

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 632
Apr 17, 2023
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10319-MQa-24

Short Title: Rural Broadband Transformation Act. (Public)

Sponsors: Representative Reives.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO FACILITATE ACCESS TO BROADBAND BY MODERNIZING
3 BROADBAND SPEED BENCHMARKS, PERMITTING NON-DEPLOYMENT ACCESS
4 TO CERTAIN AREAS RECEIVING BROADBAND GRANTS, AND FACILITATING
5 THE INSTALLATION OF BROADBAND INFRASTRUCTURE.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. MODERNIZE BROADBAND SPEED BENCHMARKS**

9 **SECTION 1.1.(a)** G.S. 143B-1320 reads as rewritten:

10 "**§ 143B-1320. Definitions; scope; exemptions.**

11 (a) Definitions. – The following definitions apply in this Article:

12 (1) Broadband service. – Internet access service of at least 25 megabits per second
13 download and at least 3 megabits per second upload, regardless of the
14 technology or medium used to provide the service.

15 ~~(1a)~~ (1a) CGIA. – Center for Geographic Information and Analysis.

16 ...
17 (16) Separate agency. – Any agency that has maintained responsibility for its
18 information technology personnel, operations, projects, assets, and funding.
19 The agency head shall work with the State CIO to ensure that the agency has
20 all required information technology support.

21 (16a) Served area. – A designated geographic area that presently has access to
22 broadband service. The term may also include individual homes and
23 businesses.

24 ~~(16a)~~ (16c) Significant cybersecurity incident. – A cybersecurity incident that is likely
25 to result in demonstrable harm to the State's security interests, economy,
26 critical infrastructure, or to the public confidence, civil liberties, or public
27 health and safety of the residents of North Carolina. A significant
28 cybersecurity incident is determined by the following factors:

29 ...
30 (20) Underserved area. – A designated geographic area that (i) presently does not
31 have broadband service and (ii) has transmission speeds of less than 25
32 megabits per second download and 3 megabits per second upload. The term
33 may also include individual homes and businesses.

34 (21) Unserved area. – A designated geographic area that presently does not have
35 broadband service. The term may also include individual homes and
36 businesses.



1"

2 SECTION 1.1.(b) G.S. 143B-1373 reads as rewritten:

3 **"§ 143B-1373. Growing Rural Economies with Access to Technology (GREAT) program.**

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

5 (1) Agriculture. – Activities defined in G.S. 106-581.1.

6 (2) Broadband service. – For the purposes of this section, terrestrially deployed
7 Internet access service ~~with transmission speeds of at least 25 megabits per~~
8 ~~second (Mbps) download and at least 3 megabits per second upload (25:3).~~that
9 meets the transmission speed standard for broadband service defined in
10 G.S. 143B-1320(a)(1).

11 ...

12 (14) Unserved area. – ~~A designated geographic area that is presently without access~~
13 ~~to broadband service, as defined in this section, offered by a wireline or fixed~~
14 ~~wireless provider. As defined in G.S. 143B-1320(a)(21).~~ Areas where a
15 private provider has been designated to receive funds through other State- or
16 federally funded programs designed specifically for broadband deployment
17 shall be considered served if such funding is intended to result in construction
18 of broadband in the area within 18 months or for the duration of the federal
19 funding program for that area, or if the funding recipient is otherwise in good
20 standing with the funding agency's regulations governing the funding
21 program.

22 (15) ~~Unserved household or business. — A household or business that does not~~
23 ~~presently have access to broadband service, as defined in this subsection.~~

24"

25 SECTION 1.1.(c) G.S. 143B-1374 reads as rewritten:

26 **"§ 143B-1374. Satellite-Based Broadband Grant Program.**

27 (a) The following definitions apply in this section:

28 (1) Broadband service. – Internet access service, regardless of the technology or
29 medium used to provide the service, ~~with that meets the transmission speeds~~
30 ~~that are equal to or greater than the requirements for the minimum~~
31 ~~performance tier speed standard for broadband service defined in~~
32 G.S. 143B-1320(a)(1) and with latency equal to or lesser than the
33 requirements for low latency, as both metrics are provided by the Federal
34 Communications Commission in Paragraph 39 of the report and order adopted
35 January 30, 2020, and released February 7, 2020.

36"

37 SECTION 1.1.(d) G.S. 146-29.2 reads as rewritten:

38 **"§ 146-29.2. Lease or interest in real property for communication purposes.**

39 (a) The following definitions apply in this section:

40 ...

41 (1b) Broadband. – Internet access service ~~with transmission speeds that are equal~~
42 ~~to or greater than the requirements for basic broadband tier 1 service as~~
43 ~~defined by the Federal Communications Commission for broadband data~~
44 ~~gathering and reporting, that meets the transmission speed standard for~~
45 broadband service defined in G.S. 143B-1320(a)(1), regardless of the
46 technology or medium used to provide the service.

47"

48 SECTION 1.1.(e) G.S. 153A-459 reads as rewritten:

49 **"§ 153A-459. County broadband acceleration.**

50 A county may provide grants to unaffiliated private or nonprofit providers of broadband
51 service, as that term is defined in ~~G.S. 143B-1373(a)(2),~~ G.S. 143B-1320(a)(1), for the purpose

1 of expanding broadband service in unserved areas in the county. The grants shall be awarded on
2 a technology neutral basis, shall be open to all private or nonprofit providers of broadband
3 service, and may require matching funds by the private or nonprofit providers. A county shall
4 seek and consider requests for proposal from providers prior to awarding a broadband grant and
5 shall use reasonable means to ensure that potential applicants are made aware of the grant;
6 provided, however, a county is not required to seek and consider requests for proposal when
7 providing financial or other support in connection with an application from a private provider for
8 a broadband service grant under G.S. 143B-1373. The county may use general fund revenue as
9 well as State or federal funds for the grants. For purposes of this section, the term "unserved area"
10 has the same meaning as in G.S. 143B-1373(a)(14). For any grants awarded pursuant to this
11 section after the date this section becomes effective, the term "unserved area" shall not include
12 any location where a private provider has been designated to receive funds through State- or
13 federally funded programs designed specifically for broadband service deployment if the
14 recipient of the funding is in good standing with the grantor agency's requirements regarding
15 construction build-out and time lines. Nothing in this section authorizes a county to provide
16 high-speed Internet broadband service."

17 **SECTION 1.1.(f)** G.S. 160A-340 reads as rewritten:

18 **"§ 160A-340. Definitions.**

19 The following definitions apply in this Article:

- 20 (1) City-owned communications service provider. – A city that provides
21 communications service using a communications network, whether directly,
22 indirectly, or through an interlocal agreement or a joint agency.
- 23 (2) Communications network. – A wired or wireless network for the provision of
24 communications service.
- 25 (3) Communications service. – The provision of cable, video programming,
26 telecommunications, broadband, or high-speed Internet access service to the
27 public, or any sector of the public, for a fee, regardless of the technology used
28 to deliver the service. The terms "cable service," "telecommunications
29 service," and "video programming service" have the same meanings as in
30 G.S. 105-164.3. The following is not considered the provision of
31 communications service:
 - 32 a. The sharing of data or voice between governmental entities for internal
33 governmental purposes.
 - 34 b. The remote reading or polling of data from utility or parking meters,
35 or the provisioning of energy demand reduction or smart grid services
36 for an electric, water, or sewer system.
 - 37 c. The provision of free services to the public or a subset thereof.
- 38 (4) High-speed Internet access service. – Internet access service ~~with that meets~~
39 the transmission speeds that are equal to or greater than the requirements
40 speed standard for basic broadband tier 1 service as defined by the Federal
41 Communications Commission for broadband data gathering and reporting in
42 G.S. 143B-1320(a)(1).
- 43 (5) Interlocal agreement. – An agreement between units of local government as
44 authorized by Part 1 of Article 20 of Chapter 160A of the General Statutes.
- 45 (6) Joint agency. – A joint agency created under Part 1 of Article 20 of Chapter
46 160A of the General Statutes."

47 **SECTION 1.2.(a)** G.S. 143B-1320, as amended by Section 1.1(a) of this act, reads
48 as rewritten:

49 **"§ 143B-1320. Definitions; scope; exemptions.**

- 50 (a) Definitions. – The following definitions apply in this Article:

(1) Broadband service. – Internet access service of at least ~~25~~100 megabits per second download and at least ~~3~~20 megabits per second upload, regardless of the technology or medium used to provide the service.

...
(20) Underserved area. – A designated geographic area that (i) presently does not have broadband service and (ii) has transmission speeds of less than ~~25~~100 megabits per second download and ~~3~~20 megabits per second upload. The term may also include individual homes and businesses.

(21) Unserved area. – A designated geographic area that presently does not have broadband ~~service.~~service or presently has transmission speeds of 25 megabits per second download and 3 megabits per second upload, or less, but does not have transmission speeds meeting the definition of broadband service. The term may also include individual homes and businesses.

...."

SECTION 1.2.(b) This section becomes effective July 1, 2024.

SECTION 1.3.(a) There is appropriated from the General Fund to the Department of Information Technology the sum of one hundred thousand dollars (\$100,000) in nonrecurring funds for the 2023-2024 fiscal year to update requirements of broadband programs administered by the Department that are impacted by the increased broadband speed benchmarks established in this act and other administrative costs associated with broadband grant programs.

SECTION 1.3.(b) This section becomes effective July 1, 2023.

SECTION 1.4. Except as otherwise provided, this Part is effective when it becomes law.

PART II. LEASING RURAL BROADBAND

SECTION 2.1.(a) Article 23 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-461. Authority to construct and lease broadband infrastructure.

(a) A county shall have the authority to install or maintain broadband infrastructure to be leased to a private provider in accordance with G.S. 160A-272.5 if all of the following apply:

(1) The lessee is a person operating for profit in this State to provide broadband services to customers.

(2) The county has at least one of the following:

a. More than four and three quarters percent (4.75%) of the county without a provider of broadband infrastructure according to the Federal Communications Commission.

b. A major military installation, as defined in G.S. 143-215.115.

(b) A board of county commissioners may utilize ad valorem tax levies authorized under general law, grants, or any other unencumbered funds in exercising authority granted under this section.

(c) Prior to beginning installation of broadband infrastructure under this section, a county shall prepare a report, available in the office of the clerk for at least 90 days prior to the date of the public hearing, containing at least all of the following:

(1) A business plan for providing broadband infrastructure, including plans for leasing the broadband infrastructure to a private provider.

(2) The results of a feasibility study conducted by the county to determine needs and available resources. The feasibility study shall include at least all of the following information:

a. Which areas within the county:

1. Have one or fewer wireline or fixed wireless private providers of broadband services to residential customers.

1 (2) The results of a feasibility study conducted by the city to determine needs and
2 available resources. The feasibility study shall include at least all of the
3 following information:

4 a. Which areas within the city:

5 1. Have one or fewer wireline or fixed wireless private providers
6 of broadband services to residential customers.

7 2. Have terrestrially deployed internet access service with
8 transmission speeds of 10 megabits per second (Mbps)
9 download and no more than 1 megabit per second upload
10 (10:1).

11 3. Have terrestrially deployed internet access service with
12 transmission speeds of 25 megabits per second (Mbps)
13 download and no more than 3 megabits per second upload
14 (25:3).

15 b. A determination of any areas within the city that State or federal grant
16 moneys have been awarded within the 18 months prior to the date of
17 the feasibility study to provide access to broadband. A city may rely
18 on data from the Broadband Infrastructure Office in the Department of
19 Information Technology in complying with this sub-subdivision.

20 c. A map, or sufficient written description, of the location and type of
21 broadband infrastructure proposed to be installed.

22 d. A review of the city's financials and proposed sources of revenue to
23 fund installation of broadband infrastructure.

24 (d) The city council shall hold a public hearing before adopting any resolution at a regular
25 meeting stating its intent to install broadband infrastructure for the purpose of leasing in
26 accordance with G.S. 160A-272.5. Notice of the hearing shall state the date, hour, and place of
27 the public hearing and its subject and shall include the map described in sub-subdivision (c)(2)c.
28 of this section and a statement that the report required by subsection (c) of this section is available
29 for public inspection in the office of the clerk. The notice shall be published at least once, not
30 less than one week before the date of the hearing.

31 (e) Nothing in this section grants authority, or shall be construed to grant authority, to a
32 city to use broadband infrastructure constructed under this section to provide communications
33 services as defined in G.S. 160A-340(3) or in accordance with Article 16A of Chapter 160A of
34 the General Statutes.

35 (f) For purposes of this section, "broadband infrastructure" shall mean wireline or
36 wireless infrastructure capable of providing terrestrially deployed internet access service with
37 transmission speeds of at least 25 megabits per second (Mbps) download and at least 3 megabits
38 per second upload (25:3) or as defined by the Federal Communications Commission, whichever
39 speeds are faster."

40 **SECTION 2.2.(a)** G.S. 153A-149(c) is amended by adding a new subdivision to
41 read:

42 "(7a) Broadband Infrastructure. – To construct wireline and wireless infrastructure."

43 **SECTION 2.2.(b)** G.S. 160A-209(c) is amended by adding a new subdivision to
44 read:

45 "(7a) Broadband Infrastructure. – To construct wireline and wireless infrastructure."

46 **SECTION 2.2.(c)** This section is effective for taxes imposed for taxable years
47 beginning on or after July 1, 2023.

48 **SECTION 2.3.** G.S. 159-81(3) is amended by adding a new sub-subdivision to read:

49 "r. Broadband infrastructure for the purpose of leasing in accordance with
50 G.S. 160A-272.5."

1 **SECTION 2.4.(a)** Article 12 of Chapter 160A of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 160A-272.5. Leases of broadband infrastructure to a private provider.**

4 (a) Notwithstanding this Article, broadband infrastructure installed or maintained in
5 accordance with G.S. 153A-461 or G.S. 160A-499.6 shall be leased to a private provider for
6 delivery of services to customers in accordance with this section.

7 (b) The governing board may lease broadband infrastructure installed or maintained in
8 accordance with this Article to a private provider for a term of up to 25 years. Property may be
9 leased only pursuant to a resolution of the governing board authorizing the execution of the lease
10 agreement adopted at a regular governing board meeting upon 30 days' public notice. Notice shall
11 be given by publication describing the property to be leased and announcing the governing
12 board's intent to authorize the lease.

13 (c) All leases of broadband infrastructure installed or maintained in accordance with this
14 Article shall comply with all of the following:

15 (1) The lease shall be entered into on a technology neutral basis.

16 (2) The lease shall be open to similarly situated private providers on comparable
17 terms and conditions.

18 (3) Requests for proposals shall be solicited by the governing board prior to
19 adoption of the resolution authorizing the execution of the lease, as follows:

20 a. Requests for proposals shall be invited by advertisement in a
21 newspaper having general circulation in the city. A city may also invite
22 proposals by electronic means.

23 b. Advertisement for proposals from potential lessees shall be published
24 in a newspaper having general circulation in the city no less than 30
25 days prior to the date on the notice for the opening of bids.

26 c. A city shall seek and consider requests for proposals from qualified
27 private providers within the city by providing notice in accordance
28 with G.S. 160A-340.6(c) and any other reasonable means to ensure
29 that potential lessees are made aware of the notice for requests for
30 proposals.

31 d. The advertisement for requests for proposals from potential lessees
32 shall contain at least the following information:

33 1. The type and location of the broadband infrastructure to be
34 leased.

35 2. The time and place where plans and specifications of the
36 proposed lease may be had.

37 3. The time and place for opening of the proposals.

38 4. A statement reserving to the governing board the right to reject
39 any or all proposals.

40 e. Proposals may be rejected for any reason determined by the governing
41 board to be in the best interest of the city.

42 (d) For purposes of this section, in determining the term of a proposed lease, periods that
43 may be added to the original term by options to renew or extend shall be included."

44 **SECTION 2.4.(b)** This section becomes effective October 1, 2023, and applies to
45 leases entered into on or after that date.

46 **SECTION 2.5.** G.S. 160A-321 reads as rewritten:

47 **"§ 160A-321. Sale, lease, or discontinuance of city-owned enterprise.**

48 (a) A city is authorized to sell or lease as lessor any public enterprise that it may own
49 upon any terms and conditions that the council may deem best. However, except as to transfers
50 to another governmental entity pursuant to G.S. 160A-274 or as provided in subsection
51 subsections (a1) and (b) of this section, a city-owned public enterprise shall not be sold, leased

1 to another, or discontinued in its entirety unless the proposal to sell, lease, or discontinue such
2 public enterprise in its entirety is first submitted to a vote of the people and approved by a
3 majority of those who vote thereon.

4 (a1) Voter approval shall not be required for the sale, lease, or discontinuance of airports,
5 off-street parking systems and facilities, or solid waste collection and disposal systems.

6 (b) For the sale, lease, or discontinuance of water treatment systems, water distribution
7 systems, or wastewater collection and treatment systems, a city may, but is not required to, submit
8 to its voters the question of whether such sale, lease, or discontinuance shall be undertaken.

9 (c) ~~The Any~~ referendum under this section is to be conducted pursuant to the general and
10 local laws applicable to special elections in such city."

11 **SECTION 2.6.** G.S. 160A-340.2 is amended by adding a new subsection to read:

12 "(f) Broadband infrastructure constructed by a city for the purpose of leasing in
13 accordance with G.S. 160A-272.5 shall not be used to provide communication services under
14 this Article."

15 **SECTION 2.7.** Except as otherwise provided, this Part becomes effective October
16 1, 2023.

17 18 **PART III. TELECOMMUNICATIONS CONSTRUCTION**

19 **SECTION 3.1.** G.S. 136-18 is amended by adding a new subdivision to read:

20 "(47) The Department of Transportation shall have authority to construct conduit
21 for telecommunications cables within the State right-of-way, with the costs of
22 construction to be borne through the leasing of the conduit to private
23 telecommunications companies, where such construction and leasing is not
24 otherwise prohibited by any other federal or State law. The Conduit
25 Installation Account is created as a nonreverting account within the
26 Information Technology Fund (Budget Code 24667) to receive revenues from
27 conduit leasing. The Department of Information Technology shall administer
28 the Account. Revenue in the Account may be used only to fund the installation
29 and maintenance of telecommunications conduit within the State right-of-way
30 as authorized by this subdivision and to support the administration of this
31 subdivision. After project costs have been funded, any excess revenues in the
32 fund shall remain in the fund to advance additional projects across the State
33 as authorized by this subdivision."

34 **SECTION 3.2.** Article 2A of Chapter 136 of the General Statutes is amended by
35 adding a new section to read:

36 "**§ 136-44.18. Installation of telecommunications conduit within State right-of-way.**

37 As authorized in G.S. 136-18(47) and in collaboration with the North Carolina Department
38 of Information Technology, the Department of Transportation shall include in its planning for
39 roads with a minimum length of 2,500 feet the installation of conduit for telecommunications
40 cables when all of the following apply:

41 (1) Less than ninety percent (90%) of households in the county where the road
42 project is located have access to high-speed data or telecommunications
43 services. If a project is located in more than one county, the Department of
44 Transportation may evaluate each county separately under this subdivision.

45 (2) Prior to the advertisement of the project, a provider of high-speed data internet
46 provides the Department of Transportation with a letter indicating its interest
47 in leasing the conduit from the Department of Transportation and enters into
48 a lease agreement or provides a bond in the amount of the anticipated
49 construction costs."

50 **SECTION 3.3.** The Department of Transportation, in collaboration with the
51 Department of Information Technology, shall report no later than May 1, 2024, to the Joint

1 Legislative Transportation Oversight Committee and annually thereafter on its progress in
2 implementing the program to install telecommunications conduit authorized by this act. The
3 initial report shall include identification by the Department of Transportation of any statutory or
4 regulatory barriers to implementation of the conduit installation program. Each report shall
5 include a list of highway projects eligible for conduit installation in the next year with a financial
6 and market analysis and resulting estimate by the Department of Transportation as to whether
7 the conduit installation authorized by this act is likely to be cost-effective for that project.

8 **SECTION 3.4.** This Part is effective when it becomes law.
9

10 **PART IV. NON-DEPLOYMENT ACCESS TO PROJECT AREAS**

11 **SECTION 4.1.(a)** G.S. 143B-1373 reads as rewritten:

12 **"§ 143B-1373. Growing Rural Economies with Access to Technology (GREAT) program.**

13 ...

14 (c) A private provider receiving State or federal funds to deploy broadband service in
15 unserved areas may qualify such area for protection by submitting a listing of the census blocks,
16 or portions thereof, comprising the State- or federally funded project areas in a manner prescribed
17 by the Office. The Office shall only utilize this data to update maps of census blocks to reflect
18 these census blocks, or portions thereof, as being served. Failure on the part of a provider to
19 submit the listing of census blocks by the cutoff date shall result in those areas being eligible for
20 inclusion under this program during subsequent program years. The Office shall use the census
21 block data provided only for mapping of unserved areas. A project area shall remain protected
22 for a period of 18 months from the submission of the listing information required under this
23 subsection; provided, however, a private provider that has received protection for a project area
24 shall submit written documentation by April 30 of the year following the program year that
25 broadband deployment has begun or been completed, or is otherwise in good standing, in the
26 census blocks, or portions thereof, that have been deemed ineligible by the Office under this
27 subsection. For a proposed project with a completion time line of greater than two years, the
28 private provider shall disclose written documentation justifying the time line. Upon submission
29 of documentation satisfactory to the Office, a protected project area shall remain protected until
30 project completion-completion or three years, whichever is lesser. A project area where a private
31 provider has forfeited or otherwise defaulted on an agreement in connection with receipt of funds
32 to deploy broadband service shall be eligible for inclusion in this program in subsequent program
33 years. The project area protection described in this subsection shall not prohibit another eligible
34 project from deploying broadband infrastructure in a protected project area if that broadband
35 infrastructure deployment is necessary to provide broadband service to the unserved area
36 identified in a grant application submitted under this section. Information provided to the Office
37 pursuant to this subsection is not a public record, as that term is defined in G.S. 132-1.

38 ...

39 (e) Applications shall be made publicly available by posting on the Web site of the
40 Department of Information Technology for a period of at least 20 days prior to award. During
41 the 20-day period, any interested party may submit comments to the Secretary concerning any
42 pending application. A broadband service provider currently providing broadband service in a
43 project area proposed in an application may submit a protest of any application on the grounds
44 the proposed project covers an area that is a protected area under subsection (c) of this section,
45 or that the proposed project area contains ten percent (10%) or more of total households with
46 access to broadband service as defined in this section. Protests of applications proposing
47 deployment of broadband infrastructure in a protected project area, as described in subsection (c)
48 of this section, are not authorized under this subsection. Protests shall be submitted in writing,
49 accompanied by all credible and relevant supporting documentation, including specific
50 addresses, and detailed mapping demonstrating that the protesting broadband provider has
51 installed infrastructure sufficient to provide broadband service to the specific addresses provided

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

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

25 ...

26 (h) The Office shall score applications based upon the metrics provided in subsection (g)
27 of this section. In awarding grants based upon the scoring metrics, the Office shall also award an
28 additional point to projects where a county has a Community Broadband Planning Playbook that
29 meets the guidelines established by the Office. An application proposing the deployment of
30 broadband infrastructure in a protected project area, as described in subsection (c) of this section,
31 shall not be awarded points for any portion of the application's proposed project area that is
32 situated within a protected project area. The Office may prioritize applications that do not exceed
33 the two-year time line referenced in subsection (c) of this section.

34"

35 **SECTION 4.1.(b)** Section 38.4(a) of S.L. 2021-180 reads as rewritten:

36 "**SECTION 38.4.(a)** Of the funds appropriated in this act from the State Fiscal Recovery
37 Fund to the Department of Information Technology for broadband infrastructure grants, and in
38 accordance with applicable federal guidelines, the Department of Information Technology shall
39 administer broadband infrastructure grants through the Growing Rural Economies with Access
40 to Technology (G.R.E.A.T.) grant program. Grant applications shall be submitted and grant funds
41 shall be awarded pursuant to G.S. 143B-1373, with the exception of the following:

42 ...

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

44 A private provider receiving State or federal funds to deploy broadband
45 service in unserved areas may qualify such area for protection by submitting
46 a listing of the census blocks, or portions thereof, comprising the State- or
47 federally funded project areas in a manner prescribed by the Office. The
48 Office shall only utilize this data to update maps of census blocks to reflect
49 these census blocks, or portions thereof, as being served. Failure on the part
50 of a provider to submit the listing of census blocks by the cutoff date shall
51 result in those areas being eligible for inclusion under the G.R.E.A.T. grant

1 program during subsequent program years. The Office shall use the census
2 block data provided only for mapping of unserved areas. A project area shall
3 remain protected for a period of 18 months from the submission of the listing
4 information required under this subdivision; provided, however, a private
5 provider that has received protection for a project area shall submit written
6 documentation by April 30 of the year following the program year that
7 broadband deployment has begun, been completed, or is otherwise in good
8 standing, in the census blocks, or portions thereof, that have been deemed
9 ineligible by the Office under this subsection. Upon submission of
10 documentation satisfactory to the Office, a protected project area shall remain
11 protected until project completion. A project area where a private provider has
12 forfeited or otherwise defaulted on an agreement in connection with receipt of
13 funds to deploy broadband service shall be eligible for inclusion in this
14 program in subsequent program years. The project area protection described
15 in this subdivision shall not prohibit another eligible project from deploying
16 broadband infrastructure in a protected project area if that broadband
17 infrastructure deployment is necessary to provide broadband service to the
18 unserved area identified in a grant application submitted under this section.
19 Information provided to the Office pursuant to this subdivision is not a public
20 record, as that term is defined in G.S. 132-1.

21 ...

- 22 (7) The provisions in G.S. 143B-1373(e) are replaced with the following:
23 Applications shall be made publicly available by posting on the website of the
24 Department of Information Technology for a period of at least 20 days prior
25 to award. During the 20-day period, any interested party may submit
26 comments to the Secretary concerning any pending application. A broadband
27 service provider currently providing broadband service in a project area
28 proposed in an application may submit a protest of any application on the
29 grounds the proposed project covers an area that is a protected area under
30 subsection (c) of this section or that the proposed project area contains ten
31 percent (10%) or more of total households with access to broadband service
32 as defined in this section. Protests of applications proposing deployment of
33 broadband infrastructure in a protected project area, as described in
34 subdivision (5) of this subsection, are not authorized under this subdivision.
35 Protests shall be submitted in writing, accompanied by all credible and
36 relevant supporting documentation, including specific addresses, and detailed
37 mapping demonstrating that the protesting broadband provider has installed
38 infrastructure sufficient to provide broadband service to the specific addresses
39 provided in the protest, along with an attestation that broadband service is
40 available to the exterior of the structure at the specific addresses indicated.
41 The protest shall be considered by the Office in connection with the review of
42 the application. Upon submission of evidence satisfactory to the Office that
43 the proposed project area includes a protected area or prospective broadband
44 recipients that are presently served, as measured using a methodology
45 satisfactory to the Office, the Office may work with an applicant to amend an
46 application to reduce the number of unserved prospective broadband
47 recipients in the project area to reflect an accurate level of current broadband
48 service. The Office may revise application scores in accordance with amended
49 applications; however, the Office may reject any amended application
50 resulting in a lower application score to the extent that the lower score would
51 have impacted the ranking of the application in the initial scoring process. For

1 applications with filed protests, the Secretary shall issue a written decision to
2 the protesting party at least 15 days prior to the approval of that application.
3 Following a protest that is granted for a portion of the application, the Office
4 may release to an applicant the locations or areas declared ineligible. The
5 information released to the applicant is not a public record, as that term is
6 defined under G.S. 132-1, and shall remain confidential. Any provider
7 submitting a protest shall verify that the information in the protest is accurate
8 and that the protest is submitted in good faith. The Office may deny any
9 protest or application that contains inaccurate information.

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

17 ...

18 (11a) The Office shall score applications based upon the metrics provided in
19 G.S. 143B-1373(g), as modified by this section. In awarding grants based
20 upon the scoring metrics, the Office shall also award an additional point to
21 projects where a county has a Community Broadband Planning Playbook that
22 meets the guidelines established by the Office. An application proposing the
23 deployment of broadband infrastructure in a protected project area, as
24 described in subdivision (5) of this subsection, shall not be awarded points for
25 any portion of the application's proposed project area that is situated within a
26 protected project area.

27"

28 **SECTION 4.1.(c)** This section is effective when it becomes law and applies to grant
29 applications received on or after that date.

30 **SECTION 4.2.(a)** Notwithstanding any provision of Chapter 143C of the General
31 Statutes to the contrary, the Office of State Budget and Management, in consultation with the
32 Director of the Budget, may reallocate State Fiscal Recovery Fund funds appropriated by an act
33 of the General Assembly under all of the following conditions only:

- 34 (1) The appropriated funds were recouped or unallocated and are otherwise
35 unexpended as of the effective date of this act.
- 36 (2) The reallocation is made to support broadband infrastructure project grants
37 under Sections 38.4 and 38.6 of S.L. 2021-180, as amended, and the use of
38 funds otherwise allowable under applicable federal regulations. Reallocated
39 funds shall not be used for any new activity, purpose, or program.
- 40 (3) To the extent that funds reallocated pursuant to this section are
41 unappropriated, including interest accrual exceeding what is anticipated in this
42 act, those funds are hereby appropriated and available for use pursuant to this
43 section.
- 44 (4) The Office of State Budget and Management shall report to the Fiscal
45 Research Division on reallocations made pursuant to this section.

46 **SECTION 4.2.(b)** Of the funds received by the State from the federal Infrastructure
47 Investment and Jobs Act (P.L. 117-58) intended for broadband, it is the intent of the General
48 Assembly to use those funds for the benefit of broadband infrastructure grants and those funds
49 are hereby appropriated as follows:

- 50 (1) Sixty percent (60%) of federal Infrastructure Investment and Jobs Act (P.L.
51 117-58) broadband funds to the Department of Information Technology to be

1 used in accordance with Section 38.4 of S.L. 2021-180, as amended by
2 Section 4.1(b) of this act.
3 (2) Forty percent (40%) of federal Infrastructure Investment and Jobs Act (P.L.
4 117-58) broadband funds to the Department of Information Technology to be
5 used in accordance with Section 38.6 of S.L. 2021-180, as amended by
6 Section 4.1(b) of this act.

7 **SECTION 4.3.** Except as otherwise provided, this Part is effective when it becomes
8 law.

9
10 **PART V. COLLABORATORY STUDY**

11 **SECTION 5.1.(a)** The North Carolina Collaboratory shall study the impacts of lack
12 of broadband service on access to emergency services in rural areas of the State and shall focus
13 specifically on impacts to elderly and disabled residents in those affected areas. Local
14 governments and the Department of Information Technology shall assist the Collaboratory with
15 any data needed to assist in the study outlined in this section. The Collaboratory shall report the
16 results of the study to the Joint Legislative Oversight Committee on Information Technology and
17 the Fiscal Research Division on or before February 1, 2024.

18 **SECTION 5.1.(b)** There is appropriated from the General Fund to the North Carolina
19 Collaboratory the sum of one million dollars (\$1,000,000) in nonrecurring funds for the
20 2023-2024 fiscal year to be used to conduct the study described in subsection (a) of this section.

21 **SECTION 5.1.(c)** Funds appropriated in this section shall revert in accordance with
22 G.S. 116-30.3.

23 **SECTION 5.2.** This Part becomes effective July 1, 2023.

24
25 **PART VI. EFFECTIVE DATE**

26 **SECTION 6.1.** Except as otherwise provided, this act is effective when it becomes
27 law.