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Short Title: DIT Agency Bill.

(Public)

Sponsors:

Referred to:

April 9, 2025

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES RELATED TO THE DEPARTMENT OF
INFORMATION TECHNOLOGY, BROADBAND FUNDING, AND
TELECOMMUNICATIONS.

The General Assembly of North Carolina enacts:

PART I. DEPARTMENT OF INFORMATION TECHNOLOGY CHANGES

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

"(b) Exemptions. – Except as otherwise specifically provided by law, the provisions of this Chapter do not apply to the following entities: the General Assembly, the Judicial Department, ~~and~~ The University of North Carolina and its constituent ~~institutions~~ institutions, and the State Highway Patrol. These entities may elect to participate in the information technology programs, services, or contracts offered by the Department, including information technology procurement, in accordance with the statutes, policies, and rules of the Department. The election must be made in writing, as follows:

- (1) For the General Assembly, by the Legislative Services Commission.
- (2) For the Judicial Department, by the Chief Justice.
- (3) For The University of North Carolina, by the Board of Governors.
- (4) For the constituent institutions of The University of North Carolina, by the respective boards of trustees.
- (5) For the State Highway Patrol, by the Commander of the State Highway Patrol."

SECTION 1.1.(a1) If House Bill 549, 2025 Regular Session, becomes law, G.S. 143B-1320(b), as amended by Section 2 of that act and subsection (a) of this section, reads as rewritten:

"(b) Exemptions. – Except as otherwise specifically provided by law, this Article does not apply to the following entities: the General Assembly, the Judicial Department, The University of North Carolina and its constituent institutions, ~~and~~ the Office of the State ~~Auditor~~ Auditor, and the State Highway Patrol. These entities may elect to participate in the information technology programs, services, or contracts offered by the Department, including information technology procurement, in accordance with the statutes, policies, and rules of the Department. The election must be made in writing, as follows:

- (1) For the General Assembly, by the Legislative Services Commission.
- (2) For the Judicial Department, by the Chief Justice.
- (3) For The University of North Carolina, by the Board of Governors.



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- (4) For the constituent institutions of The University of North Carolina, by the respective boards of trustees.
- (5) For the Office of the State Auditor, by the State Auditor.
- ~~(5)(6)~~ For the State Highway Patrol, by the Commander of the State Highway Patrol."

SECTION 1.1.(b) Section 38.4 of S.L. 2023-134 reads as rewritten:

"SECTION 38.4.(a) In accordance with G.S. 143B-1325(c)(13), and notwithstanding any other provision of Article 15 of Chapter 143B of the General Statutes to the contrary, ~~the State Highway Patrol, the State Bureau of Investigation, Investigation and the Division of Emergency Management within the Department of Public Safety shall continue to be entirely exempt from any and all information technology oversight by the Department of Public Safety and the Department of Information Technology. The State Highway Patrol, the State Bureau of Investigation, and the Division of Emergency Management shall initiate a pilot project where those divisions the division shall be deemed as a separate, stand-alone entities entity within the Department of Public Safety in all matters related to information technology, and each the division shall autonomously manage their its own respective information technology infrastructure and all associated services without oversight from the Department of Information Technology or the Department of Public Safety. Exemption from information technology oversight includes, but is not limited to, the following:~~

...

"SECTION 38.4.(b) This section expires on June 30, ~~2025-2027~~."

SECTION 1.1.(c) G.S. 143B-1325(c) reads as rewritten:

"(c) Participating Agencies. – The State CIO shall prepare detailed plans to transition each of the participating agencies. As the transition plans are completed, the following participating agencies shall transfer information technology personnel, operations, projects, assets, and appropriate funding to the Department of Information Technology:

...

(13) Department of Public Safety, with the exception of the following:

- a. ~~State Bureau of Investigation.~~
- b. Repealed by Session Laws 2024-57, s. 3E.1(v), effective December 11, 2024.
- c. Division of Emergency Management.

The State CIO shall ensure that State agencies' operations are not adversely impacted under the State agency information technology consolidation."

PART II. CHANGES TO THE BROADBAND POLE REPLACEMENT PROGRAM

SECTION 2.1. Section 38.10 of S.L. 2021-180, as amended by Section 16.4 of S.L. 2022-6, reads as rewritten:

"BROADBAND ACCELERATION

...

"SECTION 38.10.(b) The Broadband Pole Replacement Program (hereinafter "Program") is hereby established for the purpose of speeding and facilitating the deployment of broadband service to individuals, businesses, agricultural operations, and community access points in unserved areas by reimbursing a portion of eligible pole replacement costs incurred by communications service providers. A communications service provider who pays or incurs the costs of removing and replacing an existing ~~pole-pole, or placing facilities underground to better protect the critical infrastructure from natural disasters,~~ in connection with a qualified project may apply to the Department for reimbursement in an amount equal to fifty percent (50%) of eligible pole replacement costs paid or incurred by the applicant or ten thousand dollars (\$10,000), whichever is less, for each pole ~~replaced-replaced or, in the case of placing facilities underground, fifty percent (50%) of such costs.~~

...

"SECTION 38.10.(g) A pole owner shall promptly review a request for access, perform surveys, provide estimates and final invoices, and complete, or require the completion by other attaching entities of, any make-ready work necessary for purposes of offering broadband service in an unserved area. A pole owner shall provide a good-faith estimate for any make-ready costs to the communications service provider within 60 days after receipt of a complete application for access. If requested by the communications service provider, the pole owner shall provide accompanying documentation indicating the basis of all estimated fees or other charges, including, but not limited to, administrative costs, that form the basis of its estimate. A good-faith estimate shall remain valid for 14 days. To accept a good-faith estimate, a communications service provider must provide the pole owner with written acceptance and payment of the good-faith estimate. Make-ready work shall be conditioned upon payment of the good-faith estimate and shall be completed within a reasonable time frame mutually agreed to by the communications service provider and the pole owner. A pole owner may treat multiple requests from a single communications service provider as one application for access when the requests are filed within 90 days of one another. A pole owner may deviate from the time limits specified in this subsection during performance of make-ready work for good and sufficient cause that renders it infeasible to complete make-ready work within the time limits specified in this subsection. Any deviation from the time limits specified in this subsection shall extend for a period no longer than necessary. A communications service provider shall promptly be notified, in writing, of the reason for a deviation and the new completion date estimate. A communications service provider shall provide notice, in writing, to the pole owner no later than 14 days after attaching equipment to a pole in an unserved area. This subsection shall not apply to poles owned by a utility.

"SECTION 38.10.(h) A party subject to a dispute arising under subsection (g) of this section may invoke the dispute procedures authorized in G.S. 62-350 in the same manner as a party seeking resolution of a dispute under G.S. 62-350(c), and the Utilities Commission shall issue a final order resolving the dispute within 120 days of the date the proceedings were initiated; provided, however, the Commission may extend the time for issuance of a final order for good cause and with the agreement of all parties. In such a dispute, the Commission shall apply the provisions of this section notwithstanding any contrary provisions of any existing agreement. This subsection shall not apply to poles owned by a utility.

"SECTION 38.10.(i) No later than 60 days after the date funds are appropriated to the Program special fund, and on a quarterly basis thereafter, the Department shall maintain and publish on its website all of the following:

- (1) The number of applications for reimbursement received, processed, and rejected, including the reasons applications were rejected.
- (2) The amount of each reimbursement, the total number of reimbursements, and the status of any pending reimbursements.
- (3) The estimated remaining balance in the Program special fund.

"SECTION 38.10.(j) The following definitions apply in this section:

...

- (4) Eligible pole replacement cost. – The actual and reasonable costs paid or incurred by a party after June 1, 2021, to (i) remove and replace a pole, including the amount of any expenditures to remove and dispose of the existing pole, purchase and install a replacement pole, and transfer any existing facilities to the new pole, or (ii) place facilities, including lines, conduit, and related equipment, underground to better protect the critical infrastructure from natural disaster. The term includes costs paid or incurred by the party responsible for the costs of a pole replacement to reimburse the party that performs the pole replacement. The term does not include costs that

- the party incurs initially that have been reimbursed to the party by another party ultimately responsible for the costs.
- (5) Pole. – Any pole used, wholly or partly, for any wire communications or electric distribution, irrespective of who owns or operates the ~~pole-pole~~, including poles owned by a utility.
- (6) Pole owner. – A city or cooperatively organized entity that owns utility poles.
- (7) Qualified project. – A project undertaken by a communications service provider ~~that is not affiliated with a pole owner~~ seeking to provide or, due to natural disaster or other force majeure event, restore, temporarily or permanently, qualifying internet access service on a retail basis to one or more households, businesses, agricultural operations, or community access points in an unserved or underserved area. The project may be affiliated with a cooperatively organized entity that owns utility poles but shall not be affiliated with a city that owns utility poles. A pole owner whose affiliate seeks reimbursement for a qualified project shall not pass through the costs for which reimbursement is sought to unaffiliated communications service providers and shall schedule and perform all work in a nondiscriminatory fashion.
- ...
- (9) Unserved area. – An area in which, according to the most recent map of fixed broadband internet access service made available by the Federal Communications Commission, fixed, terrestrial broadband service at speeds of at least 25 megabits per second download and at least 3 megabits per second upload is unavailable at the time the communications service provider requests access. An unserved area also includes an area that was previously served but has become unserved due to damage or destruction by a natural disaster. A pole or underground installation shall be presumed to be located in an unserved area if the pole is located in an area that is the subject of a federal or State grant to deploy broadband service, the conditions of which limit the availability of a grant to unserved areas or, in the case of a damaged or destroyed facility, was in such an area when the facility was originally constructed.
- (10) Utility. – As defined by 47 U.S.C. § 224.

...."

SECTION 2.2. This Part is effective when it becomes law. Funds encumbered for expenses incurred as of June 1, 2021, prior to the effective date of this Part shall remain eligible for reimbursement.

PART III. BROADBAND FUND FLEXIBILITY

SECTION 3.1. G.S. 143B-1373.2 is repealed.

SECTION 3.2. G.S. 143B-1374 is repealed.

SECTION 3.3.(a) The Department of Information Technology shall use funds appropriated for the Growing Rural Economies with Access to Technology program for fixed wireless and satellite broadband grants, established in G.S. 143B-1373.2, to award grants to eligible entities to purchase installation materials for satellite internet service. Installation materials and internet service must be for the grantee's own use and not for distribution to other parties. No portion of funds granted under this section shall be used for internet service subscriptions. The Department shall prioritize grant applicants that operate in one of the 39 counties designated as a disaster area due to Hurricane Helene. The Department may also give priority to grantees that offer emergency services, disaster relief, educational services, or economic development.

SECTION 3.3.(b) For the purposes of this section, an eligible entity is one of the following:

- (1) A State agency.
- (2) A local government entity.
- (3) A volunteer fire department.
- (4) An anchor point, as that term is defined in G.S. 117-18.1(d)(1).

SECTION 3.4.(a) The Department of Information Technology may provide emergency funding to communications service providers to rebuild, repair, or replace broadband infrastructure damaged by Hurricane Helene, including reimbursement of costs already incurred for rebuilding, repairing, or replacing broadband infrastructure, provided that all of the following apply:

- (1) An applicant for funding under this section shall only be permitted to recover costs that are not subject to reimbursement from another source of external funding, including insurance.
- (2) The Department may cap reimbursement at a portion of the costs incurred based upon evaluation of considerations such as the number of applications anticipated compared to funds available.
- (3) Priority shall be given to restoration of broadband service.

SECTION 3.4.(b) The Department may use up to fifty million dollars (\$50,000,000) of the funds available from the Broadband Make Ready Accelerator appropriation in S.L. 2021-180 for the emergency funding described in subsection (a) of this section. Funds shall be used in compliance with applicable federal guidelines associated with the use of federal funds. The Department may use its emergency procurement authority provided in 09 NCAC 06B .1302 to procure any goods or services in accordance with this section and shall document the request for funding, the emergency situation or need, the area to be served, and the community's need for the procurement.

SECTION 3.5. Section 38.15 of S.L. 2021-180, as enacted by Section 16.1(a) of S.L. 2022-6, reads as rewritten:

"SECTION 38.15. Except as otherwise ~~provided, provided and after the intent of the original appropriation has been satisfied to the extent practicable,~~ the Department of Information Technology shall have flexibility to transfer funding between the programs outlined in Section 38.4, Section 38.5, ~~and Section 38.6~~ 38.6, and Sections 38.10(b) through (k) of this act, ~~so long as the total allocations for the programs remain the same act.~~"

PART IV. BEAD DEPLOYMENT CHANGES

SECTION 4.1. Section 10.2 of S.L. 2024-55 reads as rewritten:

"SECTION 10.2.(a) Definitions. – As used in this section, the following definitions apply:

- (1) BEAD. – Broadband Equity, Access, and Deployment.
- (2) Broadband service. – For the purposes of this section, a ~~terrestrially deployed~~ mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service.
- ...
- (8) ~~Extremely high cost per location threshold. — A BEAD subsidy cost per location above which the Office may decline to select a proposal if use of an alternative technology meeting the BEAD Program's technical requirements is necessitated by the fact that selection of an eligible project proposing to provision service via end-to-end fiber optic facilities to each end-user premises would be cost prohibitive. The Office will develop a methodology~~

for calculating this threshold in a manner that maximizes use of the best available technology while ensuring that the program can, at a minimum, meet the prioritization requirements. The Office will post the methodology for public comment before implementation. The Office shall not, unless it is determined that it does not have sufficient funding to select each highest scoring application in the initial round described in this section, utilize the extremely high cost per location threshold in the initial round.

...

(14) Low-cost broadband service option. – A broadband service offered to low income households that meets the eligibility requirements for the federal Affordable Connectivity Program, or similar replacement program, in the project area for at least the length of time defined by federal requirements. A low-cost broadband service option must be made available and include the following elements: As defined in the IIJA and as interpreted by any subsequent guidance issued by NTIA.

- a. Provide typical download speeds of at least 100 Mbps and typical upload speeds of at least 20 Mbps.
- b. Provide typical latency measurements of no more than 100 milliseconds.
- c. Not be subject to nongovernmental imposed surcharges and be subject only to the same acceptable use policies to which subscribers to all other broadband internet access service plans offered to home subscribers by the participating subgrantee must adhere.
- d. Shall be offered at a price that does not exceed the highest price listed in the FCC's 2024 Urban Rate Survey data for Fixed Broadband Service for a service offering in North Carolina that provides a download speed of 100 Mbps, upload speed of 20 Mbps, and an unlimited capacity allowance. The price may be adjusted by the subgrantee based on the Consumer Price Index, as defined by the United States Bureau of Labor Statistics, beginning with an adjustment in the first new calendar year after the date of enactment of this section.
- e. In the event the provider later increases the speeds of one of its low cost plans, it will permit eligible subscribers that are subscribed to that plan to upgrade to those new speeds at no more than a commensurate change in cost.

...

(20) Reliable broadband service. – Terrestrial-based broadband service (i) with ninety five percent (95%) of latency measurements during testing windows falling at or below 100 milliseconds round trip time and (ii) which is designed to ensure that network outages should not exceed, on average, 48 hours over any 365-day period except in the case of natural disasters or other force majeure occurrences. Locations served exclusively by satellite, terrestrial fixed wireless services utilizing entirely licensed spectrum, using a hybrid of licensed and unlicensed spectrum, or a technology not specified by the FCC for purposes of its Broadband DATA Maps do not meet the definition of "reliable broadband service" and will be considered "unserved" for the purposes of determining eligible locations. As defined in the IIJA and as interpreted by any subsequent guidance issued by NTIA.

(21) Secretary. – The Secretary of Information Technology.

(22) Subgrantee. – An eligible recipient who receives BEAD funds for an eligible project.

- (23) ~~Underserved. – A BSL that has access to reliable broadband service equal to or greater than 25 Mbps download and 3 Mbps upload but less than 100 Mbps download and 20 Mbps upload. Unless otherwise determined by the Department based on competent findings of fact, locations that the FCC's Broadband DATA Maps show to have available qualifying broadband service delivered via (i) DSL or (ii) terrestrial fixed wireless services utilizing entirely licensed spectrum, or using a hybrid of licensed and unlicensed spectrum, shall be considered "underserved" for the purpose of determining eligible locations. As defined in the IIJA and as interpreted by any subsequent guidance issued by NTIA.~~
- (24) ~~Unserved. – A BSL that does not have access to reliable broadband service with transmission speeds of at least 25 Mbps download and at least 3 Mbps upload. As defined in the IIJA and as interpreted by any subsequent guidance issued by NTIA.~~

...
"SECTION 10.2.(j) Competitive Subgrantee Selection Process. – The Office shall implement a competitive subgrantee selection process that conforms with published regulations and guidelines under the BEAD Program under the IIJA. Applications receiving the highest score shall receive priority status for the awarding of subgrants pursuant to this section. ~~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 unserved and underserved locations.~~ Applications shall be scored on an objective 100-point scale that is published prior to the submission of applications for subgrants. The Office shall determine whether or not a subgrantee has the capacity to perform multiple projects and shall not be required to award multiple projects to a prequalified subgrantee that has failed to demonstrate its ability to perform.

...."

PART V. LIFELINE SERVICE PROVIDERS

SECTION 5.1. Article 3 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-30.1. Designating telecommunications carriers; rules.

(a) Notwithstanding G.S. 62-3(23)j. or G.S. 62-30, the Utilities Commission may, solely upon petition of any provider or reseller of mobile radio communications service, designate the petitioning provider or reseller of mobile radio communications service as an eligible telecommunications carrier pursuant to 47 C.F.R. § 54.201 for purposes of providing Lifeline service. The Commission may adopt rules to effectuate the purposes of this section.

(b) Nothing in this section shall confer upon the Utilities Commission any regulatory jurisdiction over providers or resellers of mobile radio communications service that have been previously designated as eligible telecommunications carriers for purposes of providing Lifeline service prior to the enactment of this section."

PART VI. EFFECTIVE DATE

SECTION 6.1. Except as otherwise provided, this act becomes effective July 1, 2025.