

1 AN ACT relating to broadband deployment.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 224A.011 is amended to read as follows:

4 As used in this chapter, unless the context requires otherwise:

- 5 (1) "Administrative fee" means a fee assessed and collected by the authority from  
6 borrowers ***and applicants*** under assistance agreements, to be used for operational  
7 expenses of the authority;
- 8 (2) "Applicable interest rate" means the rate of interest which shall be used as part of  
9 the repayment criteria for an assistance agreement between a governmental agency  
10 and the authority, and shall be determined by the authority pertinent to the source of  
11 funds from which the assistance agreement is funded;
- 12 (3) ***"Applicant" means a governmental agency or private sector entity that has***  
13 ***submitted an application to the authority for a grant from the broadband***  
14 ***deployment fund;***
- 15 (4) ***"Application" means an application submitted by an applicant for a grant from***  
16 ***the broadband deployment fund;***
- 17 (5) "Assistance agreement" means the agreement to be made and entered into by and  
18 between a governmental agency ***or a private entity*** and the authority, as authorized  
19 by this chapter, providing for a lease, loan, services, or grant to ~~a~~***the*** governmental  
20 agency ***or a private entity*** or for the purchase of obligations issued by the  
21 governmental agency, and for the repayment thereof to the authority by the  
22 governmental agency ***or a private entity;***
- 23 (6)~~(4)~~ "Authority" means the Kentucky Infrastructure Authority, which is created by  
24 this chapter;
- 25 (7)~~(5)~~ "Authority revenues" means the totality of all:
- 26 (a) Service charges;
- 27 (b) Utility tax receipts, to the extent not otherwise committed and budgeted by the

- 1 authority during any fiscal period of the authority;
- 2 (c) Any gifts, grants, or loans received, to the extent not otherwise required to be  
3 applied;
- 4 (d) Any and all appropriations made to the authority by the General Assembly of  
5 the Commonwealth of Kentucky, to the extent not otherwise required to be  
6 applied;
- 7 (e) All moneys received in repayment of and for interest on any loans made by the  
8 authority to a governmental agency, except as provided in KRS 224A.111,  
9 224A.1115, and 224A.112, or as principal of and interest on any obligations  
10 issued by a governmental agency and purchased by the authority, or as receipts  
11 under any assistance agreement;
- 12 (f) The proceeds of bonds or long-term debt obligations of governmental  
13 agencies pledged to the payment of bond anticipation notes issued by the  
14 authority on behalf of the said governmental agency to provide interim  
15 construction financing; and
- 16 (g) Payments under agreements with any agencies of the state and federal  
17 government;
- 18 ~~(8)~~~~(6)~~ "Borrower or borrowing entity" means any agency of the state or its political  
19 subdivisions, any city, or any special district created under the laws of the state  
20 acting individually or jointly under interagency or interlocal cooperative agreements  
21 to enter into assistance agreements with the authority;
- 22 ~~(9)~~~~(7)~~ **"Broadband" means any wireline or fixed terrestrial technology having a**  
23 **capacity to transmit data from or to the Internet with a minimum speed of twenty-**  
24 **five (25) megabits per second downstream and three (3) megabits per second**  
25 **upstream as defined by the Federal Communications Commission or the United**  
26 **States Department of Agriculture and any amendments to those definitions. If the**  
27 **agencies use different speed definitions, the faster speed definition shall apply to**

1        Sections 2 to 4 of this Act;

2        (10) "Broadband deployment fund" means a fund to assist with the construction,  
3        development, or improvement of broadband infrastructure, broadband services,  
4        or technologies that constitute a part of, or are related to, broadband  
5        infrastructure or broadband services, to provide for broadband service in  
6        underserved or unserved areas of the Commonwealth;

7        (11) "Broadband deployment project" means a proposed deployment of broadband  
8        service infrastructure set forth in an application for grant funding under Section  
9        3 of this Act;

10       (12) "Broadband deployment project area" means a geographic area determined by  
11       census block or shapefile geospatial data for which grant funding has been  
12       authorized under Sections 1 to 4 of this Act;

13       (13) "Census block" means the smallest geographic unit used by the United States  
14       Census Bureau that is reported on the Federal Communications Commission  
15       (FCC) Form 477 relating to fixed broadband deployment data;

16       (14) "Community flood damage abatement project" means any structural or nonstructural  
17       study, plan, design, construction, development, improvement, or other activity to  
18       provide for flood control;

19       (15)~~(8)~~ "Construction" means and includes but is not limited to:

20       (a) Preliminary planning to determine the economic and engineering feasibility of  
21       infrastructure projects, the engineering, architectural, legal, fiscal, and  
22       economic investigations, and studies necessary thereto, and surveys, designs,  
23       plans, working drawings, specifications, procedures, and other actions  
24       necessary to the construction of infrastructure or solid waste projects;

25       (b) The erection, building, acquisition, alteration, remodeling, improvement, or  
26       extension of infrastructure or solid waste projects; and

27       (c) The inspection and supervision of the construction of infrastructure or solid

1 waste projects and all costs incidental to the acquisition and financing of  
2 same. This term shall also relate to and mean any other physical devices or  
3 appurtenances in connection with, or reasonably attendant to, infrastructure or  
4 solid waste projects;

5 ~~(16)~~~~(9)~~ "Dams" means any artificial barrier, including appurtenant works, which does  
6 or can impound or divert water, and which either:

- 7 (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the  
8 stream or watercourse at the downstream toe of the barrier, as determined by  
9 the Energy and Environment Cabinet; or  
10 (b) Has or will have an impounding capacity at maximum water storage elevation  
11 of fifty (50) acre feet or more;

12 ~~(17)~~~~(10)~~ "Distribution facilities" means all or any part of any facilities, devices, and  
13 systems used and useful in obtaining, pumping, storing, treating, and distributing  
14 water for agricultural, industrial, commercial, recreational, public, and domestic  
15 use;

16 ~~(18)~~~~(11)~~ "Energy and Environment Cabinet" means the Kentucky Energy and  
17 Environment Cabinet, or its successor, said term being meant to relate specifically  
18 to the state agency which is designated as the water pollution agency for the  
19 Commonwealth of Kentucky, for purposes of the federal act;

20 ~~(19)~~~~(12)~~ "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et  
21 seq.) as said federal act may be amended from time to time in the future, or any  
22 other enactment of the United States Congress providing funds that may assist in  
23 carrying out the purposes of the authority;

24 ~~(20)~~~~(13)~~ "Federally assisted wastewater revolving fund" means that fund which will  
25 receive federal and state funds or the proceeds from the sale of revenue bonds of the  
26 authority for the purpose of providing loans to finance construction of publicly  
27 owned treatment works as defined in Section 212 of the federal act and for the

1 implementation of a management program established under Section 319 of the  
2 federal act and for the development and implementation of a conservation and  
3 management plan under Section 320 of the federal act;

4 (21)~~[(14)]~~ "Governmental agency" means any incorporated city or municipal corporation,  
5 or other agency, or unit of government within or a department or a cabinet of the  
6 Commonwealth of Kentucky, now having or hereafter granted, the authority and  
7 power to finance, acquire, construct, or operate infrastructure or solid waste  
8 projects. This definition shall specifically apply but not by way of limitation to  
9 incorporated cities; counties, including any counties containing a metropolitan  
10 sewer district; sanitation districts; water districts; water associations if these  
11 associations are permitted to issue interest-bearing obligations which interest would  
12 be excludable from gross income under Section 103 of the Internal Revenue Code  
13 of 1986 as amended; sewer construction districts; metropolitan sewer districts;  
14 sanitation taxing districts; a regional wastewater commission established under  
15 KRS 65.8901 to 65.8923; and any other agencies, commissions, districts, or  
16 authorities (either acting alone, or in combination with one another in accordance  
17 with any regional or area compact, or intergovernmental cooperative agreements),  
18 now or hereafter established in accordance with the laws of the Commonwealth of  
19 Kentucky having and possessing the described powers described in this subsection;

20 (22)~~[(15)]~~ "Industrial waste" means any liquid, gaseous, or solid waste substances  
21 resulting from any process of industry, manufacture, trade, or business, or from the  
22 mining or taking, development, processing, or recovery of any natural resources,  
23 including heat and radioactivity, together with any sewage as is present therein,  
24 which pollutes the waters of the state, and specifically, but not by way of limitation,  
25 means heat or thermal differentials created in the waters of the state by any  
26 industrial processing, generating, or manufacturing processes;

27 (23)~~[(16)]~~ "Infrastructure project" means any construction or acquisition of treatment

1 works, facilities related to the collection, transportation, and treatment of  
2 wastewater as defined in KRS 65.8903, distribution facilities, or water resources  
3 projects instituted by a governmental agency or an investor-owned water utility  
4 which is approved by the authority and, if required, by the Energy and Environment  
5 Cabinet, Public Service Commission, or other agency; solid waste projects; dams;  
6 storm water control and treatment systems; gas or electric utility; broadband  
7 deployment project; or any other public utility or public service project which the  
8 authority finds would assist in carrying out the purposes set out in KRS 224A.300;

9 (24)~~[(17)]~~ "Infrastructure revolving fund" means that fund which will receive state funds,  
10 the proceeds from the sale of revenue bonds of the authority or other moneys  
11 earmarked for that fund for the purpose of providing loans or grants to finance  
12 construction or acquisition of infrastructure projects as defined in this section;

13 (25)~~[(18)]~~ "Loan or grant" means moneys to be made available to governmental agencies  
14 by the authority for the purpose of defraying all or any part of the total costs  
15 incidental to construction or acquisition of any infrastructure project;

16 (26)~~[(19)]~~ "Market interest rate" means the interest rate determined by the authority  
17 under existing market conditions at the time the authority shall provide financial  
18 assistance to a governmental agency;

19 (27)~~[(20)]~~ "Obligation of a governmental agency" means a revenue bond, bond  
20 anticipation note, revenue anticipation note, lease, or other obligation issued by a  
21 governmental agency under KRS 58.010 et seq. or other applicable statutes;

22 (28)~~[(21)]~~ "Person" means any individual, firm, partnership, association, corporation, or  
23 governmental agency;

24 (29)~~[(22)]~~ "Pollution" means the placing of any noxious or deleterious substances  
25 ("pollutants"), including sewage and industrial wastes, in any waters of the state or  
26 affecting the properties of any waters of the state in a manner which renders the  
27 waters harmful or inimical to the public health or to animal or aquatic life, or to the

1 use, present or future, of these waters for domestic water supply, industrial or  
2 agricultural purposes, or recreational purposes;

3 (30)~~[(23)]~~ "Prioritization schedules" means the list of wastewater treatment works,  
4 distribution facilities and water resources projects which the Energy and  
5 Environment Cabinet has evaluated and determined to be of priority for receiving  
6 financial assistance from the federally assisted wastewater revolving fund and the  
7 federally assisted drinking water revolving fund, or the list of infrastructure projects  
8 which the authority has evaluated and determined to be of priority for receiving  
9 financial aid from the infrastructure revolving fund. The evaluation by the authority  
10 of infrastructure projects for water systems shall be undertaken with input from the  
11 appropriate area development district~~]. The evaluation by the authority of~~  
12 ~~infrastructure for broadband deployment projects shall be undertaken with~~  
13 ~~consideration given to input from area development districts, telecommunications~~  
14 ~~businesses, information services, technology industries, governmental entities, and~~  
15 ~~Kentucky based nonprofit organizations, including ConnectKentucky];~~;

16 ~~(24) "Solid waste project" means construction, renovation, or acquisition of a solid waste~~  
17 ~~facility which shall be instituted and owned by a governmental agency;]~~

18 (31)~~[(25)]~~ "Recovered material" means those materials which have known current use,  
19 reuse, or recycling potential, which can be feasibly used, reused, or recycled, and  
20 which have been diverted or removed from the solid waste stream for sale, use,  
21 reuse, or recycling, whether or not requiring subsequent separation and processing  
22 but does not include materials diverted or removed for purposes of energy recovery  
23 or combustion except refuse-derived fuel (RDF), which shall be credited as a  
24 recovered material in an amount equal to that percentage of the municipal solid  
25 waste received on a daily basis at the processing facility and processed into RDF;  
26 but not to exceed fifteen percent (15%) of the total amount of the municipal solid  
27 waste received at the processing facility on a daily basis;

1 ~~(32)~~~~(26)~~ "Recovered material processing facility" means a facility engaged solely in the  
2 storage, processing, and resale or reuse of recovered material but does not mean a  
3 solid waste facility if solid waste generated by a recovered material processing  
4 facility is managed in accordance with KRS Chapter 224 and administrative  
5 regulations adopted by the cabinet;

6 ~~(33)~~~~(27)~~ "Revenue bonds" means special obligation bonds issued by the authority as  
7 provided by the provisions of this chapter, which are not direct or general  
8 obligations of the state, and which are payable only from a pledge of, and lien upon,  
9 authority revenues as provided in the resolution authorizing the issuance of the  
10 bonds, and shall include revenue bond anticipation notes;

11 ~~(34)~~~~(28)~~ "Service charge" means any monthly, quarterly, semiannual, or annual charge  
12 to be imposed by a governmental agency, or by the authority, for any infrastructure  
13 project financed by the authority, which service charge arises by reason of the  
14 existence of, and requirements of, any assistance agreement;

15 ~~(35)~~~~(29)~~ "Sewage" means any of the waste products or excrements, or other discharges  
16 from the bodies of human beings or animals, which pollute the waters of the state;

17 **(36) "Shapefile" means a file format for storing, depicting, and analyzing geospatial**  
18 **data showing broadband coverage;**

19 ~~(37)~~~~(30)~~ "Solid waste" means "solid waste" as defined by KRS 224.1-010(30)(a);

20 ~~(38)~~~~(31)~~ "Solid waste facility" means any facility for collection, handling, storage,  
21 transportation, transfer, processing, treatment, or disposal of solid waste, whether  
22 the facility is associated with facilities generating the waste or otherwise, but does  
23 not include a container located on property where the waste is generated and which  
24 is used solely for the purpose of collection and temporary storage of that solid waste  
25 prior to off-site disposal, or a recovered material processing facility;

26 **(39) "Solid waste project" means construction, renovation, or acquisition of a solid**  
27 **waste facility which shall be instituted and owned by a governmental agency;**



1 ~~(40)~~~~(32)~~ "Solid waste revolving fund" means that fund which shall receive state funds,  
2 the proceeds from the sale of revenue bonds of the authority, or other moneys  
3 earmarked for the purpose of providing loans or grants to finance solid waste  
4 projects defined in this section;

5 ~~(41)~~~~(33)~~ "State" means the Commonwealth of Kentucky;

6 ~~(42)~~~~(34)~~ "System" means the system owned and operated by a governmental agency  
7 with respect to solid waste projects, treatment works, or infrastructure projects  
8 financed as provided by the assistance agreement between the governmental agency  
9 and the authority;

10 ~~(43)~~~~(35)~~ "Treatment works" or "wastewater treatment works" means all or any part of  
11 any facilities, devices, and systems used and useful in the storage, treatment,  
12 recycling, and reclamation of wastewater or the abatement of pollution, including  
13 facilities for the treatment, neutralization, disposal of, stabilization, collecting,  
14 segregating, or holding of wastewater, including without limiting the generality of  
15 the foregoing, intercepting sewers, outfall sewers, pumping power stations, and  
16 other equipment and their appurtenances; extensions, improvements, remodeling,  
17 additions, and alterations thereof, and any wastewater treatment works, including  
18 site acquisition of the land that will be an integral part of the wastewater treatment  
19 process, or is used for ultimate disposal of residues resulting from wastewater  
20 treatment, together with any other facilities which are deemed to be treatment works  
21 in accordance with the federal act;

22 **(44) "Underserved area" means any project area where fixed, terrestrial broadband**  
23 **service with a minimum twenty-five (25) megabits per second downstream and**  
24 **three (3) megabits per second upstream is not available;**

25 **(45) "Unserved area" means any project area where fixed, terrestrial broadband**  
26 **service with a minimum ten (10) megabits per second downstream and one (1)**  
27 **megabit per second upstream is not available;**

1 **(46) "Utility tax" means the tax which may be imposed by the authority on every**  
2 **purchase of water or sewer service in the Commonwealth of Kentucky;**

3 **(47)**~~[(36)] "Variable rate revenue bonds" means revenue bonds the rate of interest on~~  
4 which fluctuates either automatically by reference to a predetermined formula or  
5 index or in accordance with the standards set forth in KRS 224A.120;

6 **(48)**~~[(37)] "Wastewater" means any water or liquid substance containing sewage,~~  
7 industrial waste, or other pollutants or contaminants derived from the prior use of  
8 these waters;

9 **(49)**~~[(38)] "Water resources" means all waters of the state occurring on the surface, in~~  
10 natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface  
11 aquifers, which are available, or which may be made available to agricultural,  
12 industrial, commercial, recreational, public, and domestic users;

13 **(50)**~~[(39)] "Water resources project" means any structural or nonstructural study, plan,~~  
14 design, construction, development, improvement, or any other activity including  
15 programs for management, intended to conserve and develop the water resources of  
16 the state and shall include all aspects of water supply, facilities to collect, transport,  
17 and treat wastewater as defined in KRS 65.8903, flood damage abatement,  
18 navigation, water-related recreation, and land conservation facilities and measures;

19 **and**

20 **(51)**~~[(40)] "Waters of the state" means all streams, lakes, watercourses, waterways,~~  
21 ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other  
22 bodies or accumulations of water, surface and underground, natural or artificial,  
23 which are situated wholly or partly within, or border upon, this state, or are within  
24 its jurisdiction, except those private waters which do not combine or effect a  
25 junction with natural, surface, or underground waters[;]

26 ~~(41) "Utility tax" means the tax which may be imposed by the authority on every~~  
27 ~~purchase of water or sewer service in the Commonwealth of Kentucky;~~

1 ~~(42) "Broadband deployment project" means the construction, provision, development,~~  
 2 ~~operation, maintenance, leasing, or improvement of broadband infrastructure,~~  
 3 ~~broadband services, or technologies that constitute a part of, or are related to,~~  
 4 ~~broadband infrastructure or broadband services, to provide for broadband service in~~  
 5 ~~unserved areas of the Commonwealth; and~~

6 ~~(43) "Unserved area" means any place where broadband service is not available].~~

7 ➔Section 2. KRS 224A.110 is amended to read as follows:

8 **(1)** All moneys derived by the authority pursuant to assistance agreements other than  
 9 those assistance agreements funded under KRS 224A.111, ~~[and]~~ 224A.112, **and**  
 10 **Section 4 of this Act** shall be received by the authority as constituting authority  
 11 revenues, and shall, in common with other authority revenues, be immediately  
 12 deposited into such funds or accounts as the authority shall designate.

13 **(2)** Moneys derived by the authority pursuant to assistance agreements funded under  
 14 KRS 224A.111 and all federal and state money or proceeds from the sale of revenue  
 15 bonds of the authority received in support of assistance agreements funded under  
 16 KRS 224A.111 shall be deposited into an account designated as the "federally  
 17 assisted wastewater revolving fund."

18 **(3)** Moneys derived by the authority pursuant to assistance agreements funded under  
 19 KRS 224A.112 and all state money or proceeds from the sale of revenue bonds of  
 20 the authority received in support of KRS 224A.112 shall be deposited into **either**  
 21 **the "infrastructure revolving fund" or the "broadband deployment fund"** ~~an~~  
 22 ~~account designated as the "infrastructure revolving fund]."~~

23 **(4)** All authority revenues shall, before being expended for any other purposes of the  
 24 authority, first be applied to the payment of the principal of and interest on authority  
 25 revenue bonds in accordance with the resolution authorizing their issuance, as, and  
 26 when the same become due and payable.

27 ➔Section 3. KRS 224A.112 is amended to read as follows:

- 1 (1) The infrastructure revolving fund shall be established in the State Treasury and shall  
2 be administered by the authority. The fund shall be a dedicated fund, and all  
3 moneys in the fund shall be allocated and dedicated solely to providing financial  
4 assistance to governmental agencies, and investor-owned water systems as  
5 provided for in KRS 96.540, 224A.306, 224A.308, and 224A.310, for the  
6 construction or acquisition of infrastructure projects through an account  
7 designated as the 2020 water service account.
- 8 (2) The broadband deployment fund shall be established in the State Treasury and  
9 shall be administered by the authority. The fund shall be a dedicated fund, and  
10 all moneys in the fund shall be allocated and dedicated solely to providing grant  
11 funds to governmental agencies and private sector entities to construct  
12 infrastructure for the deployment of broadband service to households and  
13 businesses in underserved or unserved areas of the Commonwealth through an  
14 account designated as the broadband deployment fund~~The fund shall be a~~  
15 ~~dedicated fund, and all moneys in the fund shall be dedicated solely to providing~~  
16 ~~financial assistance to governmental agencies, and investor-owned water systems as~~  
17 ~~provided for in KRS 96.540, 224A.306, 224A.308, and 224A.310, for the~~  
18 ~~construction or acquisition of infrastructure projects. The fund shall contain an~~  
19 ~~account called the 2020 water service account. The 2020 water service account shall~~  
20 ~~be managed by the authority as set out in this chapter. The fund shall contain an~~  
21 ~~account called the broadband deployment account, which shall be managed by the~~  
22 ~~authority and for the purposes set forth in KRS 224A.1121].~~
- 23 (3) Funds in subsections (1) and (2) of this section shall not be commingled and  
24 shall be used only for the stated purposes in subsections (1) and (2) of this  
25 section.
- 26 (4) The financial assistance which may be provided ~~to governmental agencies~~ by the  
27 revolving fund shall be limited to:

- 1 (a) Making loans, on the condition that the loans are made at or below market  
2 interest rates, including interest free loans, at terms not to exceed thirty (30)  
3 years and that the fund will be credited with all payments of principal and  
4 interest on all loans;
- 5 (b) Purchasing or guaranteeing, or purchasing insurance for, local or state  
6 obligations when the action would improve credit market access or reduce  
7 interest rates;
- 8 (c) Providing a source of revenue or security for the payment of principal and  
9 interest on bonds or notes issued by the authority or other agencies of the state  
10 if the proceeds of the sale of the bonds will be deposited in the fund;
- 11 (d) Providing moneys with which to carry out the requirements of assistance  
12 agreements; and
- 13 (e) Making grants as funds specifically appropriated for grants or proceeds from  
14 the sale of the authority's revenue bonds are available.
- 15 ~~(5)~~~~(4)~~ The revolving fund shall be established, maintained, and credited with  
16 repayments and the fund balance shall be available in perpetuity for its stated  
17 purposes.
- 18 ~~(6)~~~~(5)~~ The authority may provide financial assistance from the fund to supplement  
19 assistance provided from the federally assisted wastewater revolving fund as created  
20 in KRS 224A.111.
- 21 ~~(7)~~~~(6)~~ The authority shall advise governmental agencies of the availability of the  
22 infrastructure revolving fund and how moneys may be obtained from the fund.
- 23 ~~(8)~~~~(7)~~ The authority may enter into any necessary or required agreement with federal  
24 or state agencies or persons to carry out the provisions of this section. All state  
25 agencies shall cooperate with the authority and share information with the authority  
26 as appropriate to accomplish the purposes set out in KRS 224A.300.
- 27 **(9) Moneys in the fund are hereby appropriated for the purposes set forth in Sections**

1        3 and 4 of this Act.

2        (10) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of  
 3        the fiscal year shall not lapse but shall be carried forward into the succeeding  
 4        fiscal year to be used for the purposes set forth in Sections 3 and 4 of this Act.

5        (11) Interest earned on moneys in the broadband deployment fund shall stay in the  
 6        fund.

7        ➔Section 4. KRS 224A.1121 is amended to read as follows:

8        (1) The purpose of the broadband deployment ~~fund~~~~account~~ set forth in KRS  
 9        224A.112 shall be to assist governmental agencies~~governments~~ and private sector  
 10        entities to construct infrastructure for the deployment of broadband service to  
 11        underserved or unserved areas of the Commonwealth. The authority shall manage  
 12        the ~~fund~~~~account~~ and may accept and receive appropriations from the General  
 13        Assembly or other funds or gifts from both public and private sources, including but  
 14        not limited to local governments and federal agencies.

15        (2) The authority shall establish a grant~~an incentive~~ program that allocates funds  
 16        from the broadband deployment ~~fund~~~~account~~ in accordance with this section.  
 17        Grant funds~~Incentives~~ may be used by government or private sector entities for  
 18        broadband deployment projects.

19        (3) The ~~grant~~~~incentive~~ program shall be developed to give highest funding priority to  
 20        those projects which most effectively provide broadband service to the greatest  
 21        number of underserved and unserved Kentucky citizens and at the lowest cost.  
 22        Funding shall not be used ~~for projects with an intent~~ to duplicate~~deploy~~  
 23        broadband service to citizens, households, and businesses in a broadband  
 24        deployment project area~~areas~~ where fixed, terrestrial broadband service meets or  
 25        exceeds twenty-five (25) megabits per second downstream and three (3) megabits  
 26        per second upstream~~already exists; however, the authority may consider funding~~  
 27        ~~for projects that, in providing broadband service for an unserved area, create an~~

1 ~~overlap in existing broadband coverage for less than twenty percent (20%) of~~  
2 ~~households in the proposed coverage area].~~

3 (4) The authority shall develop funding criteria and prioritization schedules for  
4 broadband deployment projects *in a technology-neutral manner* in accordance  
5 with this section ~~and with consideration given to recommendations submitted by~~  
6 ~~area development districts, telecommunications businesses, information services,~~  
7 ~~technology industries, governmental entities, and by Kentucky based nonprofit~~  
8 ~~organizations, including ConnectKentucky].~~

9 (5) *The authority shall establish guidelines and standards for applying for and*  
10 *approving grants from the broadband deployment fund. An eligible applicant*  
11 *shall submit an application to the authority. An application for a grant shall*  
12 *contain any information the authority requires, including but not limited to:*

13 *(a) A geographic description of the broadband deployment project area,*  
14 *including whether the area is partially served;*

15 *(b) A description of the broadband deployment project, including facilities,*  
16 *equipment, total cost, timeframe for completion, and network capabilities,*  
17 *including minimum speed thresholds;*

18 *(c) Documentation of the applicant's technical, financial, and managerial*  
19 *resources and experience to build, operate, and manage broadband serving*  
20 *citizens, households, and businesses in Kentucky;*

21 *(d) Documentation of the economic and commercial feasibility of the proposed*  
22 *broadband deployment project;*

23 *(e) The number of citizens, households, or businesses that would have new*  
24 *access to broadband as a result of the grant;*

25 *(f) The amount of matching funds the eligible applicant will contribute and a*  
26 *certification that no portion of the matching funds is derived from any state*  
27 *or federal grant received for the purpose of funding broadband*

- 1           infrastructure within the project area; and
- 2           (g) A certification that none of the funds provided by the program for the
- 3           project in the application will be used to extend or deploy facilities to any
- 4           currently served citizen, households, or businesses.
- 5           (6) The authority shall make the applications available to the public within five (5)
- 6           business days of the deadline for submission of applications, provided the
- 7           information contained within an application is not exempt from disclosure under
- 8           the provisions of the Open Records Act, KRS 61.870 to 61.884. The description of
- 9           the geographic scope of the broadband deployment project area shall not be
- 10           exempt under the Open Records Act, KRS 61.870 to 61.884, and shall be made
- 11           available to the public within five (5) days after submission of the application.
- 12           (7) As part of the grant application process, pursuant to subsection (3) of this
- 13           section, the authority shall include an opportunity for a broadband service
- 14           provider to challenge the application. As part of the dispute process, the authority
- 15           may consider any relevant geospatial data available from a broadband service
- 16           provider or grant applicant. Geospatial data may include but is not limited to
- 17           shapefiles detailing broadband coverage, the most current Federal
- 18           Communications Commission Form 477 fixed broadband deployment data
- 19           reporting, or other documentation of broadband deployment infrastructure in the
- 20           project area to show that a challenged project area is underserved or unserved. A
- 21           challenging provider may provide the authority with proof, including but not
- 22           limited to:
- 23           (a) The broadband deployment project area is currently served or is under
- 24           construction for provision of broadband service within twelve (12) months
- 25           of the challenge; or
- 26           (b) The applicant has received funds from another state or federally funded
- 27           grant program designed to encourage broadband deployment in the area.



- 1 (8) Upon a determination that an application meets the funding criteria, but the  
2 proposed project area is found to be partially served, the authority may amend the  
3 application and grant partial funding based on the partial service provided in  
4 order to ensure that grant funds are used to only provide broadband service to  
5 citizens, households, or businesses deemed underserved or unserved.
- 6 (9) No funds shall be used to support any broadband deployment project involving  
7 the upgrade of an existing facility or for non-capital expenses, non-broadband  
8 services, marketing, or advertising. The broadband deployment project area shall  
9 be described by census block including the specific addresses to be serviced or by  
10 shapefile geospatial data.
- 11 (10) Grant applicants shall pay a minimum of fifty percent (50%) of the project cost  
12 which shall not include any matching funds received from federal or state  
13 government grants for broadband deployment in the project area.
- 14 (11) Moneys in this fund shall not be used by or transferred to the Kentucky  
15 Communications Network Authority.
- 16 (12) To carry out the purposes of this section, the authority shall promulgate  
17 administration regulations in accordance with KRS Chapter 13A. Within one  
18 hundred eighty (180) days of the effective date of this Act, the authority shall  
19 promulgate regulations to implement the provisions of Sections 1 to 4 of this Act  
20 and govern the submission, review, and approval of applications and the  
21 administration of broadband deployment projects. The authority shall not  
22 promulgate any regulations that place obligations on the applicants that are more  
23 restrictive than applicable federal or state law. Except as otherwise provided in  
24 this section, all of the authority's records relating to the broadband deployment  
25 fund shall be deemed confidential unless disclosure is required under the  
26 provisions of the Open Records Act, KRS 61.870 to 61.884.
- 27 ~~[(6) Projects receiving funding as provided by this section shall be completed within~~

1 ~~twelve (12) months of receiving the funds.]~~