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HOUSE BILL 398
PROPOSED COMMITTEE SUBSTITUTE H398-PCS40321-TQa-9

Short Title: Growing GREAT-Rural Broadband Funding.   (Public)

Sponsors:

Referred to:

March 21, 2019

1   A BILL TO BE ENTITLED
2   AN ACT TO MAKE VARIOUS CHANGES TO THE GROWING RURAL ECONOMIES
3   WITH ACCESS TO TECHNOLOGY (GREAT) PROGRAM.
4   The General Assembly of North Carolina enacts:
5   **SECTION 1.(a)** Notwithstanding G.S. 143C-5-2, G.S. 143B-1373 is amended by
6   adding a new subsection to read:
7   "(p)   There is hereby appropriated each fiscal year the sum of fifteen million dollars
8   ($15,000,000) from the State Capital and Infrastructure Fund to the Growing Rural Economies
9   with Access to Technology Fund established pursuant to this section to be used to administer the
10   GREAT program."
11   **SECTION 1.(b)** This section shall expire on June 30, 2029.
12   **SECTION 2.** G.S. 143B-1373 reads as rewritten:
13   "**§ 143B-1373. Growing Rural Economies with Access to Technology (GREAT) program.**
14   (a)   As used in this section, the following definitions apply:
15   …
16   (6)   Eligible project. – An eligible project is a discrete and specific project located
17   in an unserved area of an economically distressed county seeking to provide
18   broadband service to homes, businesses, and community anchor points not
19   currently served. Eligible projects do not include middle mile, backhaul, and
20   other similar projects not directed at broadband service to end users. If a
21   project area is located within more than one county, for the purposes of this
22   section, the project shall be deemed to be located in the county where the
23   greatest number of unserved households will be served.
24   …
25   (c)   Project areas comprised of census blocks, or portions thereof, within which a
26   broadband provider is receiving State or federal matching funds to deploy technologically neutral
27   scalable broadband service within the next 18 months are ineligible for the GREAT program. It
28   is essential for the Office to know the location of census blocks, or portions thereof, comprising
29   these areas so it can determine project eligibility. A private provider receiving State or federal
30   matching funds to deploy broadband service within such an area shall, within 60 days of the
31   effective date of this section, submit only a listing of the census blocks, or portions thereof,
32   comprising each of its federally funded project areas meeting this requirement and nothing more
33   to the Office. In future program years, the cutoff date for submitting this census block data shall
34   be May 15. This will enable the office to update maps and advise applicants as to the unserved
35   areas of the State that are eligible for consideration in that program year. The Office shall only
36   utilize this data to update maps of census blocks to reflect these census blocks, or portions thereof,

1 as being served. Failure on the part of a provider to submit the listing of census blocks by the
2 cutoff date shall result in those areas being eligible for inclusion under this program during the
3 upcoming program year. The Office shall use the census block data provided only for mapping
4 of unserved areas. <u>Upon expiration of the 18-month period described in this subsection, a private</u>
5 <u>provider receiving State or federal matching funds to deploy broadband service shall submit</u>
6 <u>written documentation that broadband deployment has begun or been completed in the census</u>
7 <u>blocks, or portions thereof, that have been deemed ineligible by the Office due to the existence</u>
8 <u>of a federally funded project area.</u> Information provided to the Office pursuant to this subsection
9 is not a public record, as that term is defined in G.S. 132-1.
10   (d)   Applications for grants will be submitted at times designated by the Secretary and
11 will include, at a minimum, the following information:
12   …
13   (5)   An illustration or description of the area to be served and the number of
14   homes, businesses, community anchor points, agricultural operations, or
15   agricultural processing facilities that will have access to broadband as a result
16   of the ~~project.~~<u>project, including any publicly available addresses for the</u>
17   <u>foregoing.</u>
18   …
19   <u>(d1)   A wireless provider submitting an application pursuant to this section shall bear the</u>
20 <u>burden of proof that the proposed area to be served can, in fact, be served using wireless</u>
21 <u>technology. The burden of proof may be satisfied by the submission of data, maps, and any other</u>
22 <u>information satisfactory to the Office, demonstrating that the area and number of households</u>
23 <u>proposed to be served can be provided the minimum upload and download speeds indicated in</u>
24 <u>the application.</u>
25   (e)   Applications shall be made publicly available by posting on the Web site of the
26 Department of Information Technology for a period of at least 30 days prior to award. During
27 the 30-day period, any interested party may submit comments to the Secretary concerning any
28 pending application. A provider of broadband services may submit a protest of any application
29 on the grounds the proposed project covers an area that is not an eligible area under this section.
30 Protests shall be submitted in writing, accompanied by all relevant supporting documentation,
31 and shall be considered by the Office in connection with the review of the application. <u>Upon</u>
32 <u>submission of evidence satisfactory to the Office that the proposed project area includes</u>
33 <u>households that have a minimum download and upload speed of 10:1, as measured using Federal</u>
34 <u>Communications Commission technology, the Office may amend an application to reduce the</u>
35 <u>number of unserved households in the project area to reflect an accurate level of current</u>
36 <u>broadband service.</u> For applications with filed protests, the Secretary shall issue a written
37 decision to the protesting party at least 15 days prior to the approval of that application.
38   (f)   The Office may consult with the Department of Commerce to determine if a
39 broadband project proposed under this section will benefit a potential economic development
40 project relevant to the proposed area outlined in the broadband project.
41   (g)   Applications shall be scored based upon a system that awards a single point for criteria
42 considered to be the minimum level for the provision of broadband service with additional points
43 awarded to criteria that exceed minimum levels. The Office shall score project applications in
44 accordance with the following:
45   …
46   (6)   Base speed multiplier. – Projects that will provide minimum download and
47   minimum upload speeds shall have the aggregate points given under
48   subdivisions (1) through (5) of this subsection multiplied by a factor at the
49   level indicated in the table below:
50   **Minimum Download:**
51   **Minimum Upload**   **Score Multiplier**

1	10:1 Mbps.	0.95
2	25:3 Mbps. ~~or greater~~> 100:10 Mbps.	1.35
3	100:10 Mbps. or greater	1.55

4   (h)   The Office shall score applications based upon the metrics provided in subsection (g)
5 of this section. In awarding grants based upon the scoring metrics, the Office shall also award an
6 additional point to projects where a county has a Community Broadband Planning Playbook that
7 meets the guidelines established by the Office.
8   …."
9   **SECTION 3.** G.S. 143C-4-3.1 reads as rewritten:
10 "**§ 143C-4-3.1. State Capital and Infrastructure Fund.**
11   …
12   (e)   Use of Funds. – Monies in the Fund shall first be used to meet the debt service
13 obligations of the State. In addition to meeting the State's debt service obligations, monies in the
14 Fund may be used for the following purposes:
15   (1)   New State and The University of North Carolina capital projects governed
16   pursuant to Article 8 of Chapter 143C of the General Statutes.
17   (2)   Repair and renovation of existing capital assets, as provided in
18   G.S. 143C-8-13.
19   <u>(3)</u>   <u>Broadband infrastructure projects funded through appropriations to the</u>
20   <u>Growing Rural Economies with Access to Technology Fund established in</u>
21   <u>G.S. 143B-1373(b).</u>
22   (f)   Funds Available Only Upon Appropriation. – Funds reserved to the Fund shall be
23 available for expenditure only upon an act of appropriation by the General Assembly."
24   **SECTION 4.** This act is effective when it becomes law.