



February 26, 2023

SUMMARY OF BILL: Increases, from 10 to 100 Megabits per second (Mbps), the minimum download speed and increases, from 1 to 20 Mbps, the minimum upload speed thresholds of broadband service for eligibility to receive a grant under the Broadband Accessibility Grant Program (BAGP). Clarifies that a project is not disqualified from being prioritized to receive a grant under the BAGP if funds are used to alleviate the costs of installing broadband facilities underground because the project has been denied reasonable access to aerial facilities, or aerial facilities in the location lack the capacity to accommodate new broadband attachments.

Requires that projects providing broadband service to the greatest number of locations at the highest speeds for the lowest grant amount per location possible be prioritized when awarding grants. Requires that projects with the ability to commit to provide at least 20 percent of the cost to deploy broadband be prioritized when awarding grants.

Prohibits grants from being awarded to projects serving locations that are currently being served by at least one provider offering the minimum download and upload speeds mandated for BAGP grants. Prohibits grants from being awarded to projects serving locations where a federal or state grant has already been allocated to a broadband service provider, that offers the minimum download and upload speed mandated for BAGP grants, to serve the location, unless the grant is being used to alleviate costs of installing broadband facilities underground because the project has been denied reasonable access to aerial facilities, or aerial facilities in the location lack the capacity to accommodate new broadband attachments. Requires the Department of Economic and Community Development (ECD) to allow broadband service providers a reasonable opportunity to comment on a grant award through providing data showing the availability of broadband prior to awarding and BAGP grants.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – In the event the state is found to be in violation of federal guidelines, federal funding to ECD for the grant program may be jeopardized.

Assumptions:

- According to ECD, the ability to administer American Rescue Plan Capital Projects Funds and to administer Broadband Equity Access and Deployment (BEAD) programs would be affected by the proposed legislation as it would violate guidelines set forth in

the *Guidance for the Coronavirus Capital Projects Fund* related to Broadband Infrastructure Projects.

- BEAD specifically prohibits the exclusion of any provider type or eligible entities, and requires states to prioritize underserved areas that lack a maximum download speed of 25 Mbps and an upload speed of 3 Mbps first.
- If the proposed legislation is enacted, up to \$1,215,000,000 in federal funding from the BEAD program and the American Rescue Plan Capital Projects Fund may be jeopardized.
- The Governor’s proposed budget for FY23-24, on page B-348, recognizes a non-recurring state appropriation of \$50,000,000 from the federal government and \$300,000 from the state to the Department of Economic and Community Development to provide grants and tax credits to increase broadband accessibility.

IMPACT TO COMMERCE:

Other Commerce Impact – In the event federal funds are lost and state or other funds are not used to supplant lost federal funds, there will be a decrease in business revenue. The precise impact, if any, cannot be reasonably determined.

Assumption:

- In the event the state loses federal funding, there could be a decrease in business revenue depending to what extent, if any, that state funds are used to supplant lost federal funds. The precise impact, if any, cannot be reasonably determined.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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