

**GENERAL ASSEMBLY OF NORTH CAROLINA
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**SENATE BILL 284
PROPOSED HOUSE COMMITTEE SUBSTITUTE S284-CSMQa-23 [v.9]
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Short Title: County Cybersec./Satellite Broadband Grants.

(Public)

Sponsors:

Referred to:

March 18, 2019

A BILL TO BE ENTITLED
AN ACT TO CREATE A PILOT PROGRAM TO ESTABLISH PUBLIC-PRIVATE
PARTNERSHIPS THAT WILL ASSIST CERTAIN COUNTIES WITH
CYBERSECURITY RESOURCES; TO CREATE A PILOT PROGRAM WITHIN THE
DEPARTMENT OF INFORMATION TECHNOLOGY TO ENHANCE PROGRAM
MANAGEMENT CAPABILITIES WITHIN THE AGENCY; TO ESTABLISH A GRANT
PROGRAM AT THE DEPARTMENT OF INFORMATION TECHNOLOGY TO
ENCOURAGE THE EXPANSION OF SATELLITE-BASED BROADBAND SERVICE
TO UNSERVED PORTIONS OF THE STATE; TO STREAMLINE THE PREPARATION
AND FINALIZATION OF NEW LEASES AND LEASE RENEWALS ON STATE
PROPERTY TO EXPEDITE DEPLOYMENT OF BROADBAND INFRASTRUCTURE;
AND TO MAKE APPROPRIATIONS TO THE DEPARTMENT OF INFORMATION
TECHNOLOGY.

The General Assembly of North Carolina enacts:

SECTION 1. The Information Technology Innovation Center, established pursuant to G.S. 143B-1350(j), shall create a cybersecurity pilot program to establish and utilize public-private partnerships to provide cybersecurity support services from participating vendors to eligible counties. The Center shall receive proposals from vendors that demonstrate the capability to provide comprehensive cybersecurity support services to counties designated as development tier one or tier two areas, pursuant to G.S. 143B-437.08. The Center shall establish agreements with participating vendors that describe the funds or professional services to be offered in the cybersecurity pilot program described by this section. Participating vendors selected by the Center shall meet all of the following requirements:

- (1) Demonstrated compliance with the security guidelines outlined in the National Institute of Standards and Technology Special Publication 800-171.
- (2) Services offered must be complete and include all hardware, software, licenses, support, maintenance, training, and labor, as applicable.
- (3) Services must account for evolving technology and security threats.
- (4) Adequate ability for review and oversight of services by the Department of Information Technology.
- (5) Services must be as integrated as possible and must identify accountability and responsibility measures for incident response.
- (6) Projects and services shall be integrated with existing State cybersecurity infrastructure and shall share all resulting data with the State.

The Center shall develop criteria for eligible counties to demonstrate need and capacity to participate in the cybersecurity pilot program by March 31, 2021, and annually thereafter, the



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Center shall submit a report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the cybersecurity pilot program, including the terms of partnerships initiated, eligible counties participating, and any results from partnerships.

SECTION 2.(a) The Department of Information Technology (Department) shall establish a program and project management improvement pilot program that incorporates the provisions contained in this section. Subject to the direction and approval of the State Chief Information Officer, the Deputy Chief Information Officer shall do all of the following:

- (1) Adopt mandatory agency-wide standards, policies, and guidelines for program and project management.
- (2) Oversee program and project management for the standards, policies and guidelines established pursuant to subdivision (1) of this subsection.
- (3) Issue regulations and establish mandatory standards and policies for the Department, in accordance with nationally accredited standards for program and project management planning and execution.
- (4) Collaborate and engage with private and non-profit entities in furtherance of the standards, policies, and guidelines established pursuant to this subsection.
- (5) Conduct periodic reviews of the Department to identify and address programs and projects identified as high-risk.
- (6) Conduct annual reviews of Department programs and projects in coordination with the Department's Project Management Improvement Officer designated pursuant to this section.
- (7) Establish and periodically update a five-year strategic plan for program and project management for the Department.

SECTION 2.(b) The Deputy Chief Information Officer shall designate a Program Management Improvement Director who shall report directly to the Deputy CIO. The Program Management Improvement Director shall be responsible for all of the following:

- (1) Implementation of mandatory program management policies established by the Department pursuant to this section.
- (2) Development of a written strategy for enhancing the role of program managers within the Department which shall include all of the following:
 - a. Enhanced training and educational opportunities for program managers.
 - b. Mentoring of current and future program managers by experienced agency personnel within the Department.
 - c. Establishing improved career paths and career opportunities for program managers.
 - d. Providing incentives for the recruitment and retention of highly qualified individuals to serve as program managers.
 - e. Developing resources and support, including establishing relevant competencies encompassed with program and project management within the private sector for program managers.
 - f. Developing means of collecting and disseminating best practices and lessons learned to enhance program management throughout the Department.
 - g. Create common templates and tools to support improved data gathering and analysis for program management and oversight purposes.

SECTION 2.(c) No later than 270 days after the effective date of this act, the Deputy Chief Information Officer shall issue regulations in accordance with this section. The regulations shall contain at least all of the following:

- (1) Identification of key skills and competencies needed for a program and project manager in the Department.
- (2) Establishment of a new job series for program and project management within the Department.
- (3) Establishment of a new career path for program and project managers within the Department.
- (4) Requirements for certification of program and project managers within the Department by domestic third-party certification bodies specializing in certifications for project managers, program managers, and portfolio managers.

SECTION 2.(d) On or before July 1, 2021, the Department of Information Technology shall submit a report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the pilot program outlined in this section. At a minimum, the report shall contain the following:

- (1) A list of the policies, guidelines, and regulations issued under the pilot program.
- (2) The contents of the five-year strategic plan for program and project management.
- (3) A summary of the written strategy for project managers in the Department.
- (4) Evidence of any improvement in project management in the Department, including a summary of personnel training and certifications, resulting from the pilot program.
- (5) Any programmatic or legislative recommendations.

SECTION 3.(a) Part 6 of Article 15 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-1374. Satellite-Based Broadband Grant Program.

(a) The following definitions apply in this section:

- (1) Broadband service. – Internet access service, regardless of the technology or medium used to provide the service, with transmission speeds that are equal to or greater than the requirements for the minimum performance tier and with latency equal to or lesser than the requirements for low latency, as both metrics are provided by the Federal Communications Commission in Paragraph 39 of the report and order adopted January 30, 2020, and released February 7, 2020.
- (2) Grantee. – A satellite-based provider that has been awarded a grant pursuant to this section.
- (3) Office. – The Broadband Infrastructure Office in the Department of Information Technology.
- (4) Project area. – An area identified by a grantee and defined in a grant agreement entered into pursuant to this section that contains unserved households. A project area may also cover areas that have broadband service.
- (5) Satellite-based provider. – A broadband service provider that provides Internet access directly to consumers via satellite technology.
- (6) Unserved household. – A household located in this State that does not have access to broadband service and that the Department has identified as being situated in either an unserved census tract or a tract that the Department otherwise determines is unserved. A household that is included in an area where a grant from the Growing Rural Economies with Access to Technology (GREAT) program pursuant to G.S. 143B-1373 has been awarded is not eligible for a grant under this section.

(b) The Satellite-Based Broadband Grant Fund is created as a special revenue fund in the Department of Information Technology. Monies in the Fund do not revert but remain available

to the Department for the purposes provided in this section. State funds appropriated to this Fund shall be considered an information technology project within the meaning of G.S. 143C-1-2.

(c) Applications for grants will be submitted at times designated by and on forms prescribed by the Secretary. Notwithstanding any other provision of law, if the Secretary deems some of the information in an application to contain proprietary information, the Secretary may provide that such information is not a public record, as that term is defined in G.S. 132-1, subject to public records or other laws requiring the disclosure of such information and have that portion of the application redacted. An application shall include, at a minimum, the following information:

- (1) The identity of the applicant.
- (2) An illustration or description of the project area to be served and the estimated number of unserved households in that area that will gain access to broadband service at the conclusion of deployment.
- (3) The proposed construction and deployment time line.
- (4) A description of the services to be provided, including the proposed upstream and downstream broadband speeds to be delivered and any applicable data caps. Any applicant proposing a data cap below 150 Gigabytes of usage per month shall also provide justification to the satisfaction of the Office that the proposed cap is in the public interest and consistent with industry standards.
- (5) A plan to mitigate barriers to adoption by households.
- (6) The proposed advertised speed to be marketed to end users in the project area.
- (7) The proposed cost to be charged to an unserved household in the project area for subscribing to the broadband service.
- (8) Any other information or supplementary documentation requested by the Office.

(d) The Office shall determine eligibility for a grant pursuant to this section based upon the information provided in the application of a satellite-based provider and shall award grants to applicants that will provide access to the greatest number of unserved households. Applications of satellite-based providers that propose the provision of broadband service to the greatest number of unserved households situated in census tracts that have been identified as significantly unserved by the Office shall be given priority, even if the proposed area contains portions of households with broadband service. The maximum aggregate amount of total liability for all grants awarded under this section is four million dollars (\$4,000,000). The maximum amount of total annual liability for grants awarded in any single calendar year under this section is two million five hundred thousand dollars (\$2,500,000). No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during a single calendar year, could cause the State's potential total annual liability for grants awarded in a single calendar year to exceed the applicable amount. The amount of award for each grant year shall be equal to the product of two hundred fifty dollars (\$250.00) multiplied by a fraction, the numerator of which is the total number of full months all unserved households received broadband service from a satellite-based provider in the grant year and the denominator of which is 12. No broadband service to an unserved household beyond 24 months of service may be included in the calculation of an award.

Eligibility for a grant award is dependent upon the household maintaining broadband service with the grantee for at least eighty-three percent (83%) of the year in which the grantee seeks an award. No single subscription or full-year equivalent subscription may be used to calculate a grant award for more than the three-year term identified in the agreement. The total grant award for a single unserved household under this section shall not exceed five hundred dollars (\$500.00). A grantee shall submit documentation to the Office annually that will provide information sufficient for the Office to verify eligibility of subscriptions.

1 (e) The Office shall require a grantee to enter into an agreement. The agreement shall
2 contain at least all of the following:

- 3 (1) A detailed description of the anticipated area where the grantee will deploy
4 broadband service.
- 5 (2) The current number of unserved households situated within the anticipated
6 area.
- 7 (3) The total number of unserved households the grantee anticipates subscribing
8 to its broadband service.
- 9 (4) A method for the grantee to report annually to the Office the number of
10 households subscribing to broadband service offered by the grantee.
- 11 (5) A plan for the grantee to address barriers to adoption by households situated
12 within the project area.
- 13 (6) A provision that requires the grantee to maintain its service for the area, or
14 another area approved by the Office, for at least five years.
- 15 (7) A provision establishing the conditions under which the grant agreement may
16 be terminated and under which grant funds may be recaptured by the Office.
- 17 (8) A provision stating that unless the agreement is terminated pursuant to its
18 terms, the agreement is binding and constitutes a continuing contractual
19 obligation of the State and the grantee.
- 20 (9) A provision that establishes any allowed variation in the terms of the
21 agreement that will not subject the grantee to grant reduction, amendment, or
22 termination of the agreement.
- 23 (10) A provision describing the manner in which the amount of the grant will be
24 measured and administered to ensure compliance with the agreement and this
25 section.
- 26 (11) A provision stating that any recapture of a grant and any reduction in the
27 amount of the grant or the term of the agreement must, at a minimum, be
28 proportional to the failure to comply measured relative to the condition or
29 criterion with respect to which the failure occurred.
- 30 (12) A provision describing the methodology the Office will use to verify
31 subscriptions and the types of information required to be submitted by the
32 grantee.
- 33 (13) A provision prohibiting a grantee from receiving a payment or other benefit
34 under the agreement at any time when the grantee has received a notice of an
35 overdue tax debt, as defined in G.S. 105-243.1, and the overdue tax debt has
36 not been satisfied or otherwise resolved.
- 37 (14) A provision stating that any disputes over interpretation of the agreement shall
38 be submitted to binding arbitration.
- 39 (15) A provision encouraging the business to contract with small businesses
40 headquartered in the State for goods and services.
- 41 (16) A provision encouraging the business to hire North Carolina residents.
- 42 (17) A provision encouraging the business to use the North Carolina State Ports.
- 43 (18) Any other provision the Office deems necessary.

44 The Attorney General shall review the terms of all proposed agreements entered into pursuant
45 to this section. To be effective against the State, an agreement entered into pursuant to this section
46 must be signed personally by the Attorney General. An agreement entered into pursuant to this
47 section is a binding obligation of the State and is not subject to State funds being appropriated
48 by the General Assembly.

49 (f) If the grantee fails to meet or comply with any condition or requirement set forth in
50 an agreement, the Office shall reduce the amount of the grant or the term of the agreement, may
51 terminate the agreement, or both. The reduction in the amount or the term must, at a minimum,

be proportional to the failure to comply measured relative to the condition with respect to which the failure occurred. If the Office finds that the grantee has manipulated or attempted to manipulate data with the purpose of increasing the amount of a grant, the Office shall immediately terminate the agreement and take action to recapture any grant funds disbursed in any year in which the Office finds the grantee manipulated or attempted to manipulate data with the purpose of increasing the amount of a grant.

(g) The grantee shall certify and provide to the Office evidence consistent with a Federal Communications Commission attestation that the proposed minimum upstream and minimum downstream broadband speeds identified in the application guidelines are and will be available throughout the project area during the term of the agreement prior to any end user connections. A grantee may receive an annual disbursement of a grant only after the Office has certified that the grantee has met the terms and conditions of the agreement. A grantee shall annually submit a certification of compliance with the agreement to the Office. The Office shall require the grantee to provide any necessary evidence of compliance to verify that the terms of the agreement have been met.

(h) Notwithstanding any other provision of law, grants made pursuant to this section shall be budgeted and funded on a cash flow basis. The Department shall disburse funds in an amount sufficient to satisfy grant obligations to be paid during the fiscal year. It is the intent of the General Assembly to appropriate funds annually to the Satellite-Based Broadband Grant Program established in this section in amounts sufficient to meet the anticipated cash requirements for each fiscal year.

(i) The Office shall require that a grantee offer the proposed advertised minimum download and minimum upload speeds and subscription cost identified in the application for the duration of the five-year service agreement. At least annually, a grantee shall provide to the Office evidence consistent with a Federal Communications Commission attestation that the grantee is making available the proposed advertised speed, or a faster speed, as contained in the grant agreement. For the duration of the agreement, a grantee shall disclose any changes to data caps for the project area that differ from the data caps listed in the grant application to the Office.

(j) A grantee shall submit to the Office an annual report for the duration of the agreement. The report shall include a summary of, and level of attainment for, the items contained in the grant agreement and shall also include (i) the number of households that have broadband access as a result of the project, (ii) the percentage of end users in the project area who have access to broadband service that actually subscribe to the broadband service, and (iii) the average monthly subscription cost for broadband service in the project area.

(k) The Department of Information Technology shall submit an annual report to the Joint Legislative Oversight Committee for Information Technology and the Fiscal Research Division on or before September 1. The report shall contain at least all of the following:

- (1) The number of grant projects applied for and the number of grant agreements entered into.
- (2) A time line for each grant agreement and the number of households expected to benefit from each agreement.
- (3) The total amount of investment for each agreement.
- (4) A summary of areas receiving grants that are now being provided broadband service and the advertised broadband speeds and subscription prices for those areas.
- (5) Any breaches of agreements, and any grant fund forfeitures or reductions.
- (6) Any recommendations for the grant program, including better data sources and methods for improving outcomes and accountability."

SECTION 3.(b) Notwithstanding G.S. 143B-1374(d), as enacted in this act, the maximum amount of total annual liability for grants awarded for the 2020 calendar year is one million dollars (\$1,000,000).

1 **SECTION 4.(a)** G.S. 146-29.2 reads as rewritten:

2 "**§ 146-29.2. Lease or interest in real property for communication purposes.**

3 ...

4 (b1) The State shall allow the collocation, installation, and operation of equipment by a
5 broadband provider on any existing structure owned by the State and shall lease real property, or
6 grant an easement or license with an interest in real property, for the purposes of construction
7 and placement of broadband infrastructure on State land. A disposition entered into pursuant to
8 this subsection is voidable by the Governor and Council of State for specific reasons or causes
9 that shall be cited. A determination for a disposition under this subsection shall be made subject
10 to the following:

11 (1) For new requests, the Department of Administration shall prepare and finalize
12 the lease agreement within four months of the receipt of the lease application
13 by the controlling agency. An agency controlling the subject property shall
14 coordinate with the Department in preparing the complete application package
15 for the lease request. If, after four months have elapsed since the controlling
16 agency received the lease application, the lease agreement has not been
17 finalized, the Department shall enter into a lease agreement with the applicant
18 according to the terms submitted in the application.

19 (2) For renewals, the Department of Administration shall prepare and finalize the
20 lease agreement within two months of receiving the application. If the
21 Department is unable to finalize the renewed lease at least two months prior
22 to the termination of the current lease, then the terms of the current lease shall
23 continue until the lease is finalized.

24 (3) The Department of Administration shall coordinate with the Department of
25 Information Technology to develop a streamlined lease development process
26 using state-of-the-art technology, including video conferencing, to facilitate
27 and expedite process completion. All State agencies shall cooperate with and
28 participate in the streamlined lease development process to ensure that
29 finalized lease agreement is prepared and finalized within the time frames
30 required under this subsection.

31 "

32 **SECTION 4.(b)** This section becomes effective July 1, 2020 and applies to
33 applications for new leases and lease renewals submitted on or after that date.

34 **SECTION 4.(c)** This section expires January 1, 2025.

35 **SECTION 5.(a)** Notwithstanding any other provision of law to the contrary, the
36 appropriation in Fund Code 14660-1990 for transfer to the IT Reserve Fund (Budget Code 24667)
37 is reduced by twelve million two hundred fifty thousand dollars (\$12,250,000) in nonrecurring
38 funds for the 2020-2021 fiscal year and the appropriation to Enterprise Security and Risk
39 Management Office (Fund Code: 14660-1720) is increased by twelve million two hundred fifty
40 thousand dollars (\$12,250,000) in nonrecurring funds for the 2020-2021 fiscal year.

41 **SECTION 5.(b)** Of the funds available in the Enterprise Security and Risk
42 Management Office (Fund Code: 14660-1720), the following sums are appropriated to the
43 Department of Information Technology to be allocated for the following purposes:

44 (1) \$2,500,000 in nonrecurring funds for the 2020-2021 fiscal year for the
45 cybersecurity pilot program described in Section 1 of this act.

46 (2) \$3,250,000 in nonrecurring funds for the 2020-2021 fiscal year to be allocated
47 to Gaston College to use to found the Carolina Cyber Network. Gaston
48 College may use up to two hundred fifty thousand dollars (\$250,000) of the
49 funds allocated in this subdivision for administration costs associated with the
50 Network.

(3) The sum of five million five hundred thousand dollars (\$5,500,000) in nonrecurring funds for the 2020-2021 fiscal year to be used to enhance Statewide cybersecurity.

(4) The sum of one million dollars (\$1,000,000) to the Satellite-Based Broadband Grant Fund, established in Section 3 of this act.

SECTION 6.(a) The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

SECTION 6.(b) Except where expressly repealed or amended by this act, the provisions of any other legislation enacted during the 2019 Regular Session of the General Assembly expressly appropriating funds to an agency, a department, or an institution covered under this act shall remain in effect.

SECTION 7. Except as otherwise provided, this act becomes effective July 1, 2020.