introduced a substantial number of AI-related bills that have the potential to create threats to communications infrastructure deployments, with industry groups arguing these state regulations interfere with the FCC's ability to carry out its obligations and authorities under the Communications Act.

The NATOA/NLC/NACo/USCM Reply Comments directly addressed this: the organizations stated that the Commission's application of its Section 253 authority to preempt governance of artificial intelligence and related infrastructure is a clear overreach of congressional intent. They argued that AI is likely an "information service" over which the Commission has limited authority without further congressional action — citing the Sixth Circuit's net neutrality ruling and the D.C. Circuit's Mozilla decision.

The application of Section 253 of the Telecommunications Act to data-center laws presents an array of legal issues that could well be addressed by the FCC and litigated in challenges to state laws in 2026.

IV. CONGRESSIONAL ACTION

A. OBBB "One Big Beautiful Bill" — AI Preemption Moratorium Attempt (Defeated)

The most dramatic congressional action on AI and states was the attempt to include a **10-year moratorium on new state AI regulations** in the "One Big Beautiful Bill" reconciliation legislation. The Senate voted 99-1 to remove the AI preemption moratorium before the bill passed — one of the most lopsided procedural votes in recent Senate history. The overwhelming bipartisan rejection reflected broad state and local government opposition, as well as libertarian Republican opposition to federal preemption of state authority.

B. NDAA AI Preemption Attempt (Defeated)

A subsequent attempt to include AI preemption language in the **National Defense Authorization Act** also failed, leaving the December 2025 executive order as the administration's fallback.

C. Data Center Bill of Rights (August 6, 2026)

Legislation introduced by Rep. Ro Khanna on August 6, 2026, would give local governments the authority to block AI data center construction and protect those decisions from state override — the first federal measure to address the state preemption problem that has allowed state economic development agencies to override local zoning decisions. This bill is the direct legislative response to the pattern of state-level preemption of local data center decisions.

D. S. 4214 — AI Data Center Moratorium Act (March 2026)

Senator Bernie Sanders introduced the AI Data Center Moratorium Act, with a House companion by Rep. Alexandria Ocasio-Cortez, which would pause new construction of AI data centers exceeding 20 MW until Congress enacts comprehensive AI legislation. The bill has not advanced.

V. STATE LEGISLATION — A 50-STATE BATTLEGROUND ON AI, DATA CENTERS

The Dominant Issues

State and local regulation of data centers is rapidly expanding across numerous domains, including energy use, water consumption, environmental standards, zoning/siting, labor, and security. Key regulatory trends include higher or specialized utility rates for large-load data centers, mandatory water-use reporting and cost recovery, renewable energy requirements, zoning moratoria or site restrictions, and limits based on security and foreign ownership concerns.

Energy / Ratepayer Protection:

Twenty-seven states are currently considering legislation targeting "large load" customers. Comparable legislation has already been enacted in California, Ohio, and Utah. Most legislation requires data center developers to bear the costs of new energy infrastructure. At least 18 states have introduced bills creating special rate classes for large energy users, with some requiring data centers to fund infrastructure improvements and demonstrate benefits to ratepayers.

Electricity prices rose 6.9% in 2025, more than double the overall inflation rate, with data center demand cited as a significant driver.

Water: Water usage legislation is gaining momentum in 2026, with states increasingly requiring data centers to disclose and manage water consumption. Minnesota established a separate water permitting requirement for data centers in 2025, and more states are following suit. Direct-cooled AI facilities can consume hundreds of thousands of gallons of water per day.

Moratoriums: So far in 2026, 12 states have taken up data center moratoriums and 11 have been unsuccessful. State-level moratorium bills have been introduced in 11 states in 2026, but face resistance; meanwhile, dozens of municipalities have moved ahead with local construction pauses, shifting the center of gravity toward local government action.

Tax Incentives Under Scrutiny: States that previously offered generous incentives are reassessing their value as construction costs become clearer. Virginia, Georgia, and Oklahoma have proposed to reduce or eliminate credits that previously attracted these facilities.

VI. State Preemption of Local Authority — A Critical Local Government Problem

Several states have moved to preempt local zoning authority over data centers, directly threatening municipal control:

- **West Virginia:** Enacted sweeping 2025 legislation to accelerate data center development; the most controversial element is the bill's preemption clause, which prohibits counties and municipalities from enacting or enforcing local regulations related to the development or operation of data centers and microgrids.
- **Pennsylvania:** Pennsylvania House Bill 502 aims to streamline large-scale energy infrastructure by shifting certain land-use approval powers from local municipalities to a state-appointed board, the Pennsylvania Reliable Energy Siting and Electric Transition (RESET) Board. Although not specifically directed at data centers, it would permit an energy generation facility constructed for a data center to bypass local authority.
- **Virginia:** The data center capital of the world has seen ongoing battles between Prince George's County (imposing a 180-day moratorium) and state-level economic development interests that have historically favored developers over local communities.
- **Arizona:** An October 2025 Chandler City Council meeting regarding a proposed AI data hub in the Price Corridor — an area long reserved for high-wage, water-efficient employers like Intel — presaged a larger jurisdictional fight over whether cities can reserve zones for specific economic development purposes rather than accepting any data center that meets basic zoning criteria.

VII. LOCAL GOVERNMENT MORATORIA & ORDINANCES

Local governments have been the most active frontline responders to data center pressure, with dozens of municipalities enacting construction pauses and new zoning standards:

Baltimore City Council passed a one-year moratorium on construction of data centers drawing 10 MW or more of power, ordering a nine-month study covering energy infrastructure, ratepayer impact, environmental, and public health concerns.

Orange County, NC voted 6-0 for a one-year pause on large data centers.

Hill County, TX became the first Texas county to impose a moratorium on data center construction in unincorporated areas, after residents raised concerns about a 300-acre project's noise, water, and electricity impacts.

Coweta County, GA adopted a model data center ordinance in December 2025 after a 180-day moratorium, establishing affirmative performance standards for noise levels, water use caps, setback distances, and grid impact assessments.

Community acceptance has become a core project delivery constraint alongside power, water, and permitting, with the opposition driven by electricity affordability, water use, noise, and lack of transparency.

VIII. KEY LOCAL GOVERNMENT LEGAL TOOLS AND VULNERABILITIES

Tools Available to Local Governments

- **Zoning and land use authority** remains the primary tool — well-drafted ordinances establishing performance standards before applications arrive are more defensible than ad hoc denials
- **State environmental review** — state NEPA equivalents provide procedural rights that courts have enforced when developers amend applications without triggering new public comment
- **Notice statutes** — inadequate public notice has been a successful legal hook in several high-profile project defeats
- **"Cost-causer pays" utility ratemaking** — localities can advocate at state public utility commissions for data centers to bear full grid connection costs
- **Water permitting** — separate water use authorization requirements give localities additional leverage

Legal Vulnerabilities

- Targeted state laws are likely to face legal challenges including claims targeting utility-rate differentials under the Equal Protection Clause, Federal Power Act, and Dormant Commerce Clause; claims of both express and implied federal preemption under the Telecommunications Act and other federal statutes.
- **Section 253 preemption risk** — if the FCC's wireline NPRM is adopted as proposed, its commingled facilities rule could be interpreted to limit local conditions on fiber infrastructure serving data centers
- **State preemption** — as noted above, several states have already moved to strip local data center zoning authority

IX. Bottom Line for Local Governments

The AI and data center buildout represents an unprecedented convergence of federal, state, and private pressure on local land use authority. Since January 2025, local governments face:

1. **Federal executive pressure** — two executive orders and a national security framing that characterizes data centers as beyond normal local review
2. **FCC preemption risk** — the wireline NPRM's commingled facilities rule and the industry's attempt to use Section 253 to preempt state AI laws both threaten local oversight of fiber infrastructure serving data centers
3. **Congressional preemption attempts** — while the 10-year AI moratorium was defeated 99-1 in the Senate, the issue will return, and H.R. 2289's broadband permitting preemption provisions could affect fiber serving data centers
4. **State preemption** — multiple states have enacted or are advancing legislation that strips municipalities of data center zoning authority
5. **Community opposition** — paradoxically, the strongest tool available to local governments may be the 71% public opposition figure and the growing political costs to elected officials who support data center development over community objections

The anti-preemption language in **Rep. Khanna's Data Center Bill of Rights** directly responds to the pattern where community opposition groups have succeeded in blocking individual projects at the local level, only to see state economic development agencies push through permitting frameworks that supersede local zoning. For NATOA's members, this federal-state-local dynamic around data center siting is the emerging frontier of the same preemption battle being fought on wireline and wireless permitting — and it deserves the same coordinated advocacy response.