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2021 Legislature

1  
2 An act relating to broadband Internet infrastructure;  
3 providing a short title; creating pt. XV of ch. 288,  
4 F.S.; relating to the Florida Office of Broadband;  
5 transferring, renumbering, and amending s. 364.0135,  
6 F.S.; revising and providing definitions relating to  
7 broadband Internet service; revising duties of the  
8 Florida Office of Broadband; revising the office's  
9 strategic plan related to goals and strategies;  
10 providing requirements for the development of the  
11 plan; requiring the updated plan to be submitted to  
12 the Governor and the Legislature by a specified date;  
13 requiring the plan to be updated biennially; requiring  
14 local technology planning teams or partnerships to  
15 work with rural communities for specified purposes;  
16 requiring the office to provide technical and planning  
17 assistance to rural communities; providing for  
18 rulemaking; providing an appropriation to the  
19 Department of Economic Opportunity for geographic  
20 information system broadband mapping; specifying the  
21 development and contents of the maps; creating s.  
22 288.9962, F.S.; creating a grant program within the  
23 Florida Office of Broadband; providing for  
24 administration of the program; providing requirements  
25 for grant awards; providing eligibility requirements;

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26 providing application requirements; requiring the  
27 publication of certain information related to grant  
28 applications and grant awards on a website;  
29 authorizing grant applications to be challenged under  
30 certain circumstances; specifying contents of a  
31 challenge; providing procedures to be used by the  
32 office in evaluating challenges; providing direction  
33 for prioritizing grant funding; specifying conditions  
34 for the award of grants; requiring that office to  
35 enter into an agreement containing specified  
36 information with each grant recipient; requiring the  
37 office to publish specified information annually on  
38 its website; requiring specified information to be  
39 delivered to the Governor and Legislature; creating s.  
40 288.9963, F.S.; providing legislative findings;  
41 providing definitions; establishing a promotional rate  
42 and related terms for wireline attachments of  
43 broadband facilities to municipal electric utility  
44 poles; providing procedures and requirements for  
45 receiving the promotional rates; establishing cost  
46 responsibility for replacement utility poles in  
47 certain circumstances; prohibiting municipal electric  
48 utilities from increasing certain fees for pole  
49 attachments for a specified period; providing an  
50 effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Florida Broadband Deployment Act of 2021."

Section 2. Part XV of chapter 288, Florida Statutes, consisting of sections 288.9961, 288.9962, and 288.9963 is created and entitled "Florida Office of Broadband."

Section 3. Section 364.0135, Florida Statutes, is transferred, renumbered as section 288.9961, Florida Statutes, and amended to read:

288.9961 ~~364.0135~~ Promotion of broadband adoption; Florida Office of Broadband.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that the sustainable adoption of broadband Internet service is critical to the economic and business development of this ~~the~~ state and is essential ~~beneficial~~ for all residents of this state, libraries, schools, colleges and universities, health care providers, and community organizations.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Broadband Internet service" means a service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 25 megabits per second downstream and 3 megabits per second upstream.

(b) ~~(a)~~ "Department" means the Department of Economic

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76 Opportunity.

77 (c) "Deployed" means that a broadband service provider  
 78 meets either of the following:

79 1. Currently provides broadband Internet service in a  
 80 specific geographic area; or

81 2. Is able to provide broadband Internet service in a  
 82 specific geographic area to a customer that requests that  
 83 service not later than 30 days after the customer requests  
 84 installation of that service and without an extraordinary  
 85 commitment of resources or construction charges or fees  
 86 exceeding an ordinary service activation fee. The 30-day time  
 87 period shall be extended to 60 days if permits are needed before  
 88 the broadband Internet service is installed and activated.

89 (d)~~(b)~~ "Office" means the Florida Office of Broadband.

90 (e)~~(e)~~ "Sustainable adoption" means the ability for  
 91 communications service providers to offer broadband services in  
 92 all areas of this ~~the~~ state by encouraging adoption and use  
 93 ~~utilization~~ levels that allow for these services to be offered  
 94 in the free market absent the need for governmental subsidy.

95 (f)~~(d)~~ "Underserved" means a geographic area of this ~~the~~  
 96 state in which there is no provider of broadband Internet  
 97 service that offers a connection to the Internet with a capacity  
 98 for transmission at a consistent speed of at least 100 ~~10~~  
 99 megabits per second downstream and at least 10 megabits ~~1~~  
 100 ~~megabit~~ per second upstream.

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101 (g) "Unserved" means a geographic area of this state in  
 102 which there is no provider of broadband Internet service.

103 (3) STATE AGENCY.—The department is designated as the lead  
 104 state agency to facilitate the expansion of broadband Internet  
 105 service in this ~~the~~ state. The department shall work  
 106 collaboratively with private businesses and receive staffing  
 107 support and other resources from Enterprise Florida, Inc., state  
 108 agencies, local governments, and community organizations.

109 (4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of  
 110 Broadband is created within the Division of Community  
 111 Development in the department for the purpose of developing,  
 112 marketing, and promoting broadband Internet services in this ~~the~~  
 113 state. The office, in the performance of its duties, shall do  
 114 all of the following:

115 (a) Create a strategic plan that has goals and strategies  
 116 for increasing and improving the availability of, access to, and  
 117 use of broadband Internet service in this ~~the~~ state. In  
 118 development of the plan, the department shall incorporate  
 119 applicable federal broadband activities, including any efforts  
 120 or initiatives of the Federal Communications Commission, to  
 121 improve broadband Internet service in this state. The plan must  
 122 identify available federal funding sources for the expansion or  
 123 improvement of broadband. The strategic plan must be submitted  
 124 to the Governor, the President of the Senate, and the Speaker of  
 125 the House of Representatives by June 30, 2022. The strategic

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126 | plan must be updated biennially thereafter. The plan must  
127 | include a process to review and verify public input regarding  
128 | transmission speeds and availability of broadband Internet  
129 | service throughout this ~~the~~ state.

130 |       (b) Build and facilitate local technology planning teams  
131 | or partnerships with members representing cross-sections of the  
132 | community, which may include, but are not limited to,  
133 | representatives from the following organizations and industries:  
134 | libraries, K-12 education, colleges and universities, local  
135 | health care providers, private businesses, community  
136 | organizations, economic development organizations, local  
137 | governments, tourism, parks and recreation, and agriculture. The  
138 | local technology planning teams or partnerships shall work with  
139 | rural communities to help the communities understand their  
140 | current broadband availability, locate unserved and underserved  
141 | businesses and residents, identify assets relevant to broadband  
142 | deployment, build partnerships with broadband service providers,  
143 | and identify opportunities to leverage assets and reduce  
144 | barriers to the deployment of broadband Internet services in the  
145 | community. The teams or partnerships must be proactive in  
146 | fiscally constrained counties in identifying and providing  
147 | assistance with applying for federal grants for broadband  
148 | Internet service.

149 |       (c) Provide technical and planning assistance to rural  
150 | communities.

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151        (d)~~(e)~~ Encourage the use of broadband Internet service,  
152 especially in the rural, unserved, or underserved communities of  
153 this ~~the~~ state through grant programs having effective  
154 strategies to facilitate the statewide deployment of broadband  
155 Internet service. For any grants to be awarded, priority must be  
156 given to projects that:

157            1. Provide access to broadband education, awareness,  
158 training, access, equipment, and support to libraries, schools,  
159 colleges and universities, health care providers, and community  
160 support organizations.

161            2. Encourage the sustainable adoption of broadband  
162 Internet service in primarily underserved areas by removing  
163 barriers to entry.

164            3. Work toward encouraging investments in establishing  
165 affordable and sustainable broadband Internet service in  
166 unserved ~~underserved~~ areas of this ~~the~~ state.

167            4. Facilitate the development of applications, programs,  
168 and services, including, but not limited to, telework,  
169 telemedicine, and e-learning to increase the usage of, and  
170 demand for, broadband Internet service in this ~~the~~ state.

171        (e)~~(d)~~ Monitor, participate in, and provide input in  
172 proceedings of the Federal Communications Commission and other  
173 federal agencies related to the geographic availability and  
174 deployment of broadband Internet service in this ~~the~~ state as  
175 necessary to ensure that this information is accurately

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176 presented and that rural, unserved, and underserved areas of  
177 this ~~the~~ state are best positioned to benefit from federal and  
178 state broadband deployment programs.

179 (f) Administer the Broadband Opportunity Program  
180 established in s. 288.9962.

181 (5) ADMINISTRATION.—The department may:

182 (a) Apply for and accept federal funds for purposes of  
183 this section.

184 (b) Enter into contracts necessary or useful to carry out  
185 the purposes of this section.

186 (c) Establish any committee or workgroup to administer and  
187 carry out the purposes of this section.

188 (d) Adopt rules to implement this part.

189 Section 4. For the 2021-2022 Fiscal Year, the nonrecurring  
190 sum of \$1,500,000 is appropriated from the General Revenue Fund  
191 to the Department of Economic Opportunity to develop geographic  
192 information system maps of broadband Internet service  
193 availability throughout this state consistent with the Digital  
194 Opportunity Data Collection program reporting standards  
195 established by the Federal Communications Commission. The maps  
196 must identify where broadband-capable networks exist, where  
197 service is available to end users, gaps in rural areas, and  
198 download and upload transmission speeds. Development of the maps  
199 may be in collaboration with broadband service providers, state  
200 agencies, local governmental entities, private businesses,



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201 educational institutions, and community organizations and the  
 202 maps may incorporate information already compiled by other state  
 203 agencies provided that the data is verified and the department  
 204 can determine that the information was compiled based on a sound  
 205 and reliable methodology. The department must receive and verify  
 206 public input to identify locations in which broadband Internet  
 207 service is not available, including locations in which broadband  
 208 Internet service is provided at data transmission speeds below  
 209 the standard established by the Federal Communications  
 210 Commission for broadband Internet service, and incorporate such  
 211 information into the development of the maps. The maps must be  
 212 complete by June 30, 2022.

213  
 214 Section 5. Section 288.9962, Florida Statutes, is created  
 215 to read:

216 288.9962 Broadband Opportunity Program.—

217 (1) The Broadband Opportunity Program is established  
 218 within the office to award grants to applicants who seek to  
 219 expand broadband Internet service to unserved areas of this  
 220 state. The office must administer and act as fiscal agent for  
 221 the program and is responsible for receiving and reviewing  
 222 applications and awarding grants.

223 (2) Subject to appropriation, grants shall be awarded  
 224 under this section to fund the installation or deployment of  
 225 infrastructure that supports the provision of broadband Internet

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226 service. Grant funds may not be used to install or deploy  
 227 broadband Internet service to a geographic area in which  
 228 broadband Internet service is already deployed by at least one  
 229 provider.

230 (3) Applicants eligible for grant awards include:

231 (a) Corporations, limited liability companies, general  
 232 partnerships, and limited partnerships that are organized under  
 233 the laws of this state or otherwise authorized to transact  
 234 business in this state.

235 (b) Political subdivisions.

236 (c) Indian tribes.

237 (4) The office may not award, directly or indirectly,  
 238 grants under this section to a governmental entity or an  
 239 educational institution or affiliate to provide broadband  
 240 Internet service to any residential or commercial premises,  
 241 unless other broadband Internet service providers have not  
 242 deployed service to an unserved area.

243 (5) An eligible applicant shall submit a grant application  
 244 to the office on a form prescribed by the office. A grant  
 245 application must include the following information:

246 (a) A description of the project area.

247 (b) A description of the kind and amount of broadband  
 248 Internet service infrastructure that is proposed.

249 (c) Evidence demonstrating the unserved nature of the  
 250 project area.

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251        (d) The number of households and businesses that would  
252 have access to broadband Internet service as a result of the  
253 grant.

254        (e) A list of significant community institutions that  
255 would benefit from the grant.

256        (f) The total cost of the project and the timeframe in  
257 which it would be completed.

258        (g) A list identifying sources of funding or in-kind  
259 contributions that would supplement any awarded grant.

260        (h) Any other information required by the office.

261        (6) (a) At least 30 days before the first day grant  
262 applications may be submitted each fiscal year, the office shall  
263 publish on its website the specific criteria and quantitative  
264 scoring system it will use to evaluate or rank grant  
265 applications. Such criteria and quantitative scoring system must  
266 include the criteria set forth in subsection (8).

267        (b) Within 3 business days after the close of the grant  
268 application process, the office shall publish on its website,  
269 from each grant application submitted, the proposed unserved  
270 areas to be served and the proposed broadband Internet speeds of  
271 the areas to be served.

272        (c) A broadband Internet service provider that provides  
273 existing service in or adjacent to a proposed project area may  
274 submit to the office, within 45 days after publication of the  
275 information under paragraph (b), a written challenge to an

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276 application. The challenge shall contain information  
277 demonstrating that:

278 1. The provider currently has deployed broadband Internet  
279 service to retail customers within the project area;

280 2. The provider has begun construction to provide  
281 broadband Internet service to retail customers within the  
282 proposed project area within the timeframe proposed by the  
283 applicant; or

284 3. The provider commits to providing broadband Internet  
285 service to retail customers within the proposed project area  
286 within the timeframe proposed by the applicant.

287 (d) Within 3 business days after the submission of a  
288 written challenge, the office shall notify the applicant, in  
289 writing, of the challenge.

290 (e) The office shall evaluate each challenge submitted  
291 under this subsection. If the office determines that the  
292 provider currently has deployed, has begun construction to  
293 provide, or commits to provide broadband Internet service in the  
294 proposed project area, the office may not fund the challenged  
295 project.

296 (f) If the office denies funding to an applicant as a  
297 result of a broadband Internet service provider's challenge and  
298 the provider does not fulfill its commitment to provide  
299 broadband Internet service in the unserved area, the office may  
300 not consider another challenge from the provider for the next

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301 two grant application cycles, unless the office determines that  
302 the failure to fulfill the commitment was due to circumstances  
303 beyond the provider's control.

304 (7) (a) In evaluating grant applications and awarding  
305 grants, the office must give priority to applications that:

306 1. Offer broadband Internet service to important community  
307 institutions, including, but not limited to, libraries,  
308 educational institutions, public safety facilities, and health  
309 care facilities;

310 2. Facilitate the use of telemedicine and electronic  
311 health records;

312 3. Serve economically distressed areas of this state, as  
313 measured by indices of unemployment, poverty, or population loss  
314 that are significantly greater than the statewide average;

315 4. Provide for scalability to transmission speeds of at  
316 least 100 megabits per second download and 10 megabits per  
317 second upload;

318 5. Include a component to actively promote the adoption of  
319 the newly available broadband Internet service in the community;

320 6. Provide evidence of strong support for the project from  
321 citizens, government, businesses, and institutions in the  
322 community;

323 7. Provide access to broadband Internet service to the  
324 greatest number of unserved households and businesses;

325 8. Leverage greater amounts of funding for a project from

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326 private sources; or

327 9. Demonstrate consistency with the strategic plan adopted  
328 under s. 288.9961.

329 (b) The office must endeavor to award grants to qualified  
330 applications serving all regions of this state.

331 (8) (a) The office may not award any grant to an otherwise  
332 eligible grant applicant to provide broadband Internet service  
333 in a project area for which any other federal funding has been  
334 awarded.

335 (b) A grant awarded under this section may not be used to  
336 serve any retail end user that already has access to broadband  
337 Internet service.

338 (c) A grant awarded under this section, when combined with  
339 any state or local funds, may not fund more than 50 percent of  
340 the total cost of a project.

341 (d) A single project may not be awarded a grant in excess  
342 of \$5 million.

343 (9) For each grant awarded, the office shall enter into an  
344 agreement with the applicant. The agreement must specify the  
345 total amount of the grant, performance conditions that must be  
346 met to obtain the grant, the schedule of payment, and sanctions  
347 that would apply for failure to meet performance conditions,  
348 including, but not limited to, requiring the return of grant  
349 funds.

350 (10) By January 1, 2023, and each year thereafter, the

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351 office shall publish on its website and provide to the Governor,  
 352 the President of the Senate, and the Speaker of the House of  
 353 Representatives:

354 (a) A list of all grant applications received during the  
 355 previous fiscal year and for each application:

356 1. The results of any quantitative weighting or scoring  
 357 system the office used to award grants or rank the applications.

358 2. The grant amounts requested.

359 3. The grant amounts awarded, if any.

360 4. A report on the progress of each grant recipient in  
 361 acquiring and installing infrastructure that supports the  
 362 provision of broadband Internet service in the project areas for  
 363 which that grant was awarded and in securing adoption of such  
 364 service in each project area.

365 (b) All written challenges filed during the previous year  
 366 and the results of those challenges.

367 Section 6. Section 288.9963, Florida Statutes, is created  
 368 to read:

369 288.9963 Attachment of broadband facilities to municipal  
 370 electric utility poles.—

371 (1) The Legislature finds that there is a need for  
 372 increased availability of broadband Internet access throughout  
 373 this state, particularly in areas where citizens do not have  
 374 access to acceptable Internet download and upload speeds, or any  
 375 access at all. The lack of Internet connectivity and widespread

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376 broadband availability is detrimental to the growth of the  
377 economy, access to telehealth, and educational opportunities.  
378 The federal government has provided vast resources for private  
379 cable and other broadband providers to expand the deployment of  
380 broadband Internet infrastructure in areas where Internet access  
381 and broadband Internet services are inadequate or non-existent.

382 (2) As used in this section, the term:

383 (a) "Broadband provider" means a person or entity who  
384 provides fixed broadband Internet service.

385 (b) "Broadband service" means a service that provides high  
386 speed access to the Internet at a rate of at least 25 megabits  
387 per second in the downstream direction and at least 3 megabits  
388 per second in the upstream direction.

389 (c) "Safety and reliability standards" includes all  
390 applicable engineering, reliability, and safety standards  
391 governing the installation, maintenance, and operation of  
392 facilities and poles and the performance of all work in and  
393 around electric utility facilities, including particular utility  
394 standards made available to a broadband provider, and shall  
395 include the most current versions of the National Electric  
396 Safety Code, the National Electric Code, and the regulations of  
397 the Occupational Safety and Health Administration, and other  
398 reasonable non-discriminatory safety and engineering  
399 requirements, including, but not limited to requirements  
400 addressing overloading of electric utility facilities.



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401 (d) "Underserved" means there is no retail access to the  
402 Internet at speeds of at least 25 megabits per seconds for  
403 downloading and 3 megabits per second for uploading.

404 (e) "Unserved" means that there is no retail access to the  
405 Internet at speeds of at least 10 megabits per seconds for  
406 downloading and 1 megabits per second for uploading.

407 (f) "Wireline attachment" means a wire or cable and  
408 associated equipment affixed to a utility pole in the  
409 communications space of the pole.

410 (3) Beginning July 1, 2021, a broadband provider shall  
411 receive a promotional rate of \$1 per wireline attachment per  
412 pole per year for any new attachment necessary to make broadband  
413 service available to an unserved or underserved end user within  
414 a municipal electric utility service territory for the time  
415 period specified in this subsection.

416 (a) A broadband provider who wishes to make wireline  
417 attachments subject to the promotional rate shall submit an  
418 application, including a route map, to the municipal electric  
419 utility specifying which wireline attachments on which utility  
420 poles are necessary to extend broadband service to unserved and  
421 underserved end users and therefore qualify for the promotional  
422 rate set forth in this subsection, together with such  
423 information necessary to identify which unserved or underserved  
424 end users within the municipal electric utility's service  
425 territory will gain access to broadband service as a result. A

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426 copy of the application and plan shall also be submitted  
427 simultaneously to the office.

428 (b) A municipal electric utility shall report to the  
429 office which attachments on which utility poles were made  
430 available to broadband providers subject to the promotional  
431 rate, together with any information available to it regarding  
432 which of its municipal electric utility customers do and do not  
433 have access to broadband service and whether they are unserved  
434 or underserved.

435 (c) A broadband provider who makes application for  
436 wireline attachments under the promotional rate shall make all  
437 reasonable efforts to make broadband service available to the  
438 unserved or underserved municipal electric utility customers  
439 identified in the application. If a broadband provider fails to  
440 make broadband service available to those customers within 12  
441 months, it may be required to pay the prevailing rate for those  
442 attachments that failed to make broadband service available to  
443 the intended customers.

444 (d) Except as provided in this section, wireline  
445 attachments which are subject to the promotional rate must  
446 conform to all other terms and conditions of existing pole  
447 attachment agreements between the broadband provider and the  
448 municipal electric utility. If no agreement exists, the parties  
449 shall have 90 days to enter into a pole attachment agreement for  
450 all other terms and conditions of attachment.

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451        (e) The promotional rate of \$1 per wireline attachment per  
452 pole per year applies to all pole attachments made pursuant to  
453 this subsection until July 1, 2024.

454        (4) All wireline attachments must comply with safety and  
455 reliability standards; provided, however, wireline attachments  
456 and their replacements, which complied with safety and  
457 reliability standards when installed, do not need to be modified  
458 to comply with new requirements except as may be necessary for  
459 safety reasons, as reasonably determined by the municipal  
460 electric utility.

461        (5) If the municipal electric utility is required to  
462 replace a utility pole due to a broadband provider's attachment,  
463 the municipal electric utility may require, as a condition to  
464 attachment, that the broadband provider reimburse all reasonable  
465 and nondiscriminatory costs attributable solely to the new  
466 attachment minus the salvage value of the removed pole, if  
467 positive. The municipal electric utility may not require a  
468 utility pole to be replaced to accommodate a broadband  
469 provider's attachment except where necessary to comply with  
470 applicable engineering and safety standards. With respect to  
471 such replacement poles, if the replacement is necessary to  
472 correct an existing violation, to bring the pole into compliance  
473 with any changes in applicable standards, or because the pole is  
474 at the end of its useful life, the replacement cost may not be  
475 charged to the broadband provider. As used in this subsection,

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476 | the term "useful life" means not less than 30 years for wood  
 477 | utility poles and 50 years for concrete, steel, ductile iron,  
 478 | and all other utility poles.

479 | (6) A municipal electric utility may not increase the fees  
 480 | charged to broadband providers for pole attachments between July  
 481 | 1, 2021 and July 31, 2022.

482 | Section 7. This act shall take effect July 1, 2021.