

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 1105
PROPOSED COMMITTEE SUBSTITUTE H1105-PCS10861-MQa-13

Short Title: COVID/Supplementary G.R.E.A.T. Grant Period.

(Public)

Sponsors:

Referred to:

May 14, 2020

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FUNDING TO THE DEPARTMENT OF INFORMATION TECHNOLOGY TO EXPEDITE AND EXPAND BROADBAND INFRASTRUCTURE IN THE STATE WITH A SUPPLEMENTARY GRANT PERIOD FOR THE G.R.E.A.T. PROGRAM.

The General Assembly of North Carolina enacts:

PART I. SUPPLEMENTARY G.R.E.A.T. PROGRAM GRANT PERIOD

SECTION 1.1. As used in this Part, the term "Coronavirus Relief Fund" means funds received by the State during the 2019-2020 fiscal year from the Coronavirus Relief Fund created by the Coronavirus Aid, Relief, and Economic Security Act of 2020, P.L. 116-136.

SECTION 1.2.(a) The Department of Information Technology shall provide a special supplementary grant process to accelerate the provision of broadband access through the Growing Rural Economies with Access to Technology grant program. Grants may be awarded with funds appropriated in this act for applications submitted on or before September 15, 2020. The Department shall award all grants pursuant to this act on or before December 30, 2020.

SECTION 1.2.(b) Grant applications shall be submitted and grant funds shall be awarded pursuant to G.S. 143B-1373, with the exception of the following:

- (1) The 30-day period for posting of applications on the Department's Web site in G.S. 143B-1373(e) is reduced to 15 business days. Protest submissions must be submitted within the 15-day period.
- (2) The definition of "eligible economically distressed county" in G.S. 143B-1373(a)(5) shall include counties designated as development tier one and tier two areas, and rural census tracts located in development tier three areas, as defined in G.S. 143B-437.08. For the purposes of this subdivision, the term "rural census tract" has the same meaning as contained in G.S. 143B-472.127(a)(2). Counties with total employment of 500,000 or more, as measured pursuant to G.S. 143B-437.52(c)(3) are not eligible.
- (3) An "eligible project" in G.S. 143B-1373(a)(6) may also include either of the following for scoring of a project application:
 - a. An incidental number, not exceeding ten percent (10%) of the total households being served in the project area, of unserved households without access to broadband service, as defined in this section, but with access to Internet access service greater than 10 Mbps download and 1 Mbps upload.



* H 1 1 0 5 - P C S 1 0 8 6 1 - M Q A - 1 3 *

b. At least ninety percent (90%) of households in the project area presently without Internet access service with transmission speeds of at least 10 Mbps download and at least 1 Mbps upload.

(4) "Infrastructure costs" in G.S. 143B-1373(a)(9) also include engineering and any other costs associated with securing a lease to locate or collocate infrastructure on public or private property or structures, but not including the actual monthly lease payment.

(5) For administering the program, the Office shall include the term "unserved household" which is defined as a household that does not presently have access to broadband service, as defined in G.S. 143B-1373.

(6) 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	Partnership Using Infrastructure	Private Provider Only
Up to \$1,700	4	9
\$1,701-2,200	3	8
\$2,201-2,700	2	7
\$2,701-3,200	1	6

b. For projects located in the Mountain Region:

Est. Cost per Household	Partnership Using Infrastructure	Private Provider Only
Up to \$2,500	4	9
\$2,501-3,300	3	8
\$3,301-3,800	2	7
\$3,801-4,300	1	6

(7) The matching fund requirements contained in G.S. 143B-1373(j) are replaced with the following:

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. Funds from the Universal Service Fund shall not be used for any portion of the required matching funds. Any other current or future federal funds may be used, including any future phase of the Connect America Fund, for the required matching funds within the parameters of this program.

(8) For the purposes outlined in this act, notwithstanding G.S. 143B-1373(i), the Office shall use the following guidelines in awarding and administering grants:

Applications receiving the highest score shall receive priority status for the awarding of grants pursuant to G.S. 143B-1373. As a means of breaking a tie for applications receiving the same score, the Office shall give priority to the application proposing to serve the highest number of new households at the lowest cost per household. Applicants awarded grants shall enter into an agreement with the Office. The agreement shall contain all of the elements outlined in G.S. 143B-1373(d) and any other provisions the Office may require. The agreement shall contain a provision governing the time line and minimum requirements and thresholds for disbursement of grant funds

1 measured by the progress of the project; provided, however, that an applicant
2 awarded a grant shall, upon finalizing the agreement, receive an initial lump
3 sum grant fund disbursement equal to the total grant award amount minus
4 amounts assessed to the grant recipient for the matching requirement in
5 G.S. 143B-1373(j). A grant recipient receiving the initial lump sum
6 disbursement must provide evidence satisfactory to the Office that the
7 recipient is financially solvent and has been providing broadband service in
8 this State for at least three years and an attestation to assure that the project
9 will be completed pursuant to the agreement. At project completion, the grant
10 recipient shall certify and provide to the Office evidence consistent with
11 Federal Communications Commission attestation that either speeds greater
12 than those identified in the application guidelines or the proposed upstream
13 and downstream broadband speeds identified in the application guidelines,
14 and for which a base speed multiplier was awarded pursuant to
15 G.S. 143B-1373(g)(6), are available throughout the project area prior to any
16 end user connections. A single grant award shall not exceed two million eight
17 hundred thousand dollars (\$2,800,000). No combination of grant awards
18 involving any single county may exceed five million six hundred thousand
19 dollars (\$5,600,000).

20 (9) In addition to the grant forfeiture provisions contained in G.S. 143B-1373(l),
21 a project awarded a grant pursuant to this act shall forfeit the grant amount if
22 the project is not completed, subject to force majeure, under the terms of the
23 grant agreement prior to December 30, 2022.

24 (10) In addition to the base speed multiplier formula provided in
25 G.S. 143B-1373(g)(6), projects that will provide a minimum upload speed of
26 200 megabits per second and a minimum download speed of 20 megabits per
27 second (200:20 Mbps), or greater, shall have a score multiplier of two points.

28 **SECTION 1.3.(a)** The State Controller shall transfer the sum of thirty million dollars
29 (\$30,000,000) in nonrecurring funds for the 2019-2020 fiscal year from the Coronavirus Relief
30 Reserve established under Section 2.1 of S.L. 2020-4 to the Coronavirus Relief Fund established
31 in Section 2.2 of that same act.

32 **SECTION 1.3.(b)** There is transferred from the Coronavirus Relief Fund to the State
33 Capital and Infrastructure Fund the sum of thirty million dollars (\$30,000,000) in nonrecurring
34 funds for the 2020-2021 fiscal year.

35 **SECTION 1.3.(c)** There is appropriated from the State Capital and Infrastructure
36 Fund to the Growing Rural Economies with Access to Technology Fund the sum of thirty million
37 dollars (\$30,000,000) in nonrecurring funds for the 2019-2020 fiscal year to be used for
38 broadband grants in accordance with this act.

39 **SECTION 1.3.(d)** Any unspent funds remaining on June 30, 2020, shall be carried
40 forward into the 2020-2021 fiscal year and are hereby appropriated for the 2020-2021 fiscal year.
41 The funds shall be used for the purposes described in this act and the requirements and limitations
42 set forth in the CARES Act.

43 44 **PART II. CHANGES TO G.R.E.A.T. PROGRAM**

45 **SECTION 2.1.** G.S. 143B-1373 reads as rewritten:

46 "**§ 143B-1373. Growing Rural Economies with Access to Technology (GREAT) program.**

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

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

49 (2) Broadband service. – For the purposes of this section, terrestrially deployed
50 Internet access service with transmission speeds of at least ~~40~~25 megabits per

- 1 second (Mbps) download and at least ~~one megabit~~ 3 Mbps per second upload
 2 ~~(10:1)-(25:3).~~
 3 ...
- 4 (6) Eligible project. – An eligible project is a discrete and specific project located
 5 in an unserved area of an economically distressed county seeking to provide
 6 broadband service to homes, businesses, and community anchor points not
 7 currently served. Eligible projects do not include middle mile, backhaul, and
 8 other similar projects not directed at broadband service to end users. If a
 9 contiguous project area crosses from one eligible county into one or more
 10 eligible adjacent counties, for the purposes of this section, the project shall be
 11 deemed to be located in the county where the greatest number of unserved
 12 households are proposed to be served. A project may contain either of the
 13 following for scoring of a project application:
- 14 a. An incidental number, not exceeding ten percent (10%) of the total
 15 households being served in the project area, of unserved households
 16 without access to broadband service, as defined in this section, but
 17 with access to Internet access service greater than 10 Mbps download
 18 and 1 Mbps upload.
- 19 b. At least ninety percent (90%) of households in the project area
 20 presently without Internet access service with transmission speeds of
 21 at least 10 Mbps download and at least 1 Mbps upload.
- 22 ...
- 23 (9) Infrastructure costs. – Costs directly related to the construction of broadband
 24 infrastructure for the extension of broadband service for an eligible project,
 25 including installation, acquiring or updating easements, equipment, fiber,
 26 construction, backhaul infrastructure, and testing costs. The term also includes
 27 engineering and any other costs associated with securing a lease to locate or
 28 collocate infrastructure on public or private property or structures, but not
 29 including the actual monthly lease payment. The term does not include
 30 overhead or administrative costs.
- 31 ...
- 32 (14) Unserved area. – A designated geographic area that is presently without access
 33 to broadband service, as defined in this section, offered by a wireline or fixed
 34 wireless provider. Areas where a private provider has been designated to
 35 receive funds through other State or federally funded programs designed
 36 specifically for broadband deployment shall be considered served if such
 37 funding is intended to result in construction of broadband in the area within
 38 18 months.
- 39 (15) Unserved household. – A household that does not presently have access to
 40 broadband service, as defined in this subsection.
- 41 ...
- 42 (g) Applications shall be scored based upon a system that awards a single point for criteria
 43 considered to be the minimum level for the provision of broadband service with additional points
 44 awarded to criteria that exceed minimum levels. The Office shall score project applications in
 45 accordance with the following:
- 46 ...
- 47 (5) Cost per household. – The Office shall give additional points to projects that
 48 minimize the infrastructure cost of the proposed project per household, based
 49 upon information available to the Office. Points shall be given to projects
 50 based upon the estimated cost per household as follows:
- 51 a. For projects proposed in the Piedmont or Coastal Plain Regions:

	Est. Cost per Household	Partnership Using Infrastructure	Private Provider Only
1	Up to \$1,700	4	9
2	\$1,701-2,200	3	8
3	<u>\$2,201-2,700</u>	<u>2</u>	<u>7</u>
4	<u>\$2,701-3,200</u>	<u>1</u>	<u>6</u>

b. For projects located in the Mountain Region:

	Est. Cost per Household	Partnership Using Infrastructure	Private Provider Only
5	Up to \$2,500	4	9
6	\$2,501-3,300	3	8
7	<u>\$3,301-3,800</u>	<u>2</u>	<u>7</u>
8	<u>\$3,801-4,300</u>	<u>1</u>	<u>6</u>

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

Minimum Download:	Score Multiplier
Minimum Upload	
At least 10:1 Mbps. up to 25:3 Mbps.	0.95
25:3 Mbps. up to 100:10 Mbps.	1.35
100:10 Mbps. or greater up to 200:20 Mbps.	1.75
<u>200:20 Mbps. or greater.</u>	<u>2.00</u>

(j) 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	55%
Greater than 12.0 points, but less than 17.5 points	50%
17.5 points, up to 22.0 points	45%
Greater than 22.0 points	35%

Up to fifty percent (50%) of matching funds paid by the grant recipient may be comprised of third-party funding ~~and including funds from~~ other grant programs. Funds from the Universal Service Fund, or Connect America Phase II Fund Fund shall not be used for any portion of the required matching funds. Any other current or future federal funds may be used, including any future phase of the Connect America Fund, for the required matching funds within the parameters of this program.

...."

SECTION 2.2.(a) G.S. 143B-1373(a)(5) reads as rewritten:

"(5) Eligible economically distressed county. – A county designated as a development tier one area, as defined in ~~G.S. 143B-473.08.~~G.S. 143B-437.08. For the purposes of this section, the tier designation that is in effect as of the beginning of a fiscal year shall be applied for all grants awarded for that fiscal year."

SECTION 2.2.(b) This section is effective when it becomes law and applies to applications submitted on or before December 31, 2019.

SECTION 2.3.(a) G.S. 143B-1373(a)(5), as amended by Section 2 of S.L. 2019-230, reads as rewritten:

"(5) Eligible economically distressed 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. For the purposes of this section, the tier

1 designation that is in effect as of the beginning of a fiscal year shall be applied
2 for all grants awarded for that fiscal year."

3 **SECTION 2.3.(b)** This section becomes effective July 1, 2020.

4 **SECTION 2.4.** Notwithstanding the grant amount limitations in G.S. 143B-1373,
5 the Department shall provide a supplementary grant award of fifteen thousand dollars (\$15,000)
6 from the Growing Rural Economies with Access to Technology Fund for each grant project
7 awarded during the 2020-2021 fiscal year that has also received a grant from the Federal
8 Communications Commission Rural Digital Opportunity Fund Auction Phase I.

9
10 **PART III. G.R.E.A.T. SUPPLEMENTARY GRANT PERIOD CHANGE**

11 **SECTION 3.1.** Section 3.3(46) of S.L. 2020-4 reads as rewritten:

12 "(46) \$9,000,000 to the Department of Information Technology to use for the
13 Growing Rural Economies with Access to Technology Fund to provide
14 supplementary project funding to enable funding for all qualifying GREAT
15 program applications. GREAT program grant applications received on or
16 before April 1, 2020, that meet the criteria established pursuant to
17 G.S. 143B-1373 shall be eligible to receive the supplementary funding in
18 accordance with this subdivision. Applications that may have been eliminated
19 as a result of the scoring process or that may have contained proposed project
20 areas that overlap with other applications may submit a revision to an existing
21 application to the Department to qualify for funding under this subdivision.
22 An applicant awarded a grant shall, upon finalizing the agreement, receive an
23 initial lump sum grant fund disbursement equal to the total grant award
24 amount minus amounts assessed to the grant recipient for the matching
25 requirement in G.S. 143B-1373(j). A grant recipient receiving the initial lump
26 sum disbursement must provide evidence satisfactory to the Office that the
27 recipient is financially solvent and has been providing broadband service in
28 this State for at least three years and an attestation that the project will be
29 completed pursuant to the agreement."

30
31 **PART IV. EFFECTIVE DATE**

32 **SECTION 4.1.** Except as otherwise provided, this act is effective when it becomes
33 law.