

The Promise of Telework

BY SAIGE DRAEGER

Overview

Commuting has shaped everyday life for millions of Americans. According to a [2019 survey](#) by the United States Census Bureau, the average commute was about 27 minutes each way. However, this ritual of traveling to and from work has changed dramatically because of the ongoing pandemic. The summer surge in COVID-19 cases and state-mandated shutdowns resulted in more than half of U.S. workers [teleworking in some form](#), with over a quarter reporting full-time telework status. With many offices closed until further notice, or operating at reduced capacity, those metrics represent what many believe could be a long-term trend away from formal office settings.

There is renewed interest in the traditional benefits of teleworking. Prior to the COVID-19 pandemic, telework was a benefit for the relative few. According to the Pew Research Center, [7% of private sector workers had access to it](#), versus 4% of state and local government workers. As a flexible work arrangement, telework eliminates the need for commuting to a centralized space altogether. For some workers, including some with disabilities, children or dependents, the flexibility bolsters workforce participation, often making the difference between unemployment or a paycheck. For employers, teleworking decreases the need for office space, reducing real estate, supplies and utility costs. This reduced overhead has been particularly attractive to state and local governments seeking to [alleviate historic budget shortfalls](#).

This transition to telework presents an array of challenges for many, but it also serves as a unique opportunity to reengage key segments of the U.S. workforce. Considered a reasonable accommodation under the Americans with Disabilities Act (ADA), some people with disabilities have been teleworking for decades. Difficulty commuting and threats to immunocompromised workers as a result of virus and bacteria exposure, have long been considered [work-related barriers](#), allowing qualifying employees to pursue remote work options. Not all people with disabilities need or want to work from home, or hold jobs that can be done remotely, but for some it can provide the flexibility they need to succeed on the job.



About This Series

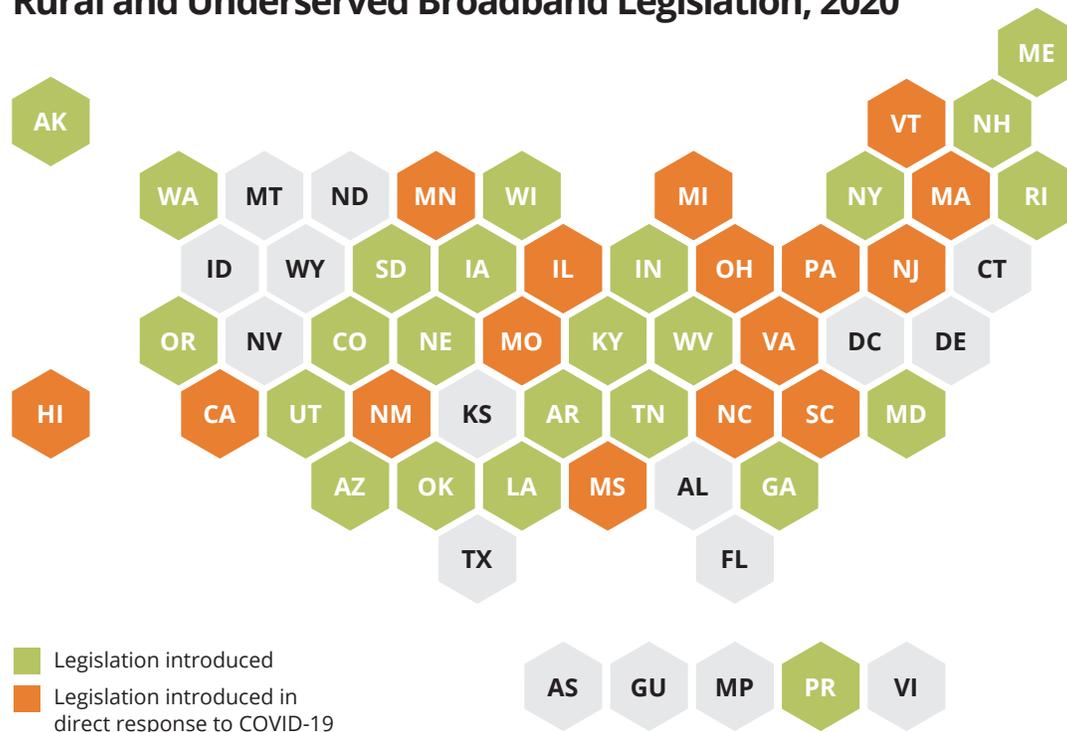
This is the second in a series of four reports from NCSL to explore how the COVID-19 pandemic is impacting access to employment opportunities for people with disabilities. The series will address some of the most significant employment policy issues affecting people with disabilities as Americans adapt to the many challenges COVID-19 presents. This report examines the expansion of telework amid the COVID-19 pandemic and the impact of subsequent remote work policy changes for people with disabilities. The remainder of the series will look at state and federal policy actions on teleworking, broadband access, workplace safety, work accommodations, apprenticeships and workforce development.

State Actions

As concerns grow over containment of the coronavirus, subsequent restrictions and impending budget shortfalls, lawmakers are assessing long-term telework options. At least six states—California, Idaho, Mississippi, Virginia, Vermont and Washington—enacted legislation significantly expanding public-sector access to telework in 2020. Worker safety and accommodations, broadband and state financial benefits were among the common themes in most states considering telework legislation.

For communities across the country, broadband is essential to accessing remote work opportunities. As businesses, schools, and workplaces closed in the spring of 2020, discrepancies in broadband service came to the fore, prompting quick action by state policymakers. At least 37 states and Puerto Rico have introduced legislation addressing broadband in rural and underserved areas. Sixteen states introduced broadband legislation in direct response to the pandemic. The number of states introducing these bills illustrates the priority states place on expanding broadband availability, both prior to and throughout the COVID-19 pandemic.

Rural and Underserved Broadband Legislation, 2020



Source: NCSL, 2020

One example is Mississippi's [SB 3054](#), which creates the COVID-19 Connectivity Act. This bill establishes the COVID-19 Connectivity Grant Program to expand broadband service to unserved or underserved areas in the state. Separately, Missouri's [HB 2005](#) appropriates \$10 million for broadband expansion and service cost reimbursements. This funding targets residential and agricultural counties with high concentrations of state employees who do not have residential access to broadband. Lawmakers allocated the funds to facilitate state employee telework during the COVID-19 pandemic.

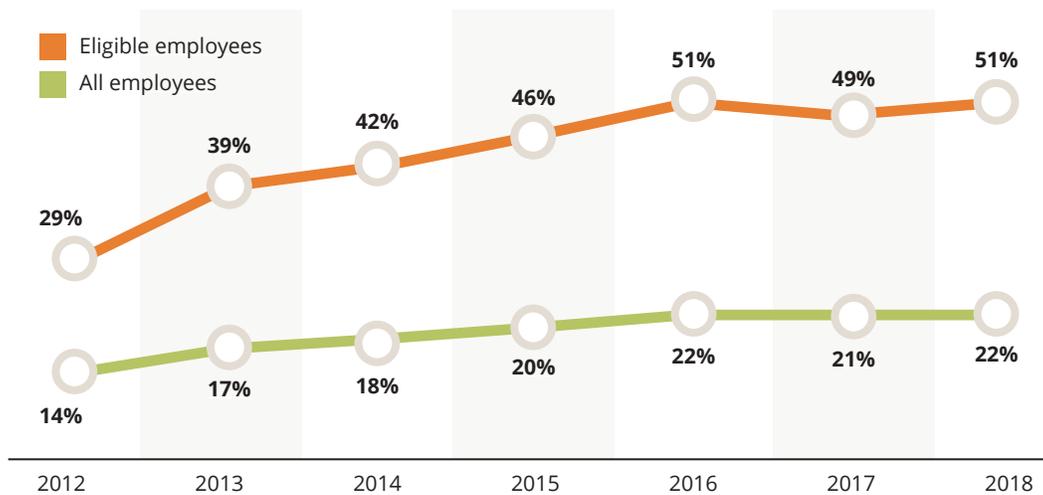
To expand telework in the public sector, Virginia's [SB 877](#) assigns the state's Secretary of Administration new duties promoting telecommuting and alternative work schedules. The legislation directs the secretary to pursue policy and legislative initiatives promoting telecommuting. This includes assisting state agencies and localities in planning and administering programs promoting telework. The secretary must also report annually to the General Assembly on telework participation levels. To expand telework in the private sector, the bill allows the secretary to aid private sector employers in Virginia in developing telecommuting and alternative work scheduling programs. This public-private coordination extends into the development of incentives for private sector companies to implement employee telecommuting policies.

Federal Actions

The nation's largest employer, the federal government, is also expanding telework. Halfway through his first term, President Barack Obama signed the [Telework Enhancement Act](#) of 2010. The law greatly increased telework opportunities among federal workers by requiring all executive agency heads to develop telework plans and encourage employees to use them. In its most [recent report](#) to Congress, the U.S. Office of Personnel Management (OPM)—the federal human resources agency—found federal telework participation rates hovering around 22% before the COVID-19 pandemic.

Telework Participation, FY 2012-2018

Telework participation has leveled off, with 22% of all employees and 51% of eligible employees teleworking in 2018.



Source: U.S. Office of Personnel Management

On March 3, 2020, the OPM released [Preliminary Guidance to Agencies During COVID-19](#), a memorandum outlining operational recommendations from the White House Coronavirus Task Force. In the document, OPM urged agencies to become telework-ready, identifying as many eligible employees as possible in their continuity of operations plans. Heeding OPM guidance, agencies quickly extended telework capabilities to eligible federal workers in the spring, transitioning many into the virtual environment for the first time. The U.S. Equal Employment Opportunity Commission released further [federal guidance](#) to state and local governments, as well as private employers, on telework policies as they relate to the ADA and other Equal Employment Opportunity laws.

With the fall of 2020 bringing a new wave of coronavirus cases and hospitalizations, and critics wary of a premature return, Congress is considering bipartisan legislation to encourage the use of telework. [The Pandemic Federal Telework Act of 2020](#), sponsored by Senators James Lankford (R-Okla.), Kyrsten Sinema (D-Ariz.) and Chris Van Hollen (D-Md.), extends full-time telework to all eligible federal employees during the COVID-19 pandemic. Additionally, the proposed legislation invests in telework projects from the Technology Modernization Fund.

To ease the financial strain of state spending on COVID-19 mitigation and response measures, Congress included \$150 billion in direct assistance for state, local and tribal governments as part of the Coronavirus Aid, Relief and Economic Security (CARES) Act. Known as the Coronavirus Relief Fund (CRF), each state received a minimum allocation of \$1.25 billion, and local governments with a population of at least 500,000 were eligible for direct payments. Provided the funds are spent by Dec. 30, 2020, the law authorized states and other government recipients to use their funds to expand broadband capacity for distance learning and telework. NCSL is actively [tracking state CRF allocations](#).

Looking Ahead: Opportunities for People with Disabilities

Remote work arrangements can be effective accommodations for various disability-related reasons. According to the Job Accommodation Network (JAN), [flexible scheduling](#), [alternative work arrangements and transitions to telework](#) are among the most frequently requested accommodations the organization fields. The flexibility offered within these arrangements lessens the worry over potential loss of employment due to attendance issues.

According to a [recent survey](#) by the Society for Human Resource Management (SHRM), 5% of organization respondents report being more likely to hire an individual with a disability now than before the COVID-19 pandemic. SHRM's report highlighted an overall increase in hiring pool diversity because of emergency telework transitions. As more states and employers expand telework policies, that figure could increase.

New Jersey's [SB 3017](#) seeks to extend telework as an accommodation to all state employees whose jobs can be done remotely, with some restrictions. Under the considered legislation, all state employers would be required to accommodate telework or work-from-home arrangements. Utah made a similar move in 2019, launching a formal [telework initiative](#) for all state employees under the guidance of Lieutenant Governor Spencer J. Cox. The initiative scaled up a [2018 pilot program](#), in which the state measured a 20% improvement in overall employee performance and increased retention. Once implemented within each agency, the state expects to retain, in its first year, at least 60 employees.

The expansion of telework in New Jersey and Utah for certain state employees illustrates the benefits telework can have on all workers, regardless of disability status. Workers facing transportation barriers can now arrive at work with the touch of a button; workers requiring regular medical care can more easily attend appointments. This change creates opportunities to think differently about how we live and work. With telework here to stay, policymakers are more well-positioned than ever to extend inclusive telework policies to all.

The National Conference of State Legislatures, in conjunction with the [State Exchange on Employment and Disability](#), is actively tracking developments related to telework for people with disabilities during the COVID-19 pandemic.

To learn more, or for access to NCSL and partner resources, visit the Department of Labor Office of Disability Employment Policy's [Coronavirus Information and Resources](#) webpage.

NCSL's Heather Morton contributed to this report.

Additional Resources

- [Coronavirus Resources for States](#), National Conference of State Legislatures
- [The ADA and Managing Reasonable Accommodation Requests from Employees with Disabilities in Response to COVID-19](#), Job Accommodation Network
- [Work at Home/Telework as a Reasonable Accommodation](#), U.S. Equal Employment Opportunity Commission
- [NCSL Broadband 2020 Legislation](#), National Conference of State Legislatures

*The **State Exchange on Employment & Disability (SEED)**, an initiative funded by the U.S. Department of Labor's Office of Disability Employment Policy (ODEP), assists states in developing effective and inclusive workforce policies that promote disability employment. Recognizing that every state is unique, SEED offers policy options and resources states can tailor to meet their needs and goals. To this end, SEED partners with leading intermediary organizations that serve as trusted sources of information to state and local policymakers.*

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