



February 19, 2021

SENATE BILL No. 352

DIGEST OF SB 352 (Updated February 18, 2021 1:18 pm - DI 120)

Citations Affected: IC 4-4; IC 8-23; noncode.

Synopsis: Broadband development. Amends the statutory priorities for the funding of projects from the rural broadband fund to provide that the office of community and rural affairs (office) shall establish as a priority the funding of projects to extend the deployment of eligible broadband service to areas in which the only deployed connections to the Internet are at actual speeds of less than 25 megabits per second downstream. (Current law prioritizes the funding of projects to deploy eligible broadband service to rural areas based on two different levels of broadband speed available in such areas.) Requires the office to amend, not later than April 15, 2021, the office's guidelines implementing the rural broadband grant program as necessary to reflect the changes to the funding priorities made by the bill's provisions. Specifies that the office may not award a rural broadband grant for a project in an area for which funding has been allocated under the
(Continued next page)

Effective: Upon passage.

Houchin, Koch, Garten

January 11, 2021, read first time and referred to Committee on Utilities.
February 15, 2021, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.
February 18, 2021, amended, reported favorably — Do Pass.

SB 352—LS 7305/DI 119



Digest Continued

federal Rural Digital Opportunity Fund. Provides that the office may not require a broadband service provider to use a professional engineer to certify the provider's technical or operational capabilities for purposes of qualifying for a rural broadband grant if the provider's technical or operational capabilities have been certified by an expert with credentials from the Society of Cable Telecommunications Engineers or a similar broadband engineering group. Establishes a process by which: (1) an applicant for a rural broadband grant must, before the round of grant funding for which the applicant intends to apply, submit to the office a letter of intent that identifies all addresses or census blocks the applicant intends to include in the grant application; and (2) a broadband service provider may submit to the office a challenge as to whether broadband service is already deployed in one or more addresses or census blocks included in the applicant's letter of intent. Prohibits the department of transportation (department) from requiring a private entity to agree, as a condition of the department leasing a right-of-way to the private entity, that fixtures constructed or installed by the private entity in or under the right-of-way are or become, without additional consideration, property of the department or of the state. Provides that the department may, in consultation with the office and with the office of technology, establish and implement a long-term policy with regard to the use, by public or private entities, of the rights-of-way of interstates and state owned roads for the deployment of broadband service throughout the state. Requires the office to maintain a geographic information system or similar data base that contains spatial data regarding the availability of broadband Internet service in Indiana. Provides the office may use money in the rural broadband fund to pay for the cost to update the database.

SB 352—LS 7305/DI 119



February 19, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 352

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-4-38.5-1.6 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 1.6. As used in this chapter,**
4 **"challenge" means notice provided to the office by an eligible**
5 **broadband service provider under section 13.5(b) of this chapter**
6 **asserting that eligible broadband service is already deployed in an**
7 **area for which another eligible broadband service provider has**
8 **applied for a broadband grant under this chapter.**
9 SECTION 2. IC 4-4-38.5-1.7 IS ADDED TO THE INDIANA
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
11 [EFFECTIVE UPON PASSAGE]: **Sec. 1.7. As used in this chapter,**
12 **"deployed" means, with respect to availability of eligible**
13 **broadband service at a location, that an eligible broadband service**
14 **provider:**
15 (1) **currently has an eligible broadband service connection at**

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1 **the location; or**

2 **(2) could provide an eligible broadband service connection to**
 3 **a customer that requests an eligible broadband service**
 4 **connection at the location:**

5 **(A) not later than ten (10) days after the customer requests**
 6 **an eligible broadband service connection at the location;**
 7 **and**

8 **(B) without:**

9 **(i) an extraordinary commitment of resources; or**

10 **(ii) construction charges or fees exceeding an ordinary**
 11 **service activation fee.**

12 **Eligible broadband service is considered to be deployed at a**
 13 **location regardless of whether any person or entity subscribes to**
 14 **the eligible broadband service at the location.**

15 SECTION 3. IC 4-4-38.5-9, AS ADDED BY P.L.189-2019,
 16 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 9. (a) The office shall establish procedures for
 18 the awarding of grants from the fund after July 31, 2019, by state
 19 agencies to eligible broadband service providers for eligible broadband
 20 projects.

21 (b) The procedures established under this section must establish ~~the~~
 22 ~~following priorities for~~ **as a priority for** the awarding of grants under
 23 this chapter

24 ~~(1) First, extending the deployment of eligible broadband service~~
 25 ~~to areas in which~~

26 ~~(A) Internet connections are unavailable; or~~

27 ~~(B) the only available connections to the Internet are at actual~~
 28 ~~speeds of less than ten (10) megabits per second downstream.~~

29 ~~(2) Second, extending the funding of projects to extend the~~
 30 ~~deployment of eligible broadband service to areas in which the~~
 31 ~~only available connections to the Internet are at actual speeds of~~

32 ~~(A) not less than ten (10) megabits; and~~

33 ~~(B) not more less than twenty-five (25) megabits per second~~
 34 ~~downstream.~~

35 ~~(3) Projects for areas described in subdivision (2) shall not be~~
 36 ~~funded before projects described in subdivision (1).~~

37 (c) The procedures established under this section may not permit the
 38 awarding of a grant from the fund for any proposed broadband project
 39 in an area in which eligible broadband service is ~~available.~~ **deployed.**

40 (d) The procedures established under this section may not permit the
 41 office to award a grant from the fund for any project in a rural area for
 42 which funding has been allocated from the federal Connect America



1 Fund, **the federal Rural Digital Opportunity Fund**, or from any other
 2 similar federal funding program the express purpose of which is to
 3 provide broadband service to rural or unserved areas.

4 (e) The procedures established under this section must establish a
 5 system of priorities for awarding grants under this chapter, weighted as
 6 determined by the office in guidelines adopted under section 10 of this
 7 chapter, that gives preference to eligible broadband projects that meet
 8 the following criteria:

9 (1) Projects that will provide eligible broadband service to
 10 unincorporated areas in Indiana.

11 (2) Projects for which the applicant commits to providing more
 12 than fifty percent (50%) of the cost to deploy the proposed
 13 broadband infrastructure. When multiple applicants apply for a
 14 grant to provide eligible broadband service to the same rural area,
 15 the office may establish a preference for approving applications
 16 with a greater funding contribution by the applicant.

17 (3) Projects that involve an agreement between the applicant and
 18 one (1) or more other parties that would permit the applicant to
 19 use existing facilities or infrastructure owned or controlled by an
 20 unrelated third party to enable the applicant to offer eligible
 21 broadband service to locations in a rural area.

22 (f) The procedures established under this section must prohibit a
 23 state agency, in awarding any grant from the fund, from discriminating
 24 between different types of technology used to provide eligible
 25 broadband service in connection with proposed eligible broadband
 26 projects.

27 (g) The procedures established under this section must, subject to
 28 section 14 of this chapter, require the office to publish on the office's
 29 Internet web site all grant applications received by the office under this
 30 chapter. For each grant application received, the office shall establish
 31 a period of at least thirty (30) days from the date the application is
 32 published on the office's Internet web site under this subsection, during
 33 which time the office will accept comments, **challenges**, or objections
 34 concerning the application. The office shall consider all comments,
 35 **challenges**, or objections received under this subsection in making a
 36 determination as to whether to award a grant to an applicant under this
 37 chapter.

38 SECTION 4. IC 4-4-38.5-10, AS ADDED BY P.L.189-2019,
 39 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 UPON PASSAGE]: Sec. 10. (a) The office shall adopt guidelines to
 41 implement this chapter, including guidelines governing the following:

42 (1) The form and content of requests to provide eligible



- 1 broadband service to a rural area.
- 2 (2) The form and content of applications for grants under this
- 3 chapter.
- 4 (3) A competitive bidding process or a process for requests for
- 5 proposals for eligible broadband projects.
- 6 (4) Standards for determining whether a broadband service
- 7 provider has demonstrated:
- 8 (A) financial;
- 9 (B) technical; and
- 10 (C) operational;
- 11 capability in building and operating a broadband network, as
- 12 necessary to qualify as an eligible broadband service provider for
- 13 purposes of this chapter.
- 14 (5) Standards establishing population parameters or another
- 15 appropriate metric for defining a community that qualifies as a
- 16 small municipality for purposes of section 7(2) of this chapter.
- 17 (6) Standards for determining the types and categories of
- 18 expenses that are:
- 19 (A) directly related to an eligible broadband project; and
- 20 (B) eligible to receive funding under this chapter.
- 21 (7) Standards for assigning weight to the funding priorities set
- 22 forth in section 9(e) of this chapter.
- 23 (b) In adopting the guidelines described in subsection (a) or in
- 24 otherwise administering this chapter, the office may collaborate with
- 25 other state agencies or with political subdivisions of the state.
- 26 **(c) The office may not require a broadband service provider to**
- 27 **use a professional engineer to certify the provider's technical or**
- 28 **operational capabilities for purposes of subsection (a)(4) if the**
- 29 **provider's technical or operational capabilities have been certified**
- 30 **by an expert with credentials from the Society of Cable**
- 31 **Telecommunications Engineers or a similar broadband**
- 32 **engineering group.**
- 33 SECTION 5. IC 4-4-38.5-11, AS ADDED BY P.L.189-2019,
- 34 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 35 UPON PASSAGE]: Sec. 11. (a) The rural broadband fund is
- 36 established for the purpose of awarding grants under:
- 37 (1) this chapter after July 31, 2019; and
- 38 (2) IC 4-4-38 before August 1, 2019.
- 39 (b) The office shall administer the fund. **Money in the fund may be**
- 40 **used by the office to pay for the cost to update the broadband**
- 41 **Internet coverage map provided by the office on the office's**
- 42 **Internet web site under IC 4-4-43-2(c).**



- 1 (c) The fund consists of:
 2 (1) money appropriated by the general assembly;
 3 (2) money received by the office from federal grants or programs
 4 for broadband infrastructure; and
 5 (3) donations, gifts, and money received from any other source,
 6 including transfers from other funds or accounts.
- 7 (d) The treasurer of state shall invest the money in the fund not
 8 currently needed to meet the obligations of the fund in the same
 9 manner as other public funds may be invested.
- 10 (e) Money in the fund at the end of a state fiscal year does not revert
 11 to the state general fund but remains in the fund to be used exclusively
 12 for the purposes of this chapter and IC 4-4-38.
- 13 SECTION 6. IC 4-4-38.5-13.5 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE UPON PASSAGE]: **Sec. 13.5. (a) Before requesting**
 16 **submission of applications for grant funding under this chapter,**
 17 **the office shall invite any prospective applicants to submit a letter**
 18 **of intent, which must identify all addresses and census blocks that**
 19 **the applicant intends to include in an application filed as part of**
 20 **the immediately forthcoming request for submission of grant**
 21 **applications by the office.**
- 22 (b) The office shall make all addresses and census blocks
 23 submitted under subsection (a) publicly available for at least thirty
 24 (30) days and provide eligible broadband service providers the
 25 opportunity to challenge an address or census block included in an
 26 applicant's letter of intent under subsection (a) by providing notice
 27 to the office that eligible broadband service:
 28 (1) has already been deployed to the address or census block;
 29 or
 30 (2) will be deployed to the address or census block within the
 31 next eighteen (18) months.
- 32 (c) Upon receiving a challenge from an eligible broadband
 33 service provider under subsection (b), the office shall do the
 34 following:
 35 (1) Review all information received from the eligible
 36 broadband service provider and determine whether eligible
 37 broadband service:
 38 (A) is already deployed to the challenged address or census
 39 block; or
 40 (B) will be deployed to the address or census block within
 41 the next eighteen (18) months.
 42 (2) Find that the eligible broadband service provider's



- 1 challenge is:
- 2 (A) valid if the office determines that eligible broadband
- 3 service:
- 4 (i) is already deployed to the challenged address or
- 5 census block; or
- 6 (ii) will be deployed to the address or census block within
- 7 the next eighteen (18) months; or
- 8 (B) invalid if the office determines that eligible broadband
- 9 service:
- 10 (i) is not already deployed to the challenged address or
- 11 census block; or
- 12 (ii) will not be deployed to the address or census block
- 13 within the next eighteen (18) months.
- 14 (3) If the office finds the challenge invalid:
- 15 (A) not later than five (5) business days after finding the
- 16 challenge invalid, provide to all eligible broadband service
- 17 providers that challenged the address or census block
- 18 written notice:
- 19 (i) that the office has found the challenge invalid; and
- 20 (ii) of the specific reasons the office found the challenge
- 21 invalid, the specificity of which must be sufficient that
- 22 each eligible broadband service provider that challenged
- 23 the address or census block may review each reason and
- 24 provide additional information to the office to support
- 25 the eligible broadband service provider's challenge;
- 26 (B) allow an eligible broadband service provider that
- 27 receives notice under clause (A) thirty (30) days to provide
- 28 further information to the office to support the eligible
- 29 broadband service provider's challenge; and
- 30 (C) find an eligible broadband service provider's challenge
- 31 valid if the office determines, based on information
- 32 submitted under clause (B), that eligible broadband
- 33 service:
- 34 (i) is already deployed to the challenged address or
- 35 census block; or
- 36 (ii) will be deployed to the address or census block within
- 37 the next eighteen (18) months.
- 38 (d) After the completion of the challenge process under
- 39 subsection (c), the office shall notify prospective applicants that
- 40 submitted a letter of intent under subsection (a) of the census
- 41 blocks and addresses that were not subject to a valid challenge
- 42 under subsection (c).



1 (e) Upon issuing a request for submission of grant applications,
 2 the office shall publish the results of the challenge process under
 3 subsection (c), and provide during the grant application period an
 4 opportunity for any person or entity to notify the office of any new
 5 information the person or entity has received concerning any
 6 addresses or census blocks that were included in a letter of intent
 7 under subsection (a). The office shall consider the effect of any
 8 information submitted under this subsection as compared to the
 9 information provided in the office's notice under subsection (d), to
 10 the extent that the information submitted under this subsection
 11 could not have been discovered through reasonable efforts before
 12 the expiration of the thirty (30) day period under subsection (c).

13 SECTION 7. IC 4-4-43 IS ADDED TO THE INDIANA CODE AS
 14 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 15 PASSAGE]:

16 **Chapter 43. Indiana Broadband Mapping Program**

17 **Sec. 1. As used in this chapter, "office" refers to the office of**
 18 **community and rural affairs established by IC 4-4-9.7-4.**

19 **Sec. 2. (a) The office shall maintain a geographic information**
 20 **system or similar data base that contains spatial data regarding the**
 21 **availability of broadband Internet service in Indiana.**

22 **(b) The office shall create and shall, subject to subsection (c),**
 23 **regularly update the data base using broadband Internet coverage**
 24 **information compiled by the Federal Communications**
 25 **Commission.**

26 **(c) Not later than July 1, 2022, the office shall use the**
 27 **information created by the Federal Communications Commission**
 28 **under the Broadband Deployment Accuracy and Technological**
 29 **Availability Act (Public Law 116-130) to update the broadband**
 30 **Internet coverage map provided by the office on the office's**
 31 **Internet web site.**

32 SECTION 8. IC 8-23-2-5, AS AMENDED BY P.L.53-2014,
 33 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 UPON PASSAGE]: Sec. 5. (a) The department, through the
 35 commissioner or the commissioner's designee, shall:

36 (1) develop, continuously update, and implement:

37 (A) long range comprehensive transportation plans;

38 (B) work programs; and

39 (C) budgets;

40 to assure the orderly development and maintenance of an efficient
 41 statewide system of transportation;

42 (2) implement the policies, plans, and work programs adopted by



- 1 the department;
- 2 (3) organize by creating, merging, or abolishing divisions;
- 3 (4) evaluate and utilize whenever possible improved
- 4 transportation facility maintenance and construction techniques;
- 5 (5) carry out public transportation responsibilities, including:
- 6 (A) developing and recommending public transportation
- 7 policies, plans, and work programs;
- 8 (B) providing technical assistance and guidance in the area of
- 9 public transportation to political subdivisions with public
- 10 transportation responsibilities;
- 11 (C) developing work programs for the utilization of federal
- 12 mass transportation funds;
- 13 (D) furnishing data from surveys, plans, specifications, and
- 14 estimates required to qualify a state agency or political
- 15 subdivision for federal mass transportation funds;
- 16 (E) conducting or participating in any public hearings to
- 17 qualify urbanized areas for an allocation of federal mass
- 18 transportation funding;
- 19 (F) serving, upon designation of the governor, as the state
- 20 agency to receive and disburse any state or federal mass
- 21 transportation funds that are not directly allocated to an
- 22 urbanized area;
- 23 (G) entering into agreements with other states, regional
- 24 agencies created in other states, and municipalities in other
- 25 states for the purpose of improving public transportation
- 26 service to the citizens; and
- 27 (H) developing and including in its own proposed
- 28 transportation plan a specialized transportation services plan
- 29 for the elderly and persons with disabilities;
- 30 (6) provide technical assistance to units of local government with
- 31 road and street responsibilities;
- 32 (7) develop, undertake, and administer the program of research
- 33 and extension required under IC 8-17-7;
- 34 (8) allow public testimony in accordance with section 17 of this
- 35 chapter whenever the department holds a public hearing (as
- 36 defined in section 17 of this chapter); and
- 37 (9) **subject to section 6.5 of this chapter**, adopt rules under
- 38 IC 4-22-2 to reasonably and cost effectively manage the
- 39 right-of-way of the state highway system by establishing a formal
- 40 procedure for highway improvement projects that involve the
- 41 relocation of utility facilities by providing for an exchange of
- 42 information among the department, utilities, and the department's



- 1 highway construction contractors.
- 2 (b) Rules adopted under subsection (a)(9):
- 3 (1) shall not unreasonably affect the cost, or impair the safety or
- 4 reliability, of a utility service; and
- 5 (2) must require a utility to provide information concerning all
- 6 authorized representatives of the utility for purposes of highway
- 7 improvement projects and improvement projects undertaken by
- 8 local units of government.
- 9 (c) A civil action may be prosecuted by or against the department,
- 10 a department highway construction contractor, or a utility to recover
- 11 costs and expenses directly resulting from willful violation of the rules.
- 12 Nothing in this section or in subsection (a)(9) shall be construed as
- 13 granting authority to the department to adopt rules establishing fines,
- 14 assessments, or other penalties for or against utilities or the
- 15 department's highway construction contractors.
- 16 (d) Based on information provided by utilities under rules described
- 17 in subsection (b)(2), the department shall establish and publish on the
- 18 department's Internet web site a searchable data base of authorized
- 19 representatives of utilities for purposes of improvement projects that
- 20 involve the relocation of utility facilities. A utility that provides
- 21 information described in subsection (b)(2) shall:
- 22 (1) update the information provided to the department on an
- 23 annual basis; and
- 24 (2) notify the department of any change in the information not
- 25 more than thirty (30) days after the change occurs.
- 26 (e) Not later than August 1 of each year, the department, through the
- 27 commissioner or the commissioner's designee, shall prepare for the
- 28 interim study committee on roads and transportation a report that
- 29 includes updates on the following:
- 30 (1) Transportation and infrastructure funding.
- 31 (2) Public-private agreements under IC 8-15.5.
- 32 (3) Public-private partnerships under IC 8-15.7.
- 33 (4) Reports and supplements prepared under IC 8-23-12.
- 34 (5) Programs and projects conducted in cooperation with Purdue
- 35 University under IC 8-23-9-56.
- 36 (6) Any other information requested by the study committee.
- 37 The report must be submitted in an electronic format under IC 5-14-6.
- 38 SECTION 9. IC 8-23-2-6, AS AMENDED BY P.L.108-2019,
- 39 SECTION 157, IS AMENDED TO READ AS FOLLOWS
- 40 [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The department, through
- 41 the commissioner or the commissioner's designee, may do the
- 42 following:



- 1 (1) **Subject to section 6.5 of this chapter**, acquire by purchase,
 2 gift, or condemnation, sell, abandon, own in fee or a lesser
 3 interest, hold, or lease property in the name of the state, or
 4 otherwise dispose of or encumber property to carry out its
 5 responsibilities.
- 6 (2) Contract with persons outside the department to do those
 7 things that in the commissioner's opinion cannot be adequately or
 8 efficiently performed by the department.
- 9 (3) Enter into:
- 10 (A) a contract with the Indiana finance authority under
 11 IC 8-9.5-8-7; or
- 12 (B) a lease with the Indiana finance authority under
 13 IC 8-9.5-8-8;
- 14 for the construction, reconstruction, improvement, maintenance,
 15 repair, or operation of toll road projects under IC 8-15-2 and toll
 16 bridges under IC 8-16-1.
- 17 (4) Enter into a contract with a contractor, operator, or design
 18 builder or construction manager as constructor for, or with any
 19 adviser, consultant, attorney, accountant, engineer, architect, or
 20 other person or entity in connection with, the construction,
 21 reconstruction, improvement, maintenance, repair, or operation of
 22 a railroad project, as defined in IC 8-5-15-1, in accordance with
 23 an authorization provided to the department by the board of
 24 trustees of a commuter transportation district under
 25 IC 8-5-15-5(a)(21).
- 26 (5) Sue and be sued, including, with the approval of the attorney
 27 general, the compromise of any claims of the department.
- 28 (6) Hire attorneys.
- 29 (7) Perform all functions pertaining to the acquisition of property
 30 for transportation purposes, including the compromise of any
 31 claims for compensation.
- 32 (8) Hold investigations and hearings concerning matters covered
 33 by orders and rules of the department.
- 34 (9) Execute all documents and instruments necessary to carry out
 35 its responsibilities.
- 36 (10) Make contracts and expenditures, perform acts, enter into
 37 agreements, and make rules, orders, and findings that are
 38 necessary to comply with all laws, rules, orders, findings,
 39 interpretations, and regulations promulgated by the federal
 40 government in order to:
- 41 (A) qualify the department for; and
 42 (B) receive;



- 1 federal government funding on a full or participating basis.
- 2 (11) Adopt rules under IC 4-22-2 to carry out its responsibilities,
- 3 including emergency rules in the manner provided under
- 4 IC 4-22-2-37.1.
- 5 (12) Establish regional offices.
- 6 (13) Adopt a seal.
- 7 (14) Perform all actions necessary to carry out the department's
- 8 responsibilities.
- 9 (15) Order a utility to relocate the utility's facilities and coordinate
- 10 the relocation of customer service facilities if:
- 11 (A) the facilities are located in a highway, street, or road; and
- 12 (B) the department determines that the facilities will interfere
- 13 with a planned highway or bridge construction or
- 14 improvement project funded by the department.
- 15 (16) Reimburse a utility:
- 16 (A) in whole or in part for extraordinary costs of relocation of
- 17 facilities;
- 18 (B) in whole for unnecessary relocations;
- 19 (C) in accordance with IC 8-23-26-12 and IC 8-23-26-13;
- 20 (D) in whole for relocations covered by IC 8-1-9; and
- 21 (E) to the extent that a relocation is a taking of property
- 22 without just compensation.
- 23 (17) Provide state matching funds and undertake any surface
- 24 transportation project eligible for funding under federal law.
- 25 However, money from the state highway fund and the state
- 26 highway road construction and improvement fund may not be
- 27 used to provide operating subsidies to support a public
- 28 transportation system or a commuter transportation system.
- 29 (18) Upon request, evaluate, negotiate, and enter into:
- 30 (A) a supplemental funding agreement with a regional
- 31 development authority under IC 36-9-43; or
- 32 (B) an interlocal agreement with a regional development
- 33 authority for purposes of IC 36-9-43.
- 34 (b) In the performance of contracts and leases with the Indiana
- 35 finance authority, the department has authority under IC 8-15-2, in the
- 36 case of toll road projects and IC 8-16-1, in the case of toll bridges
- 37 necessary to carry out the terms and conditions of those contracts and
- 38 leases.
- 39 (c) The department shall:
- 40 (1) classify as confidential any estimate of cost prepared in
- 41 conjunction with analyzing competitive bids for projects until a
- 42 bid below the estimate of cost is read at the bid opening;



- 1 (2) classify as confidential that part of the parcel files that contain
- 2 appraisal and relocation documents prepared by the department's
- 3 land acquisition division; and
- 4 (3) classify as confidential records that are the product of systems
- 5 designed to detect collusion in state procurement and contracting
- 6 that, if made public, could impede detection of collusive behavior
- 7 in securing state contracts.

8 This subsection does not apply to parcel files of public agencies or
 9 affect IC 8-23-7-10.

10 (d) In the case of a regional development authority that undertakes
 11 a regional transportation infrastructure project under IC 36-9-43, the
 12 department shall cooperate with the regional development authority.

13 SECTION 10. IC 8-23-2-6.5 IS ADDED TO THE INDIANA CODE
 14 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 15 **UPON PASSAGE]: Sec. 6.5. The department may not require a**
 16 **private entity to agree, as a condition of the department leasing a**
 17 **right-of-way to the private entity, that fixtures constructed or**
 18 **installed by the private entity in or under the right-of-way are or**
 19 **become, without additional consideration, property of the**
 20 **department or of the state.**

21 SECTION 11. IC 8-23-5-11 IS ADDED TO THE INDIANA CODE
 22 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 23 **UPON PASSAGE]: Sec. 11. The department may:**

24 (1) **in consultation with the office of technology established by**
 25 **IC 4-13.1-2-1 and the office of community and rural affairs**
 26 **established by IC 4-4-9.7-4, establish and implement a**
 27 **long-term policy with regard to the use, by public or private**
 28 **entities, of the rights-of-way of interstates and state owned**
 29 **roads for the deployment of broadband service throughout**
 30 **the state in accordance with state and federal laws, rules, and**
 31 **regulations; and**

32 (2) **promote and encourage use, by public or private entities,**
 33 **of the rights-of-way of interstates and state owned roads for**
 34 **the deployment of broadband service.**

35 SECTION 12. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
 36 **SECTION, "eligible broadband project" has the meaning set forth**
 37 **in IC 4-4-38.5-2.**

38 (b) **As used in this SECTION, "eligible broadband service**
 39 **provider" has the meaning set forth in IC 4-4-38.5-4.**

40 (c) **As used in this SECTION, "office" refers to the office of**
 41 **community and rural affairs established by IC 4-4-9.7-4.**

42 (d) **Not later than April 15, 2021, the office shall amend the**



1 **guidelines adopted by the office under IC 4-4-38.5-10 to the extent**
2 **necessary to reflect the changes to the priorities set forth in**
3 **IC 4-4-38.5-9(b), as amended by this act, for the awarding of grants**
4 **under IC 4-4-38.5 by state agencies to eligible broadband service**
5 **providers for eligible broadband projects.**

6 **(e) This SECTION expires January 1, 2022.**

7 **SECTION 13. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 352, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-4-38.5-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.6. As used in this chapter, "challenge" means notice provided to the office by an eligible broadband service provider under section 13.5(b) of this chapter asserting that eligible broadband service is already deployed in an area for which another eligible broadband service provider has applied for a broadband grant under this chapter.**

SECTION 2. IC 4-4-38.5-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.7. As used in this chapter, "deployed" means, with respect to availability of eligible broadband service at a location, that an eligible broadband service provider:**

- (1) currently has an eligible broadband service connection at the location; or**
- (2) could provide an eligible broadband service connection to a customer that requests an eligible broadband service connection at the location:**
 - (A) not later than ten (10) days after the customer requests an eligible broadband service connection at the location; and**
 - (B) without:**
 - (i) an extraordinary commitment of resources; or**
 - (ii) construction charges or fees exceeding an ordinary service activation fee.**

Eligible broadband service is considered to be deployed at a location regardless of whether any person or entity subscribes to the eligible broadband service at the location."

Page 2, line 4, strike "not more" and insert "**less**".

Page 2, line 10, strike "available." and insert "**deployed.**".

Page 2, line 14, after "Fund" insert ", **the federal Rural Digital Opportunity Fund,**".

Page 2, line 14, strike "from".

Page 3, line 4, after "comments" insert ", **challenges,**".

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Page 3, line 5, after "comments" insert ", **challenges,**".

Page 3, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 4. IC 4-4-38.5-10, AS ADDED BY P.L.189-2019, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The office shall adopt guidelines to implement this chapter, including guidelines governing the following:

- (1) The form and content of requests to provide eligible broadband service to a rural area.
- (2) The form and content of applications for grants under this chapter.
- (3) A competitive bidding process or a process for requests for proposals for eligible broadband projects.
- (4) Standards for determining whether a broadband service provider has demonstrated:
 - (A) financial;
 - (B) technical; and
 - (C) operational;

capability in building and operating a broadband network, as necessary to qualify as an eligible broadband service provider for purposes of this chapter.

(5) Standards establishing population parameters or another appropriate metric for defining a community that qualifies as a small municipality for purposes of section 7(2) of this chapter.

(6) Standards for determining the types and categories of expenses that are:

- (A) directly related to an eligible broadband project; and
- (B) eligible to receive funding under this chapter.

(7) Standards for assigning weight to the funding priorities set forth in section 9(e) of this chapter.

(b) In adopting the guidelines described in subsection (a) or in otherwise administering this chapter, the office may collaborate with other state agencies or with political subdivisions of the state.

(c) The office may not require a broadband service provider to use a professional engineer to certify the provider's technical or operational capabilities for purposes of subsection (a)(4) if the provider's technical or operational capabilities have been certified by an expert with credentials from the Society of Cable Telecommunications Engineers or a similar broadband engineering group."

Page 3, line 10, delete "(a) As used in this" and insert "**(a) Before requesting submission of applications for grant funding under this chapter, the office shall invite any prospective applicants to submit**



a letter of intent, which must identify all addresses and census blocks that the applicant intends to include in an application filed as part of the immediately forthcoming request for submission of grant applications by the office.

(b) The office shall make all addresses and census blocks submitted under subsection (a) publicly available for at least thirty (30) days and provide eligible broadband service providers the opportunity to challenge an address or census block included in an applicant's letter of intent under subsection (a) by providing notice to the office that eligible broadband service:

(1) has already been deployed to the address or census block;
or

(2) will be deployed to the address or census block within the next eighteen (18) months.

(c) Upon receiving a challenge from an eligible broadband service provider under subsection (b), the office shall do the following:

(1) Review all information received from the eligible broadband service provider and determine whether eligible broadband service:

(A) is already deployed to the challenged address or census block; or

(B) will be deployed to the address or census block within the next eighteen (18) months.

(2) Find that the eligible broadband service provider's challenge is:

(A) valid if the office determines that eligible broadband service:

(i) is already deployed to the challenged address or census block; or

(ii) will be deployed to the address or census block within the next eighteen (18) months; or

(B) invalid if the office determines that eligible broadband service:

(i) is not already deployed to the challenged address or census block; or

(ii) will not be deployed to the address or census block within the next eighteen (18) months.

(3) If the office finds the challenge invalid:

(A) not later than five (5) business days after finding the challenge invalid, provide to all eligible broadband service providers that challenged the address or census block



written notice:

- (i) that the office has found the challenge invalid; and**
- (ii) of the specific reasons the office found the challenge invalid, the specificity of which must be sufficient that each eligible broadband service provider that challenged the address or census block may review each reason and provide additional information to the office to support the eligible broadband service provider's challenge;**
- (B) allow an eligible broadband service provider that receives notice under clause (A) thirty (30) days to provide further information to the office to support the eligible broadband service provider's challenge; and**
- (C) find an eligible broadband service provider's challenge valid if the office determines, based on information submitted under clause (B), that eligible broadband service:**
 - (i) is already deployed to the challenged address or census block; or**
 - (ii) will be deployed to the address or census block within the next eighteen (18) months.**

(d) After the completion of the challenge process under subsection (c), the office shall notify prospective applicants that submitted a letter of intent under subsection (a) of the census blocks and addresses that were not subject to a valid challenge under subsection (c).

(e) Upon issuing a request for submission of grant applications, the office shall publish the results of the challenge process under subsection (c), and provide during the grant application period an opportunity for any person or entity to notify the office of any new information the person or entity has received concerning any addresses or census blocks that were included in a letter of intent under subsection (a). The office shall consider the effect of any information submitted under this subsection as compared to the information provided in the office's notice under subsection (d), to the extent that the information submitted under this subsection could not have been discovered through reasonable efforts before the expiration of the thirty (30) day period under subsection (c)."

Page 3, delete lines 11 through 42.

Delete page 4.

Page 5, delete lines 1 through 21, begin a new paragraph and insert:

"SECTION 5. IC 4-4-43 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON



PASSAGE]:

Chapter 43. Indiana Broadband Mapping Program

Sec. 1. As used in this chapter, "office" refers to the office of community and rural affairs established by IC 4-4-9.7-4.

Sec. 2. (a) The office shall maintain a geographic information system or similar data base that contains spatial data regarding the availability of broadband Internet service in Indiana.

(b) The office shall create and shall, subject to subsection (c), regularly update the data base using broadband Internet coverage information compiled by the Federal Communications Commission.

(c) Not later than July 1, 2022, the office shall use the information created by the Federal Communications Commission under the Broadband Deployment Accuracy and Technological Availability Act (Public Law 116-130) to update the broadband Internet coverage map provided by the office on the office's Internet web site."

Page 10, line 13, delete "(a)".

Page 10, line 20, delete "state;" and insert "**state in accordance with state and federal laws, rules, and regulations;**".

Page 10, delete lines 24 through 30.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 352 as introduced.)

KOCH, Chairperson

Committee Vote: Yeas 10, Nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 352, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 5. IC 4-4-38.5-11, AS ADDED BY P.L.189-2019, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The rural broadband fund is

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established for the purpose of awarding grants under:

- (1) this chapter after July 31, 2019; and
- (2) IC 4-4-38 before August 1, 2019.

(b) The office shall administer the fund. **Money in the fund may be used by the office to pay for the cost to update the broadband Internet coverage map provided by the office on the office's Internet web site under IC 4-4-43-2(c).**

(c) The fund consists of:

- (1) money appropriated by the general assembly;
- (2) money received by the office from federal grants or programs for broadband infrastructure; and
- (3) donations, gifts, and money received from any other source, including transfers from other funds or accounts.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter and IC 4-4-38."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 352 as printed February 16, 2021.)

MISHLER, Chairperson

Committee Vote: Yeas 10, Nays 0.

