

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 947
Committee Substitute Favorable 5/20/21

Short Title: The G.R.E.A.T. Broadband Expansion Act.

(Public)

Sponsors:

Referred to:

May 12, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE COMPLETING ACCESS TO BROADBAND PROGRAM,
3 TO CREATE A PROCESS TO ADMINISTER A GROWING RURAL ECONOMIES
4 WITH ACCESS TO TECHNOLOGY (G.R.E.A.T.) PROGRAM UTILIZING FEDERAL
5 AMERICAN RESCUE PLAN ACT FUNDS, AND TO MAKE VARIOUS CHANGES TO
6 THE G.R.E.A.T. PROGRAM.

7 The General Assembly of North Carolina enacts:

8
9 **PART I. COMPLETING ACCESS TO BROADBAND PROGRAM**

10 **SECTION 1.1.** Article 15 of Chapter 143B of the General Statutes is amended by
11 adding a new section to read:

12 "**§ 143B-1373.1. Completing Access to Broadband program.**

13 (a) As used in this section, the following definitions apply:

- 14 (1) Broadband service. – Terrestrially deployed internet access service with
15 transmission speeds of at least 25 megabits per second (Mbps) download and
16 at least three megabits per second upload (25:3).
- 17 (2) Department. – The Department of Information Technology.
- 18 (3) Eligible area. – An area that is unserved or underserved in a county. A county
19 that has utilized federal funding for broadband infrastructure projects on or
20 after May 1, 2021, is not eligible.
- 21 (4) Office. – The Broadband Infrastructure Office within the Department of
22 Information Technology.
- 23 (5) Project area. – An eligible area that is jointly determined by a requesting
24 county and the Broadband Infrastructure Office within the Department of
25 Information Technology as requiring project funding under this section to
26 further complete the deployment of broadband service in the county.
- 27 (6) Unserved or underserved. – A location within a county that has no deployment
28 of broadband service or that has internet access service that does not meet the
29 definition of broadband service. Areas where a private provider has been
30 designated to receive funds through other State- or federally funded programs
31 designed specifically for broadband deployment shall be considered served if
32 such funding is intended to result in construction of broadband in the area
33 within 18 months or for the duration of the federal funding program for that
34 area, or if the funding recipient is otherwise in good standing with the funding
35 agency's regulations governing the funding program.



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1 (b) The Completing Access to Broadband Fund (CAB Fund) is established as a special
2 revenue fund in the Department of Information Technology. The Secretary may award grants
3 from the CAB Fund projects meeting the criteria established under this section. State funds
4 appropriated to this Fund shall be considered an information technology project within the
5 meaning of G.S. 143C-1-2. The Office shall establish procedures in accordance with this section
6 that allow every county in the State to participate in the Completing Access to Broadband
7 program. Monies awarded from the CAB Fund shall be used for infrastructure and infrastructure
8 costs, as those terms are defined in G.S. 143B-1373(a). The State shall not be obligated for funds
9 committed for project costs from the CAB Fund in excess of those sums appropriated by the
10 General Assembly to the CAB Fund.

11 (c) In collaboration with the Broadband Infrastructure Office, a county may request
12 funding under this section for either a defined eligible project area that is mutually identified by
13 the county and the Office or for a project that was not awarded a grant in the most recent round
14 of grant awards under G.S. 143B-1373. All identified projects shall be subject to the bid process
15 requirements in this subsection. In selecting project areas to receive funding, the Office shall give
16 priority to eligible areas that a county has requested funding for based upon utilizing the Office's
17 Community Broadband Planning Playbook and those counties that meet the criteria established
18 in subsection (e) of this section. The Department shall utilize its authority under Part 4 of this
19 Article to develop competitive bid processes for the procurement of the construction, installation,
20 and operation of broadband infrastructure. Notwithstanding Article 8 of Chapter 143 of the
21 General Statutes, or any other provision of law to the contrary, the Department may delegate to
22 a county the authority to select a provider for the project area in accordance with Part 4 of this
23 Article. The Department shall reserve the authority to approve the selection of a county pursuant
24 to this subsection. Unless the county has bid processes acceptable to the Office, the Office shall
25 utilize customizable forms and procedures developed by the Department for the purposes of this
26 subsection. Selections made pursuant to this subsection are not subject to the Department's
27 administrative review authority under Article 3A of Chapter 150B of the General Statutes or the
28 Department's administrative rules regarding information technology bid protests and contested
29 case procedures. Selection of project areas shall be subject to the protections provided in
30 G.S. 143B-1373(c). In conjunction with the bid process, a proposed project area shall be posted
31 on the Department's website for a period of at least 10 days. Upon submission of credible
32 evidence, a broadband service provider may request a project scope adjustment to the Office in
33 accordance with G.S. 143B-1373(e). Upon a finding that the evidence submitted by the
34 broadband service provider is credible, the Office shall work with the county to amend the scope
35 of the project. The Office shall develop and administer any agreement entered into pursuant to
36 this section. Nothing in this subsection shall be deemed to grant authority for a county to own,
37 operate, or otherwise control broadband infrastructure contracted for under this section.

38 (d) A broadband service provider selected for a project under this section may provide
39 up to thirty percent (30%) of the total estimated project cost. The Office may commit up to
40 thirty-five percent (35%) of the total estimated project cost from monies in the CAB Fund. The
41 county requesting the project shall be responsible for at least thirty-five percent (35%) of the total
42 estimated project cost and shall utilize federal American Rescue Plan Act (P.L. 117-2) funds or
43 nonrestricted general funds for that purpose. In the event CAB Fund monies are insufficient to
44 fund a project, a county may increase its share of the total estimated project cost, or the Office
45 may adjust the scope of the project to meet the level of available funding. No county may receive
46 more than four million dollars (\$4,000,000) in aggregate funding from the CAB Fund in any
47 single fiscal year.

48 (e) Notwithstanding the project cost responsibility allocations in subsection (d) of this
49 section, for a county receiving from the federal government less than an aggregate of eight
50 million dollars (\$8,000,000) in federal American Rescue Plan Act (P.L. 117-2) funds, a
51 broadband service provider selected for a project shall provide not less than fifteen percent (15%)

1 of the total estimated project cost. If a broadband service provider provides more than fifteen
 2 percent (15%) of the total estimated project cost, the State and county cost responsibilities shall
 3 be equally apportioned. The following cost responsibility allocations for counties meeting the
 4 requirements of this subsection and the State apply:

<u>Direct Federal Funds Received</u>	<u>County Responsibility</u>	<u>State Responsibility</u>
\$250,000, up to \$4,000,000	5%, minimum	Up to 80%
\$4,000,000, up to \$8,000,000	10%, minimum	Up to 75%

8 (f) A broadband service provider selected for a project under this section shall enter into
 9 an agreement with the Office that shall include the project description, time lines, benchmarks,
 10 proposed broadband speeds, and any other information and documentation the Office deems
 11 necessary. All proposed broadband speeds must meet or exceed the federal guidelines for use of
 12 American Rescue Plan Act (P.L. 117-2) funds. Upon execution of an agreement, the county shall
 13 provide its portion of the total estimated project costs to the Office to be combined with CAB
 14 Funds awarded for the project and placed in a separate project account. The Office shall provide
 15 project oversight and, upon completion of established benchmarks in the project agreement, the
 16 Office shall disburse funds from the project account to the broadband service provider. The
 17 forfeiture provisions in G.S. 143B-1373(l) shall apply to agreements entered into under this
 18 section."

19
 20 **PART II. G.R.E.A.T. AMERICAN RESCUE PLAN ACT FUND ADMINISTRATION**

21 **SECTION 2.1.** From the funds appropriated in Part IV of this act, and in accordance
 22 with applicable federal guidelines, the Department of Information Technology shall administer
 23 broadband infrastructure grants through the Growing Rural Economies with Access to
 24 Technology grant program. Grant applications shall be submitted and grant funds shall be
 25 awarded pursuant to G.S. 143B-1373, with the exception of the following:

- 26 (1) The definition of "eligible economically distressed county" in
 27 G.S. 143B-1373(a) shall mean a county designated as a development tier one
 28 or tier two area, as defined in G.S. 143B-437.08, or a rural census tract, as
 29 defined in G.S. 143B-472.127(a)(2), located in any other county. For the
 30 purposes of this subdivision, the tier designation that is in effect as of the
 31 beginning of a fiscal year shall be applied for all grants awarded for that fiscal
 32 year. With the exception of funds expended under this section or under
 33 G.S. 143B-1373.1, a county that has utilized federal funding for broadband
 34 infrastructure on or after May 1, 2021, shall be ineligible.
- 35 (2) The definition of "eligible project" in G.S. 143B-1373(a) shall be a discrete
 36 and specific project located in an unserved economically distressed area
 37 seeking to provide broadband service to homes, businesses, and community
 38 anchor points not currently served. Eligible projects do not include middle
 39 mile, backhaul, and other similar projects not directed at broadband
 40 service-to-end users. If a contiguous project area crosses from one eligible
 41 county into one or more eligible adjacent counties, for the purposes of this
 42 section, the project shall be deemed to be located in the county where the
 43 greatest number of unserved households are proposed to be served.
- 44 (3) The financial contribution restrictions for partnerships in
 45 G.S. 143B-1373(a)(11a) are removed.
- 46 (4) The definition of "unserved area" in G.S. 143B-1373(a) shall be a designated
 47 geographic area that is presently without access to broadband service, as
 48 defined in G.S. 143B-1373(a), or where internet access service does not meet
 49 the definition of broadband service. Areas where a private provider has been
 50 designated to receive funds through other State- or federally funded programs
 51 designed specifically for broadband deployment shall be considered served if

1 such funding is intended to result in construction of broadband in the area
2 within 18 months or for the duration of the federal funding program for that
3 area or if the funding recipient is otherwise in good standing with the funding
4 agency's regulations governing the funding program.

5 (5) The provisions of G.S. 143B-1373(c) are replaced with the following:

6 A private provider receiving State or federal funds to deploy broadband
7 service in unserved areas may qualify such area for protection by submitting
8 a listing of the census blocks, or portions thereof, comprising the State- or
9 federally funded project areas in a manner prescribed by the Office. The
10 Office shall only utilize this data to update maps of census blocks to reflect
11 these census blocks, or portions thereof, as being served. Failure on the part
12 of a provider to submit the listing of census blocks by the cutoff date shall
13 result in those areas being eligible for inclusion under the G.R.E.A.T. grant
14 program during subsequent program years. The Office shall use the census
15 block data provided only for mapping of unserved areas. A project area shall
16 remain protected for a period of 18 months from the submission of the listing
17 information required under this subdivision; provided, however, a private
18 provider that has received protection for a project area shall submit written
19 documentation by April 30 of the year following the program year that
20 broadband deployment has begun, been completed, or is otherwise in good
21 standing, in the census blocks, or portions thereof, that have been deemed
22 ineligible by the Office under this subsection. Upon submission of
23 documentation satisfactory to the Office, a protected project area shall remain
24 protected until project completion. A project area where a private provider has
25 forfeited or otherwise defaulted on an agreement in connection with receipt of
26 funds to deploy broadband service shall be eligible for inclusion in this
27 program in subsequent program years. Information provided to the Office
28 pursuant to this subdivision is not a public record, as that term is defined in
29 G.S. 132-1.

30 (6) The provisions of G.S. 143B-1373(d1) are replaced with the following:

31 An application submitted pursuant to this section shall include a project area
32 map that provides location-specific data in a format required by the Office. A
33 provider submitting an application pursuant to this section shall bear the
34 burden of proof that the proposed area to be served can, in fact, be served
35 using the proposed technology. The burden of proof may be satisfied by the
36 submission of data, maps, and any other information satisfactory to the Office,
37 demonstrating that the area and number of prospective broadband recipients
38 proposed to be served can be provided the minimum upload and download
39 speeds indicated in the application.

40 (7) The provisions in G.S. 143B-1373(e) are replaced with the following:

41 Applications shall be made publicly available by posting on the website of the
42 Department of Information Technology for a period of at least 20 days prior
43 to award. During the 20-day period, any interested party may submit
44 comments to the Secretary concerning any pending application. A broadband
45 service provider currently providing broadband service in a project area
46 proposed in an application may submit a protest of any application on the
47 grounds the proposed project covers an area that is a protected area under
48 subsection (c) of this section or that the proposed project area contains ten
49 percent (10%) or more of total households with access to broadband service
50 as defined in this section. Protests shall be submitted in writing, accompanied
51 by all credible and relevant supporting documentation, including specific

1 addresses, and detailed mapping demonstrating that the protesting broadband
2 provider has installed infrastructure sufficient to provide broadband service to
3 the specific addresses provided in the protest, along with an attestation that
4 broadband service is available to the exterior of the structure at the specific
5 addresses indicated. The protest shall be considered by the Office in
6 connection with the review of the application. Upon submission of evidence
7 satisfactory to the Office that the proposed project area includes a protected
8 area or prospective broadband recipients that are presently served, as
9 measured using a methodology satisfactory to the Office, the Office may work
10 with an applicant to amend an application to reduce the number of unserved
11 prospective broadband recipients in the project area to reflect an accurate level
12 of current broadband service. The Office may revise application scores in
13 accordance with amended applications; however, the Office may reject any
14 amended application resulting in a lower application score to the extent that
15 the lower score would have impacted the ranking of the application in the
16 initial scoring process. For applications with filed protests, the Secretary shall
17 issue a written decision to the protesting party at least 15 days prior to the
18 approval of that application. Following a protest that is granted for a portion
19 of the application, the Office may release to an applicant the locations or areas
20 declared ineligible. The information released to the applicant is not a public
21 record, as that term is defined under G.S. 132-1, and shall remain confidential.
22 Any provider submitting a protest shall verify that the information in the
23 protest is accurate and that the protest is submitted in good faith. The Office
24 may deny any protest or application that contains inaccurate information.

25 As a means of resolving a protest, the Office may utilize speed tests to
26 determine if the protested area or individual households or businesses
27 currently have access to broadband service as defined in this section. The
28 Department shall publish the speed test methodology it uses to assess speed
29 levels pursuant to this section. All decisions regarding the speed test to be
30 utilized and the manner by which the speed tests are applied shall be made by
31 the Secretary or the Secretary's designee.

- 32 (8) The partnership scoring provision in G.S. 143B-1373(g)(1) is replaced with
33 the following:

34 Projects proposing a partnership shall be given points in their application
35 score. A proposed partnership shall (i) be in writing, (ii) provide the specific
36 terms and conditions of the partnership, and (iii) be signed and attested to by
37 the parties. A county or nonprofit may enter into proposed agreements with
38 more than one applicant. For the purposes of scoring under this subdivision,
39 one point shall be given for a proposed partnership that will make available
40 existing infrastructure that has been installed for the partner's enterprise,
41 nonconsumer broadband purposes, or any other property, buildings, or
42 structures owned by the partner, for a proposed project under this section. A
43 county or nonprofit entity that proposes to provide a financial match shall be
44 given one point. Notwithstanding Article 8 of Chapter 143 of the General
45 Statutes, or any provision of law to the contrary, a county may use unrestricted
46 general funds or federal American Rescue Plan Act (P.L. 117-1) funds
47 allocated to it for the purpose of improving broadband infrastructure for a
48 financial match. An applicant shall receive two additional points for a
49 proposed partnership where the county's financial match is comprised entirely
50 from federal American Rescue Plan Act (P.L. 117-2) funds intended for
51 broadband infrastructure. Nothing in this subdivision shall be deemed to

authorize a county to provide broadband service. For projects where the application includes a proposed partnership, the agreement shall contain a provision requiring a certification of the existence of the partnership prior to disbursement of grant funds.

(9) The scoring model measures contained in G.S. 143B-1373(g)(5) are replaced with the following:

a. For projects proposed in the Piedmont or Coastal Plain Regions:

Est. Cost per Household/Business	Points
Up to \$3,500	9
\$3,500, up to \$5,000	8
\$5,000, up to \$6,000	7
\$6,000 and over	0

b. For projects located in the Mountain Region:

Est. Cost per Household/Business	Points
Up to \$4,500	9
\$4,500, up to \$6,000	8
\$6,000, up to \$7,000	7
\$7,000 and over	0

(10) The base speed multiplier provided in G.S. 143B-1373(g)(6) shall be administered as follows:

Minimum Download:	Score Multiplier
Minimum Upload	
100:20 Mbps. or greater.	1.00
100 Mbps., symmetrical	2.00
Greater than 100:100 Mbps.	3.00

An applicant proposing minimum download and minimum upload speeds of less than 100 Mbps., symmetrical, shall provide an attestation to the Office that, upon project completion, the completed infrastructure will be scalable to a minimum of 100 Mbps. download and 100 Mbps. upload on or before December 31, 2026, subject to the return of all federal American Rescue Plan Act (P.L. 117-2) funds received under this section and all of the grant forfeiture provisions in G.S. 143B-1373(l).

(11) Additional points shall be awarded to counties providing a portion of a project's matching funds entirely from federal American Rescue Plan Act (P.L. 117-2) funds the county received directly from the federal government. For counties that received an aggregate of eight million dollars (\$8,000,000) or more directly from the federal government, the following points shall be added to the application score:

County Match	Points
\$1,000,000, up to \$2,000,000	1
\$2,000,000, up to \$4,000,000	2
\$4,000,000, up to \$6,000,000	3
\$6,000,000, up to \$8,000,000	4
\$8,000,000, or greater	5

For counties that (i) received less than an aggregate of eight million dollars (\$8,000,000) directly from the federal government from the American Rescue Plan Act (P.L. 117-2) and (ii) are providing a portion of a project's matching funds using the entirety of the federal funds the county received, together with

any other unrestricted general fund monies, if needed, the following points shall be added to the application score:

County Match	Points
\$250,000, up to \$6,000,000	6
\$6,000,000, up to \$8,000,000	7

(12) The grant limitation amounts in G.S. 143B-1373(i) are changed as follows: A single grant award shall not exceed four million dollars (\$4,000,000). No combination of grant awards involving any single county may exceed eight million dollars (\$8,000,000) in a fiscal year. Any project that is applied for and not funded in an award round under this section shall be eligible for funding under the Completing Access to Broadband program pursuant to G.S. 143B-1373.1.

(13) The provisions of G.S. 143B-1373(j) are replaced with the following: Grant recipients are required to provide matching funds based upon the application scoring pursuant to this section in the following minimum amounts:

Score	Matching Requirement
12.0 points or less	50%
Greater than 12.0 points, but less than 17.5 points	45%
17.5 points, up to 22.0 points	40%
Greater than 22.0 points	30%

Up to fifty percent (50%) of matching funds paid by the grant recipient may be comprised of third-party funding including funds from other grant programs or federal funds, to the extent applicable rules permit. A grant recipient receiving a portion of matching funds from a county, where the county portion of matching funds is partially comprised of federal American Rescue Plan Act (P.L. 117-2) funding, may have the grant recipient's portion of the matching requirement imposed under this subdivision reduced to a maximum of twenty-five percent (25%). A grant recipient receiving a portion of matching funds from a county, where the county portion of matching funds is entirely comprised of federal American Rescue Plan Act (P.L. 117-2) funding, may have the grant recipient's portion of the matching requirement imposed under this subdivision reduced to a maximum of fifteen percent (15%).

SECTION 2.2. The Department of Information Technology shall utilize a portion of the administrative funds authorized in Section 4.2 of this act for legal and appraisal services needed to assist the Department of Administration in administering the provisions of G.S. 146-29.2(b1). The Department of Administration shall utilize all available resources to prioritize the review and disposition of requests for collocation, installation, and operation of equipment for broadband providers receiving grants under this Part.

PART III. VARIOUS CHANGES TO THE G.R.E.A.T. PROGRAM

SECTION 3.1. G.S. 143B-1373 reads as rewritten:

"§ 143B-1373. Growing Rural Economies with Access to Technology (GREAT) program.

(a) As used in this section, the following definitions apply:

- ...
- (5) Eligible economically distressed ~~county-area~~ county. – A county designated as a development tier one or tier two area, as defined in ~~G.S. 143B-473.08~~ G.S. 143B-437.08, or a rural census tract, as defined in G.S. 143B-472.127(a)(2), located in any other county.

1 (6) Eligible project. – An eligible project is a discrete and specific project located
2 in an unserved economically distressed area ~~of an economically distressed~~
3 ~~county~~ seeking to provide broadband service to homes, businesses, and
4 community anchor points not currently served. Eligible projects do not include
5 middle mile, backhaul, and other similar projects not directed at broadband
6 service to end users. If a contiguous project area crosses from one eligible
7 county into one or more eligible adjacent counties, for the purposes of this
8 section, the project shall be deemed to be located in the county where the
9 greatest number of unserved households are proposed to be served. ~~To qualify~~
10 ~~for an award under this section, no more than an incidental number of~~
11 ~~households or businesses, not to exceed ten percent (10%) of the total~~
12 ~~households or businesses within the boundaries of the project area submitted~~
13 ~~by the applicant, may have terrestrially deployed Internet access service with~~
14 ~~transmission speeds greater than 10 Mbps download and 1 Mbps upload.~~

15 ...
16 (14) Unserved area. – A designated geographic area that is presently without access
17 to broadband service, as defined in this section, offered by a wireline or fixed
18 wireless provider. Areas where a private provider has been designated to
19 receive funds through other ~~State~~ State or federally funded programs
20 designed specifically for broadband deployment shall be considered served if
21 such funding is intended to result in construction of broadband in the area
22 within ~~18 months~~ months or for the duration of the federal funding program
23 for that area, or if the funding recipient is otherwise in good standing with the
24 funding agency's regulations governing the funding program.

25 ...
26 (c) ~~Project areas comprised of census blocks, or portions thereof, within which a~~
27 ~~broadband provider is receiving matching funds to deploy broadband service within the next 18~~
28 ~~months are ineligible for the GREAT program. It is essential for the Office to know the location~~
29 ~~of census blocks, or portions thereof, comprising these areas so it can determine project~~
30 ~~eligibility. A private provider receiving Universal Service or Connect America Phase II, or~~
31 ~~nonfederal State or federal funds to deploy broadband service in unserved areas may qualify such~~
32 ~~area for protection by submitting within 60 days of the application period a listing of the census~~
33 ~~blocks, or portions thereof, comprising the State- or federally funded project areas meeting this~~
34 ~~requirement and nothing more to in a manner prescribed by the Office. In future program years,~~
35 ~~the cutoff date for submitting this census block data shall be established by the Office, but shall~~
36 ~~be not less than 60 days prior to the beginning date of the application period. This will enable the~~
37 ~~office to update maps and advise applicants as to the unserved areas of the State that are eligible~~
38 ~~for consideration in that program year. The Office shall only utilize this data to update maps of~~
39 ~~census blocks to reflect these census blocks, or portions thereof, as being served. Failure on the~~
40 ~~part of a provider to submit the listing of census blocks by the cutoff date shall result in those~~
41 ~~areas being eligible for inclusion under this program during the upcoming subsequent program~~
42 ~~year. years. The Office shall use the census block data provided only for mapping of unserved~~
43 ~~areas. Upon expiration of the 18-month reservation period described in this subsection, A project~~
44 ~~area shall remain protected for a period of 18 months from the submission of the listing~~
45 ~~information required under this subsection; provided, however, a private provider that has~~
46 ~~received a reservation of census blocks protection for a project area shall submit written~~
47 ~~documentation by April 30 of the year following the program year that broadband deployment~~
48 ~~has begun or been completed-completed, or is otherwise in good standing, in the census blocks,~~
49 ~~or portions thereof, that have been deemed ineligible by the Office due to the existence of a~~
50 ~~federally funded project area. under this subsection. Upon submission of documentation~~
51 ~~satisfactory to the Office, a protected project area shall remain protected until project completion.~~

1 A project area where a private provider has forfeited or otherwise defaulted on an agreement in
2 connection with receipt of funds to deploy broadband service shall be eligible for inclusion in
3 this program in subsequent program years. Information provided to the Office pursuant to this
4 subsection is not a public record, as that term is defined in G.S. 132-1.

5 ...

6 (d1) An application submitted pursuant to this section shall include a project area map that
7 provides location-specific data in a format required by the Office. A provider submitting an
8 application pursuant to this section shall bear the burden of proof that the proposed area to be
9 served can, in fact, be served using the proposed technology. The burden of proof may be
10 satisfied by the submission of data, maps, and any other information satisfactory to the Office,
11 demonstrating that the area and number of prospective broadband recipients proposed to be
12 served can be provided the minimum upload and download speeds indicated in the application.

13 (e) Applications shall be made publicly available by posting on the Web site of the
14 Department of Information Technology for a period of at least ~~30~~20 days prior to award. During
15 the ~~30-day~~20-day period, any interested party may submit comments to the Secretary concerning
16 any pending application. A broadband service provider of broadband services currently providing
17 broadband service in a project area proposed in an application may submit a protest of any
18 application on the grounds the proposed project covers an area that is ~~not an eligible~~ a protected
19 area under subsection (c) of this section. ~~section,~~ or that the proposed project area contains ten
20 percent (10%) or more of total households with access to broadband service as defined in this
21 section. Protests shall be submitted in writing, accompanied by all credible and relevant
22 supporting documentation, ~~and~~ including specific addresses, and detailed mapping
23 demonstrating that the protesting broadband provider has installed infrastructure sufficient to
24 provide broadband service to the specific addresses provided in the protest, along with an
25 attestation that broadband service is available in the public right-of-way at the specific addresses
26 indicated. The protest shall be considered by the Office in connection with the review of the
27 application. Upon submission of evidence satisfactory to the Office that the proposed project area
28 includes a protected area or prospective broadband recipients that are presently served, as
29 measured using a methodology satisfactory to the Office, the Office may work with an applicant
30 to amend an application to reduce the number of unserved prospective broadband recipients in
31 the project area to reflect an accurate level of current broadband service. The Office may revise
32 application scores in accordance with amended applications; however, the Office may reject any
33 amended application resulting in a lower application score to the extent that the lower score
34 would have impacted the ranking of the application in the initial scoring process. For applications
35 with filed protests, the Secretary shall issue a written decision to the protesting party at least 15
36 days prior to the approval of that application. Following a protest that is granted for a portion of
37 the application, the Office may release to an applicant the locations or areas declared ineligible.
38 The information released to the applicant is not a public record, as that term is defined under
39 G.S. 132-1, and shall remain confidential. Any provider submitting a protest shall verify that the
40 information in the protest is accurate and that the protest is submitted in good faith. The Office
41 may deny any protest or application that contains inaccurate information.

42 As a means of resolving a protest, the Office may utilize speed tests to determine if the
43 protested area or individual households or businesses currently have access to broadband service
44 as defined in this section. The Department shall publish the speed test methodology it uses to
45 assess speed levels pursuant to this section. All decisions regarding the speed test to be utilized
46 and the manner by which the speed tests are applied shall be made by the Secretary or the
47 Secretary's designee.

48 ...

49 (g) Applications shall be scored based upon a system that awards a single point for criteria
50 considered to be the minimum level for the provision of broadband service with additional points

1 awarded to criteria that exceed minimum levels. The Office shall score project applications in
 2 accordance with the following:

3 (1) Partnership. – Projects ~~involving proposing~~ a partnership shall be given points
 4 in their application score. A proposed partnership shall (i) be in writing, (ii)
 5 provide the specific terms and conditions of the partnership, and (iii) be signed
 6 and attested to by the parties. A county or nonprofit may enter into proposed
 7 agreements with more than one applicant. For the purposes of scoring under
 8 this subdivision, ~~a county that provides a portion of the match required by this~~
 9 ~~section or that has entered into an agreement with the applicant to one point~~
 10 shall be given for a proposed partnership that will make available its existing
 11 infrastructure that has been installed for the county's partner's enterprise,
 12 nonconsumer broadband purposes, or any other property, buildings, or
 13 structures owned by the county, partner, for a proposed project under this
 14 section shall be considered a partnership. ~~section.~~ A county ~~may provide a~~
 15 ~~portion of the or nonprofit entity that proposes to provide a financial match~~
 16 ~~required by this section pursuant to G.S. 153A-349.60. Projects involving~~
 17 ~~partnerships shall be given six points in their application score.~~ shall be given
 18 one point. Notwithstanding Article 8 of Chapter 143 of the General Statutes,
 19 or any provision of law to the contrary, a county may use unrestricted general
 20 funds or federal funding allocated to it for the purpose of improving
 21 broadband infrastructure for a financial match. Funds received from the
 22 federal American Rescue Plan Act (P.L. 117-2) may not be used for the
 23 purposes of this subdivision. Nothing in this subdivision shall be deemed to
 24 authorize a county to provide broadband service.

25 ...
 26 (5) Cost per household or business. – The Office shall give additional points to
 27 projects that minimize the infrastructure cost of the proposed project per
 28 household or business, based upon information available to the Office. Points
 29 shall be given to projects based upon the estimated cost per household or
 30 business as follows:

31 a. For projects proposed in the Piedmont or Coastal Plain Regions:

32 Est. Cost per	Partnership Using	Private Provider
33 Household/Business	Infrastructure	Only Points
34 Up to \$1,700 \$3,500	4	9
35 \$1,701-2,200 \$3,500, up to \$5,000	3	8
36 \$2,201-2,700 \$5,000, up to \$6,000	2	7
37 \$2,701-3,200 \$6,000 and over	1	6

38 b. For projects located in the Mountain Region:

39 Est. Cost per	Partnership Using	Private Provider
40 Household/Business	Infrastructure	Only Points
41 Up to \$2,500 \$4,500	4	9
42 \$2,501-3,300 \$4,500, up to \$6,000	3	8
43 \$3,301-3,800 \$6,000, up to \$7,000	2	7
44 \$3,801-4,300 \$7,000 and over	1	6

45 (6) Base speed multiplier. – Projects that will provide minimum download and
 46 minimum upload speeds shall have the aggregate points given under
 47 subdivisions (1) through (5) of this subsection multiplied by a factor at the
 48 level indicated in the table below:

49 Minimum Download:	Score Multiplier
50 Minimum Upload	
51 25:3 Mbps. Up to 100:10 Mbps.	1.35

1	100:10 Mbps. up to 200:20 Mbps.	1.75
2	200:20 Mbps. or greater.	2.00
3	<u>100 Mbps., symmetrical.</u>	<u>3.00</u>
4	<u>Greater than 100:100 Mbps.</u>	<u>4.00</u>

5 ...

6 (i) **(Effective July 1, 2021)** Applications receiving the highest score shall receive
 7 priority status for the awarding of grants pursuant this section. As a means of breaking a tie for
 8 applications receiving the same score, the Office shall give priority to the application proposing
 9 to serve the highest number of new households at the lowest cost per household or business.
 10 Applicants awarded grants pursuant to this section shall enter into an agreement with the Office.
 11 The agreement shall contain all of the elements outlined in subsection (d) of this section and any
 12 other provisions the Office may require. The agreement shall contain a provision governing the
 13 time line and minimum requirements and thresholds for disbursement of grant funds measured
 14 by the progress of the project. For projects where the application includes a proposed partnership,
 15 the agreement shall contain a provision requiring a certification of the existence of the partnership
 16 prior to disbursement of grant funds. Grant funds shall be disbursed only upon verification by
 17 the Office that the terms of the agreement have been fulfilled according to the progress milestones
 18 contained in the agreement. At project completion, the grant recipient shall certify and provide
 19 to the Office evidence consistent with Federal Communications Commission attestation that
 20 either speeds greater than those identified in the application guidelines or the proposed upstream
 21 and downstream broadband speeds identified in the application guidelines, and for which a base
 22 speed multiplier was awarded pursuant to subdivision (6) of subsection (g) of this section, are
 23 available throughout the project area prior to any end user connections. A single grant award
 24 shall not exceed ~~two four~~ million dollars ~~(\$2,000,000)~~. ~~No more than one grant may be awarded~~
 25 ~~per fiscal year for a project in any one eligible economically distressed county; except that if~~
 26 ~~(\$4,000,000). No combination of grant awards under this section involving any single county~~
 27 ~~may exceed eight million dollars (\$8,000,000) in a fiscal year. If funds remain available after all~~
 28 top scoring projects have been awarded a grant, then the next highest scoring projects may be
 29 awarded a grant even if the project is located in a county where a grant has been awarded in that
 30 fiscal year provided the total award associated with that county does not exceed ~~two eight~~ million
 31 dollars ~~(\$2,000,000)~~ ~~(\$8,000,000)~~ in that fiscal year.

32 No more than one-half of the funds appropriated to the fund established in subsection (b) of
 33 this section shall be disbursed for eligible projects located in a development tier two or tier three
 34 county. If the Office has not received enough grant applications for projects located in a
 35 development tier one county to disburse one-half of the funds appropriated to the fund established
 36 in subsection (b) of this section as of March 1 of each year, then the Office may allocate any
 37 unencumbered funds in the fund for eligible projects located in a development tier two or tier
 38 three county.

39 Any project that is applied for and not funded in an award round under this section shall be
 40 eligible for funding under the Completing Access to Broadband program pursuant to
 41 G.S. 143B-1373.1.

42 (j) Grant recipients are required to provide matching funds based upon the application
 43 scoring pursuant to this section in the following minimum amounts:

44	Score	Matching Requirement
45	12.0 points or less	55% <u>50%</u>
46	Greater than 12.0 points, but less than 17.5 points	50% <u>45%</u>
47	17.5 points, up to 22.0 points	45% <u>40%</u>
48	Greater than 22.0 points	35% <u>30%</u>

49 Up to fifty percent (50%) of matching funds paid by the grant recipient may be comprised of
 50 third-party funding including funds from other grant programs. Funds from the Universal Service
 51 Fund shall not be used for any portion of the required matching funds. Any other current or future

1 federal funds may be used, including any future phase of the Connect America Fund, for the
2 required matching funds within the parameters of this program.

3 ...

4 (p) The Department may use up to one percent (1.0%) of ~~the State funds~~ appropriated
5 ~~funds each fiscal year~~ to administer the ~~GREAT program~~ program established under this
6 section."

7 8 **PART IV. APPROPRIATIONS**

9 **SECTION 4.1.** There is appropriated from the State Fiscal Recovery Fund,
10 established in Section 2.2 of Senate Bill 172, 2021 Regular Session, to the Growing Rural
11 Economies with Access to Technology Fund the sum of three hundred fifty million dollars
12 (\$350,000,000) in nonrecurring funds for the 2021-2022 fiscal year for broadband infrastructure
13 grants awarded pursuant to G.S. 143B-1373, as modified under Part II of this act.

14 **SECTION 4.2.** Subject to applicable federal guidelines, of the funds appropriated in
15 this act, the Department of Information Technology may use up to one and one-tenth percent
16 (1.1%) for administration of broadband grant programs receiving American Rescue Plan Act
17 (P.L. 117-2) funds in this act.

18 **SECTION 4.3.** It is the intent of the General Assembly, in subsequent legislation, to
19 appropriate funds received by the State of North Carolina pursuant to the American Rescue Plan
20 Act of 2021 (P.L. 117-2) in the amount of four hundred million dollars (\$400,000,000) for the
21 Completing Access to Broadband program established in Part I of this act.

22 23 **PART V. DEVELOPMENT TIER FREEZE AND EFFECTIVE DATE**

24 **SECTION 5.1.** For grant applications submitted through the 2024-2025 fiscal year
25 pursuant to G.S. 143B-1373 and G.S. 143B-1373.1, the Office of Broadband Infrastructure shall
26 utilize the development tier status in the annual ranking performed by the Department of
27 Commerce pursuant to G.S. 143B-437.08 for the 2020 calendar year to offset any disparate
28 economic impacts of the COVID-19 pandemic that may be reflected in current and subsequent
29 development tier rankings.

30 **SECTION 5.2.** This act becomes effective July 1, 2021.