

1 A bill to be entitled
2 An act relating to broadband Internet deployment;
3 amending s. 338.2278, F.S.; providing for the transfer
4 of certain funds from the State Transportation Trust
5 Fund to the State Economic Enhancement and Economic
6 Development Trust Fund within the Department of
7 Economic Opportunity; providing for the use of such
8 funds by the Florida Office of Broadband; amending s.
9 339.0801, F.S.; requiring the Department of
10 Transportation to consult with the Florida Office of
11 Broadband to ensure specified projects are consistent
12 with a strategic plan; amending s. 364.02, F.S.;
13 providing an exception to the definition of the term
14 "broadband service" for certain purposes; amending s.
15 364.0135, F.S.; adding a cross-reference; revising and
16 providing definitions related to broadband service;
17 revising duties of the Florida Office of Broadband;
18 providing rulemaking authority; creating s. 364.0136,
19 F.S.; establishing the Broadband Opportunity Program
20 within the Florida Office of Broadband in the
21 Department of Economic Opportunity; providing for
22 administration of the program; providing requirements
23 for grant awards; providing for eligibility; providing
24 application requirements; requiring the publication of
25 certain information related to grant applications and

26 grant awards on a website; authorizing grant
 27 applications to be challenged under certain
 28 circumstances; providing procedures for use by the
 29 office in evaluating challenges; providing direction
 30 for the office in prioritizing funding grants;
 31 providing a limit on the amount of individual grants;
 32 requiring grant agreements to contain specified
 33 conditions; requiring the office to enter into an
 34 agreement containing specified information with each
 35 grant recipient; requiring the office to publish a
 36 specified report annually on its website;
 37 requiring a report to the Governor and Legislature
 38 with specified information; providing an effective
 39 date.

40

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

42

43 Section 1. Subsection (7) of section 338.2278, Florida
 44 Statutes, is amended to read:

45 338.2278 Multi-use Corridors of Regional Economic
 46 Significance Program.—

47 (7) Funds that result from increased revenues to the State
 48 Transportation Trust Fund derived from the amendments to s.
 49 320.08 made by chapter 2019-43, Laws of Florida, ~~this act~~ and
 50 deposited into the fund pursuant to s. 320.20(5)(a) must be used

51 as follows:

52 (a) ~~For the 2019-2020 fiscal year, \$45 million shall be~~
 53 ~~retained in the State Transportation Trust Fund, and the~~
 54 ~~remaining funds shall be transferred to the General Revenue~~
 55 ~~Fund.~~

56 ~~(b)~~ For the 2020-2021 fiscal year, \$90 million shall be
 57 retained in the State Transportation Trust Fund, and the
 58 remaining funds shall be transferred to the General Revenue
 59 Fund.

60 (b)(e) For the 2021-2022 fiscal year and each fiscal year
 61 thereafter, 50 percent of the funds shall be transferred to the
 62 State Economic Enhancement and Economic Development Trust Fund
 63 within the Department of Economic Opportunity for use by the
 64 Florida Office of Broadband as provided in s. 364.0136, and all
 65 ~~of~~ the remaining funds shall be retained in the State
 66 Transportation Trust Fund.

67 Section 2. Subsection (2) of section 339.0801, Florida
 68 Statutes, is amended to read:

69 339.0801 Allocation of increased revenues derived from
 70 amendments to s. 319.32(5)(a) by ch. 2012-128.—Funds that result
 71 from increased revenues to the State Transportation Trust Fund
 72 derived from the amendments to s. 319.32(5)(a) made by chapter
 73 2012-128, Laws of Florida ~~this act~~ must be used annually, first
 74 as set forth in subsection (1) and then as set forth in
 75 subsections (2)-(5), notwithstanding any other provision of law:

76 (2) (a) For each of the 2019-2020, 2020-2021, and 2021-2022
77 fiscal years, \$35 million shall be transferred to Florida's
78 Turnpike Enterprise, to be used in accordance with Florida
79 Turnpike Enterprise Law, to the maximum extent feasible for
80 feeder roads, structures, interchanges, appurtenances, and other
81 rights to create or facilitate access to the existing turnpike
82 system.

83 (b) Beginning with the 2022-2023 fiscal year and annually
84 thereafter, \$35 million shall be transferred to Florida's
85 Turnpike Enterprise, to be used in accordance with s. 338.2278,
86 with preference to feeder roads, interchanges, and appurtenances
87 that create or facilitate multiuse corridor access and
88 connectivity. Of those funds, and to the maximum extent
89 feasible, up to \$5 million annually may be used for projects
90 that assist in the development of broadband infrastructure
91 within or adjacent to a multiuse corridor. The department shall
92 give priority consideration to broadband infrastructure projects
93 located in any area designated as a rural area of opportunity
94 under s. 288.0656 and adjacent to a multiuse corridor. The
95 department shall consult with the Florida Office of Broadband
96 within the Department of Economic Opportunity to ensure that the
97 broadband infrastructure projects are consistent with the
98 strategic plan required by s. 364.0135.

99 Section 3. Subsection (2) of section 364.02, Florida
100 Statutes, is amended to read:

101 364.02 Definitions.—As used in this chapter, the term:
 102 (2) "Broadband service", except when used in ss. 364.0135
 103 and 364.0136, means any service that consists of or includes the
 104 offering of the capability to transmit or receive information at
 105 a rate that is not less than 200 kilobits per second and either:
 106 (a) Is used to provide access to the Internet; or
 107 (b) Provides computer processing, information storage,
 108 information content, or protocol conversion in combination with
 109 the service.

110
 111 The definition of broadband service does not include any
 112 intrastate telecommunications services that have been tariffed
 113 with the commission on or before January 1, 2005.

114 Section 4. Subsection (2) and paragraph (c) of subsection
 115 (4) of section 364.0135, Florida Statutes, are amended and
 116 paragraph (e) is added to subsection (4) and paragraph (d) is
 117 added to subsection (5) of that section, to read:

118 364.0135 Promotion of broadband adoption; Florida Office
 119 of Broadband.—

120 (2) DEFINITIONS.—As used in this section and s. 364.0136,
 121 the term:

122 (a) "Broadband Internet service" means any service that
 123 provides access to the Internet with a capacity for transmission
 124 at a consistent speed of at least 25 megabits per second
 125 download and 3 megabits per second upload.

126 (b) ~~(a)~~ "Department" means the Department of Economic
127 Opportunity.

128 (c) ~~(b)~~ "Office" means the Florida Office of Broadband.

129 (d) ~~(e)~~ "Sustainable adoption" means the ability for
130 communications service providers to offer broadband Internet
131 services in all areas of the state by encouraging adoption and
132 utilization levels that allow for these services to be offered
133 in the free market absent the need for governmental subsidy.

134 (e) ~~(d)~~ "Underserved" means a geographic area of the state
135 without access to Internet service with a connection speed of at
136 least 25 megabits per second download and 3 megabits per second
137 upload in which there is no provider of broadband Internet
138 service that offers a connection to the Internet with a capacity
139 for transmission at a consistent speed of at least 10 megabits
140 per second downstream and at least 1 megabit per second
141 upstream.

142 (f) "Unserved" means a geographic area of the state
143 without access to Internet service with a connection speed of at
144 least 10 megabits per second download and 1 megabit per second
145 upload.

146 (4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of
147 Broadband is created within the Division of Community
148 Development in the department for the purpose of developing,
149 marketing, and promoting broadband Internet services in the
150 state. The office, in the performance of its duties, shall do

151 all of the following:

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

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

162 2. Encourage the sustainable adoption of broadband in
163 primarily unserved and underserved areas by removing barriers to
164 entry.

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

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

172 (e) Administer the Broadband Opportunity Program
173 established in s. 364.0136.

174 (5) ADMINISTRATION.—The department may:

175 (d) Adopt rules to implement this section and s. 364.0136.

176 Section 5. Section 364.0136, Florida Statutes, is created
177 to read:

178 364.0136 Broadband Opportunity Program.—

179 (1) The Broadband Opportunity Program is established
180 within the office to award grants to applicants who seek to
181 expand access to broadband Internet service in unserved and
182 underserved areas of the state. The office must administer and
183 act as fiscal agent for the program and is responsible for
184 receiving and reviewing applications and awarding grants.
185 Funding for the program shall be as provided in s.
186 338.2278 (7) (c).

187 (2) Grants awarded under this section shall fund the
188 installation and deployment of infrastructure that supports the
189 provision of broadband Internet service.

190 (3) Applicants eligible for grant awards include:

191 (a) Corporations, nonprofit corporations, limited
192 liability companies, general partnerships, and limited
193 partnerships, that are organized under the laws of the state or
194 otherwise authorized to transact business in the state.

195 (b) Political subdivisions.

196 (c) Rural electric cooperatives organized under chapter
197 425 and their broadband affiliates.

198 (d) Indian tribes.

199 (4) An eligible applicant shall submit a grant application
200 to the office on a form prescribed by the office. A grant

201 application must include the following information:

202 (a) A description of the project area.

203 (b) A description of the kind and amount of broadband
204 Internet service infrastructure that is proposed to be deployed.

205 (c) Evidence demonstrating the unserved or underserved
206 nature of the project area.

207 (d) The number of households and businesses that would
208 have new access to broadband Internet service, or that would
209 have upgraded broadband Internet service as a result of the
210 grant.

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

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

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

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

218 (5) (a) At least 30 days before the first day grant
219 applications may be submitted each fiscal year, the office shall
220 publish on its website the specific criteria and quantitative
221 scoring system it will use to evaluate or rank applications and
222 award grants under subsection (6). Such criteria and
223 quantitative scoring system must include the criteria set forth
224 in subsection (6).

225 (b) Within 3 business days after the close of the grant

226 application process, the office shall publish on its website,
227 from each application submitted, the proposed unserved and
228 underserved areas to be served and the proposed broadband
229 Internet speeds of the areas to be served.

230 (c) A broadband Internet service provider that provides
231 existing service in or adjacent to a proposed project area may
232 submit to the office, within 45 days after publication of the
233 information under paragraph (b), a written challenge to an
234 application. The challenge shall contain information
235 demonstrating that:

236 1. The provider currently provides broadband Internet
237 service to retail customers within the proposed project area;

238 2. The provider has begun construction to provide
239 broadband Internet service to retail customers within the
240 proposed project area; or

241 3. The provider commits to providing broadband Internet
242 service to retail customers within the proposed project area
243 within the timeframe proposed by the applicant.

244 (d) Within 3 business days after the submission of a
245 written challenge, the office shall notify the applicant, in
246 writing, of the challenge.

247 (e) The office shall evaluate each challenge submitted
248 under this subsection. If the office determines that the
249 provider currently provides, has begun construction to provide,
250 or commits to provide broadband internet service in the proposed

251 project area, the office may not fund the challenged project.

252 (f) If the office denies funding to an applicant as a
253 result of a broadband Internet service provider's challenge and
254 the provider does not fulfill its commitment to provide
255 broadband Internet service in the unserved or underserved area,
256 the office may not consider another challenge from the provider
257 for the next cycle, unless the office determines the failure to
258 fulfill the commitment was due to circumstances beyond
259 provider's control.

260 (6)(a) In evaluating grant applications and awarding
261 grants, the office must give priority to applications proposing
262 to serve areas identified by the office as unserved.

263 (b) In evaluating grant applications and awarding grants,
264 the office may give priority to applications that:

265 1. Proposed to serve areas identified by the office as
266 underserved;

267 2. Offer new or substantially upgraded broadband Internet
268 service to important community institutions including, but not
269 limited to, libraries, educational institutions, public safety
270 facilities, and healthcare facilities;

271 3. Facilitate the use of telemedicine and electronic
272 health records;

273 4. Serve economically distressed areas of the state, as
274 measured by indices of unemployment, poverty, or population loss
275 that are significantly greater than the statewide average;

276 5. Provide for scalability to transmission speeds of at
277 least 100 megabits per second download and 10 megabits per
278 second upload;

279 6. Include a component to actively promote the adoption of
280 the newly available broadband Internet services in the
281 community;

282 7. Provide evidence of strong support for the project from
283 citizens, government, businesses, and institutions in the
284 community;

285 8. Provide access to broadband Internet service to the
286 greatest number of unserved or underserved households and
287 businesses;

288 9. Leverage greater amounts of funding for the project
289 from other private and public sources; or

290 10. Demonstrate consistency with the strategic plan
291 adopted under s. 364.0135.

292 (c) The office must endeavor to award grants to qualified
293 applicants in all regions of the state.

294 (7) (a) The office may not award any grant to an otherwise
295 eligible grant applicant to provide broadband Internet service
296 in a project area for which any other federal funding has been
297 awarded.

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

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

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

306 (8) For each grant awarded, the office shall enter into an
307 agreement with applicant. The agreement must specify the total
308 amount of the grant, performance conditions that must be met to
309 obtain the grant, the schedule of payment, and sanctions that
310 would apply for failure to meet performance conditions,
311 including, but not limited to, requiring the return of grant
312 funds.

313 (9) By January 1, 2023, and each year thereafter, the
314 office shall publish on its website and provide to the Governor,
315 the President of the Senate, and the Speaker of the House of
316 Representatives:

317 (a) A list of all grant applications received during the
318 previous year and for each application:

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

321 2. The grant amount requested.

322 3. The grant amount awarded, if any.

323 4. A report on the progress of each grant recipient in
324 acquiring and installing infrastructure that supports the
325 provision of broadband Internet service in the project areas for

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326 | which the grant was awarded and in securing adoption of such
327 | service in each project area.

328 | (b) All written challenges during the previous year.

329 | Section 6. This act shall take effect July 1, 2021.