



Reprinted
April 2, 2021

ENGROSSED SENATE BILL No. 352

DIGEST OF SB 352 (Updated April 1, 2021 12:46 pm - DI 101)

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

Synopsis: Broadband development. Requires the office of community and rural affairs (office) to establish a process to be used before each formal submission of applications for grants from the rural broadband fund (fund) in which the office will: (1) invite any prospective grant applicant to submit a letter of intent identifying all addresses and census blocks that the applicant intends to include in a grant application; and (2) make all addresses and census blocks submitted in letters of intent publicly available for a period of time, during which eligible broadband service providers will have the opportunity to challenge a listed address or census block. Provides that challenges under the new process are to be based on the asserted deployment of
(Continued next page)

Effective: Upon passage.

**Houchin, Koch, Garten, Donato,
Leising, Randolph Lonnie M**

(HOUSE SPONSOR — MANNING)

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.
February 22, 2021, read second time, ordered engrossed. Engrossed.
February 23, 2021, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

March 4, 2021, read first time and referred to Committee on Utilities, Energy and Telecommunications.
March 29, 2021, amended, reported — Do Pass.
April 1, 2021, read second time, amended, ordered engrossed.

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Digest Continued

"minimum broadband Internet" (defined as a terrestrial connection to the Internet that provides an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) at a specific address. Specifies that the process established is to precede and remain distinct from the statutory procedures for actual grant applications. Provides that the department of transportation (INDOT) may require a private entity to agree, as a condition of INDOT leasing a right-of-way to the private entity, that facilities constructed or installed by the private entity in or under the right-of-way, which if removed would: (1) cause irreparable soil disturbance; or (2) have a detrimental effect on INDOT's facilities or on the facilities of other utilities; will be considered abandoned without additional consideration, upon the private entity's written notice to INDOT. Provides that upon being abandoned, a facility may no longer be used for any purpose by any public or private entity.



Reprinted
April 2, 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.

ENGROSSED 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 that:**
5 **(1) is provided to the office by an eligible broadband service**
6 **provider under the process established by the office under**
7 **section 8.5 of this chapter; and**
8 **(2) asserts that minimum broadband Internet is already**
9 **deployed at a specific address with respect to which another**
10 **eligible broadband service provider has submitted a letter of**
11 **intent under the process established by the office under**
12 **section 8.5 of this chapter.**
13 SECTION 2. IC 4-4-38.5-1.7 IS ADDED TO THE INDIANA
14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
15 [EFFECTIVE UPON PASSAGE]: **Sec. 1.7. As used in this chapter,**

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1 "deployed" means, with respect to the availability of minimum
 2 broadband Internet at a location, that an eligible broadband
 3 service provider:

4 (1) currently has minimum broadband Internet at the
 5 location; or

6 (2) could provide minimum broadband Internet to a customer
 7 that requests minimum broadband Internet at the location:

8 (A) not later than ten (10) days after the customer requests
 9 minimum broadband Internet at the location; and

10 (B) without:

11 (i) an extraordinary commitment of resources; or

12 (ii) construction charges or fees exceeding an ordinary
 13 service activation fee.

14 **Minimum broadband Internet is considered to be deployed at a**
 15 **location regardless of whether any person or entity subscribes to**
 16 **minimum broadband Internet at the location.**

17 SECTION 3. IC 4-4-38.5-5.6 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE UPON PASSAGE]: **Sec. 5.6. As used in this chapter,**
 20 **"minimum broadband Internet" means a terrestrial connection to**
 21 **the Internet that provides an actual speed of at least twenty-five**
 22 **(25) megabits per second downstream and at least three (3)**
 23 **megabits per second upstream, regardless of the technology or**
 24 **medium used to provide the connection.**

25 SECTION 4. IC 4-4-38.5-8.5 IS ADDED TO THE INDIANA
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. (a) The office shall**
 28 **establish a process to be used before each formal request for the**
 29 **submission of grant applications by the office under this chapter.**
 30 **The process established by the office under this section must do the**
 31 **following:**

32 (1) Invite any prospective grant applicant to submit a letter of
 33 intent identifying all addresses and census blocks that the
 34 applicant intends to include in an application filed as part of
 35 the immediately forthcoming request for the submission of
 36 grant applications by the office.

37 (2) Provide that the office will make all addresses and census
 38 blocks submitted in letters of intent under subdivision (1)
 39 publicly available for a period of time, to be determined by
 40 the office, during which eligible broadband service providers
 41 will have the opportunity to challenge a listed address or
 42 census block.



1 (3) Provide that upon receiving a challenge from an eligible
2 broadband service provider under subdivision (2), the office
3 will:

4 (A) review all information received from the eligible
5 broadband service provider and determine whether
6 minimum broadband Internet:

7 (i) is deployed; or

8 (ii) will be deployed within eighteen (18) months;

9 to the challenged address or census block; and

10 (B) determine whether the eligible broadband service
11 provider's challenge is valid or invalid based on the office's
12 review under clause (A).

13 (4) Provide that if the office finds a challenge to an address or
14 a census block to be invalid under subdivision (3), the office
15 will do the following:

16 (A) Provide to all eligible broadband service providers that
17 challenged the address or census block timely written
18 notice that:

19 (i) indicates the office has determined the challenge to be
20 invalid; and

21 (ii) sets forth the reasons for the office's determination
22 with such specificity as will enable each eligible
23 broadband service provider that challenged the address
24 or census block to review each reason and provide
25 additional information to the office to support the
26 eligible broadband service provider's challenge.

27 (B) Allow an eligible broadband service provider that
28 receives notice under clause (A) a period of time, to be
29 determined by the office, to provide further information to
30 the office to support the eligible broadband service
31 provider's challenge.

32 (C) Find an eligible broadband service provider's
33 challenge valid if the office determines, based on additional
34 information submitted under clause (B), that minimum
35 broadband Internet:

36 (i) is deployed; or

37 (ii) will be deployed within eighteen (18) months;

38 to the challenged address or census block.

39 (5) Provide that after the completion of the challenge process
40 described in subdivisions (2) through (4), the office will notify
41 prospective grant applicants that submitted a letter of intent
42 under subdivision (1) of the census blocks and addresses that



1 were not the subject of a valid challenge under subdivisions
2 (2) through (4).

3 (b) Upon issuing a request for the submission of grant
4 applications under this chapter, the office shall publish the results
5 of the challenge process established under subsection (a).

6 (c) The process established by the office under this section with
7 respect to:

8 (1) letters of intent; and

9 (2) challenges;

10 by prospective grant applicants must precede and remain distinct
11 from the procedures set forth in section 9(g) of the chapter with
12 respect to actual grant applications.

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

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

18 (A) long range comprehensive transportation plans;

19 (B) work programs; and

20 (C) budgets;

21 to assure the orderly development and maintenance of an efficient
22 statewide system of transportation;

23 (2) implement the policies, plans, and work programs adopted by
24 the department;

25 (3) organize by creating, merging, or abolishing divisions;

26 (4) evaluate and utilize whenever possible improved
27 transportation facility maintenance and construction techniques;

28 (5) carry out public transportation responsibilities, including:

29 (A) developing and recommending public transportation
30 policies, plans, and work programs;

31 (B) providing technical assistance and guidance in the area of
32 public transportation to political subdivisions with public
33 transportation responsibilities;

34 (C) developing work programs for the utilization of federal
35 mass transportation funds;

36 (D) furnishing data from surveys, plans, specifications, and
37 estimates required to qualify a state agency or political
38 subdivision for federal mass transportation funds;

39 (E) conducting or participating in any public hearings to
40 qualify urbanized areas for an allocation of federal mass
41 transportation funding;

42 (F) serving, upon designation of the governor, as the state



- 1 agency to receive and disburse any state or federal mass
 2 transportation funds that are not directly allocated to an
 3 urbanized area;
- 4 (G) entering into agreements with other states, regional
 5 agencies created in other states, and municipalities in other
 6 states for the purpose of improving public transportation
 7 service to the citizens; and
- 8 (H) developing and including in its own proposed
 9 transportation plan a specialized transportation services plan
 10 for the elderly and persons with disabilities;
- 11 (6) provide technical assistance to units of local government with
 12 road and street responsibilities;
- 13 (7) develop, undertake, and administer the program of research
 14 and extension required under IC 8-17-7;
- 15 (8) allow public testimony in accordance with section 17 of this
 16 chapter whenever the department holds a public hearing (as
 17 defined in section 17 of this chapter); and
- 18 (9) **subject to section 6.5 of this chapter**, adopt rules under
 19 IC 4-22-2 to reasonably and cost effectively manage the
 20 right-of-way of the state highway system by establishing a formal
 21 procedure for highway improvement projects that involve the
 22 relocation of utility facilities by providing for an exchange of
 23 information among the department, utilities, and the department's
 24 highway construction contractors.
- 25 (b) Rules adopted under subsection (a)(9):
- 26 (1) shall not unreasonably affect the cost, or impair the safety or
 27 reliability, of a utility service; and
- 28 (2) must require a utility to provide information concerning all
 29 authorized representatives of the utility for purposes of highway
 30 improvement projects and improvement projects undertaken by
 31 local units of government.
- 32 (c) A civil action may be prosecuted by or against the department,
 33 a department highway construction contractor, or a utility to recover
 34 costs and expenses directly resulting from willful violation of the rules.
 35 Nothing in this section or in subsection (a)(9) shall be construed as
 36 granting authority to the department to adopt rules establishing fines,
 37 assessments, or other penalties for or against utilities or the
 38 department's highway construction contractors.
- 39 (d) Based on information provided by utilities under rules described
 40 in subsection (b)(2), the department shall establish and publish on the
 41 department's Internet web site a searchable data base of authorized
 42 representatives of utilities for purposes of improvement projects that



1 involve the relocation of utility facilities. A utility that provides
2 information described in subsection (b)(2) shall:

- 3 (1) update the information provided to the department on an
4 annual basis; and
5 (2) notify the department of any change in the information not
6 more than thirty (30) days after the change occurs.

7 (e) Not later than August 1 of each year, the department, through the
8 commissioner or the commissioner's designee, shall prepare for the
9 interim study committee on roads and transportation a report that
10 includes updates on the following:

- 11 (1) Transportation and infrastructure funding.
12 (2) Public-private agreements under IC 8-15.5.
13 (3) Public-private partnerships under IC 8-15.7.
14 (4) Reports and supplements prepared under IC 8-23-12.
15 (5) Programs and projects conducted in cooperation with Purdue
16 University under IC 8-23-9-56.
17 (6) Any other information requested by the study committee.

18 The report must be submitted in an electronic format under IC 5-14-6.

19 SECTION 6. IC 8-23-2-6, AS AMENDED BY P.L.108-2019,
20 SECTION 157, IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The department, through
22 the commissioner or the commissioner's designee, may do the
23 following:

- 24 (1) **Subject to section 6.5 of this chapter**, acquire by purchase,
25 gift, or condemnation, sell, abandon, own in fee or a lesser
26 interest, hold, or lease property in the name of the state, or
27 otherwise dispose of or encumber property to carry out its
28 responsibilities.
29 (2) Contract with persons outside the department to do those
30 things that in the commissioner's opinion cannot be adequately or
31 efficiently performed by the department.
32 (3) Enter into:
33 (A) a contract with the Indiana finance authority under
34 IC 8-9.5-8-7; or
35 (B) a lease with the Indiana finance authority under
36 IC 8-9.5-8-8;
37 for the construction, reconstruction, improvement, maintenance,
38 repair, or operation of toll road projects under IC 8-15-2 and toll
39 bridges under IC 8-16-1.
40 (4) Enter into a contract with a contractor, operator, or design
41 builder or construction manager as constructor for, or with any
42 adviser, consultant, attorney, accountant, engineer, architect, or



- 1 other person or entity in connection with, the construction,
 2 reconstruction, improvement, maintenance, repair, or operation of
 3 a railroad project, as defined in IC 8-5-15-1, in accordance with
 4 an authorization provided to the department by the board of
 5 trustees of a commuter transportation district under
 6 IC 8-5-15-5(a)(21).
- 7 (5) Sue and be sued, including, with the approval of the attorney
 8 general, the compromise of any claims of the department.
- 9 (6) Hire attorneys.
- 10 (7) Perform all functions pertaining to the acquisition of property
 11 for transportation purposes, including the compromise of any
 12 claims for compensation.
- 13 (8) Hold investigations and hearings concerning matters covered
 14 by orders and rules of the department.
- 15 (9) Execute all documents and instruments necessary to carry out
 16 its responsibilities.
- 17 (10) Make contracts and expenditures, perform acts, enter into
 18 agreements, and make rules, orders, and findings that are
 19 necessary to comply with all laws, rules, orders, findings,
 20 interpretations, and regulations promulgated by the federal
 21 government in order to:
- 22 (A) qualify the department for; and
 23 (B) receive;
 24 federal government funding on a full or participating basis.
- 25 (11) Adopt rules under IC 4-22-2 to carry out its responsibilities,
 26 including emergency rules in the manner provided under
 27 IC 4-22-2-37.1.
- 28 (12) Establish regional offices.
- 29 (13) Adopt a seal.
- 30 (14) Perform all actions necessary to carry out the department's
 31 responsibilities.
- 32 (15) Order a utility to relocate the utility's facilities and coordinate
 33 the relocation of customer service facilities if:
- 34 (A) the facilities are located in a highway, street, or road; and
 35 (B) the department determines that the facilities will interfere
 36 with a planned highway or bridge construction or
 37 improvement project funded by the department.
- 38 (16) Reimburse a utility:
- 39 (A) in whole or in part for extraordinary costs of relocation of
 40 facilities;
 41 (B) in whole for unnecessary relocations;
 42 (C) in accordance with IC 8-23-26-12 and IC 8-23-26-13;



- 1 (D) in whole for relocations covered by IC 8-1-9; and
 2 (E) to the extent that a relocation is a taking of property
 3 without just compensation.
- 4 (17) Provide state matching funds and undertake any surface
 5 transportation project eligible for funding under federal law.
 6 However, money from the state highway fund and the state
 7 highway road construction and improvement fund may not be
 8 used to provide operating subsidies to support a public
 9 transportation system or a commuter transportation system.
- 10 (18) Upon request, evaluate, negotiate, and enter into:
- 11 (A) a supplemental funding agreement with a regional
 12 development authority under IC 36-9-43; or
- 13 (B) an interlocal agreement with a regional development
 14 authority for purposes of IC 36-9-43.
- 15 (b) In the performance of contracts and leases with the Indiana
 16 finance authority, the department has authority under IC 8-15-2, in the
 17 case of toll road projects and IC 8-16-1, in the case of toll bridges
 18 necessary to carry out the terms and conditions of those contracts and
 19 leases.
- 20 (c) The department shall:
- 21 (1) classify as confidential any estimate of cost prepared in
 22 conjunction with analyzing competitive bids for projects until a
 23 bid below the estimate of cost is read at the bid opening;
- 24 (2) classify as confidential that part of the parcel files that contain
 25 appraisal and relocation documents prepared by the department's
 26 land acquisition division; and
- 27 (3) classify as confidential records that are the product of systems
 28 designed to detect collusion in state procurement and contracting
 29 that, if made public, could impede detection of collusive behavior
 30 in securing state contracts.
- 31 This subsection does not apply to parcel files of public agencies or
 32 affect IC 8-23-7-10.
- 33 (d) In the case of a regional development authority that undertakes
 34 a regional transportation infrastructure project under IC 36-9-43, the
 35 department shall cooperate with the regional development authority.
- 36 SECTION 7. IC 8-23-2-6.5 IS ADDED TO THE INDIANA CODE
 37 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 38 **UPON PASSAGE]: Sec. 6.5. The department may require a private**
 39 **entity to agree, as a condition of the department leasing a**
 40 **right-of-way to the private entity, that facilities constructed or**
 41 **installed by the private entity in or under the right-of-way, which**
 42 **if removed would:**



- 1 **(1) cause irreparable soil disturbance; or**
 2 **(2) have a detrimental effect on the department's facilities or**
 3 **on the facilities of other utilities co-located in the**
 4 **right-of-way;**
 5 **will be considered abandoned without additional consideration**
 6 **upon notice to the department. The private entity shall notify in**
 7 **writing the department of any abandonment not later than sixty**
 8 **(60) days after abandonment. Upon being abandoned under this**
 9 **section, a facility may no longer be used for any purpose by any**
 10 **public or private entity.**
- 11 SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) The definitions**
 12 **in IC 4-4-38.5, as amended by this act, apply throughout this**
 13 **SECTION.**
- 14 **(b) Not later than July 1, 2021, the office shall amend the**
 15 **guidelines adopted by the office under IC 4-4-38.5-10 to the extent**
 16 **necessary to establish the process set forth in IC 4-4-38.5-8.5, as**
 17 **added by this act, with respect to:**
- 18 **(1) letters of intent; and**
 19 **(2) challenges;**
- 20 **by prospective grant applicants under IC 4-4-38.5, as amended by**
 21 **this act.**
- 22 **(c) This SECTION expires January 1, 2022.**
- 23 SECTION 9. **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.

Renumber 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.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred Senate Bill 352, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "notice provided to the office by an eligible" and insert "**notice that:**

- (1) is provided to the office by an eligible broadband service provider under the process established by the office under section 8.5 of this chapter; and**
- (2) asserts that minimum broadband Internet is already**

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deployed at a specific address with respect to which another eligible broadband service provider has submitted a letter of intent under the process established by the office under section 8.5 of this chapter."

Page 1, delete lines 5 through 8.

Page 1, line 12, delete "availability of eligible" and insert "**the availability of minimum broadband Internet at a location,**".

Page 1, line 13, delete "broadband service at a location,".

Page 1, line 15, delete "an eligible broadband service connection" and insert "**minimum broadband Internet**".

Page 2, line 2, delete "an eligible broadband service connection" and insert "**minimum broadband Internet**".

Page 2, line 3, delete "an eligible broadband service" and insert "**minimum broadband Internet**".

Page 2, line 4, delete "connection".

Page 2, line 6, delete "an eligible broadband service connection" and insert "**minimum broadband Internet**".

Page 2, line 12, delete "Eligible broadband service" and insert "**Minimum broadband Internet**".

Page 2, line 14, delete "the eligible broadband service" and insert "**minimum broadband Internet**".

Page 2, delete lines 15 through 42, begin a new paragraph and insert:

"SECTION 3. IC 4-4-38.5-5.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.6. As used in this chapter, "minimum broadband Internet" means a connection to the Internet that provides an actual speed of at least twenty-five (25) megabits per second downstream and at least three (3) megabits per second upstream, regardless of the technology or medium used to provide the connection.**

SECTION 4. IC 4-4-38.5-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. (a) The office shall establish a process to be used before each formal request for the submission of grant applications by the office under this chapter. The process established by the office under this section must do the following:**

(1) Invite any prospective grant applicant to submit a letter of intent identifying all addresses and census blocks that the applicant intends to include in an application filed as part of the immediately forthcoming request for the submission of



grant applications by the office.

(2) Provide that the office will make all addresses and census blocks submitted in letters of intent under subdivision (1) publicly available for a period of time, to be determined by the office, during which eligible broadband service providers will have the opportunity to challenge a listed address or census block.

(3) Provide that upon receiving a challenge from an eligible broadband service provider under subdivision (2), the office will:

(A) review all information received from the eligible broadband service provider and determine whether minimum broadband Internet:

(i) is deployed; or

(ii) will be deployed within eighteen (18) months;

to the challenged address or census block; and

(B) determine whether the eligible broadband service provider's challenge is valid or invalid based on the office's review under clause (A).

(4) Provide that if the office finds a challenge to an address or a census block to be invalid under subdivision (3), the office will do the following:

(A) Provide to all eligible broadband service providers that challenged the address or census block timely written notice that:

(i) indicates the office has determined the challenge to be invalid; and

(ii) sets forth the reasons for the office's determination with such specificity as will enable each eligible broadband service provider that challenged the address or census block to 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) a period of time, to be determined by the office, to provide further information to the office to support the eligible broadband service provider's challenge.

(C) Find an eligible broadband service provider's challenge valid if the office determines, based on additional information submitted under clause (B), that minimum broadband Internet:



- (i) is deployed; or**
- (ii) will be deployed within eighteen (18) months; to the challenged address or census block.**

(5) Provide that after the completion of the challenge process described in subdivisions (2) through (4), the office will notify prospective grant applicants that submitted a letter of intent under subdivision (1) of the census blocks and addresses that were not the subject of a valid challenge under subdivisions (2) through (4).

(b) Upon issuing a request for the submission of grant applications under this chapter, the office shall publish the results of the challenge process established under subsection (a).

(c) The process established by the office under this section with respect to:

- (1) letters of intent; and**
- (2) challenges;**

by prospective grant applicants must precede and remain distinct from the procedures set forth in section 9(g) of the chapter with respect to actual grant applications."

Delete pages 3 through 6.

Page 7, delete lines 1 through 31.

Page 12, line 15, delete "not require a" and insert **"require a private entity to agree, as a condition of the department leasing a right-of-way to the private entity, that facilities constructed or installed by the private entity in or under the right-of-way, which if removed would:**

- (1) cause irreparable soil disturbance; or**
- (2) have a detrimental effect on the department's facilities or on the facilities of other utilities co-located in the right-of-way;**

will be considered abandoned without additional consideration upon notice to the department. The private entity shall notify in writing the department of any abandonment not later than sixty (60) days after abandonment. Upon being abandoned under this section, a facility may no longer be used for any purpose by any public or private entity."

Page 12, delete lines 16 through 34.

Page 12, line 35, delete "As used in this" and insert **"The definitions in IC 4-4-38.5, as amended by this act, apply throughout this SECTION.**

(b) Not later than July 1, 2021, the office shall amend the guidelines adopted by the office under IC 4-4-38.5-10 to the extent



necessary to establish the process set forth in IC 4-4-38.5-8.5, as added by this act, with respect to:

(1) letters of intent; and

(2) challenges;

by prospective grant applicants under IC 4-4-38.5, as amended by this act.

(c) This SECTION expires January 1, 2022."

Page 12, delete lines 36 through 42.

Page 13, delete lines 1 through 6.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 352 as printed February 19, 2021.)

SOLIDAY

Committee Vote: yeas 12, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 352 be amended to read as follows:

Page 2, line 20, after "a" insert "**terrestrial**".

(Reference is to ESB 352 as printed March 29, 2021.)

MANNING

