



March 2, 2018

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# ENGROSSED HOUSE BILL No. 1065

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DIGEST OF HB 1065 (Updated March 1, 2018 12:17 pm - DI 101)

**Citations Affected:** IC 4-4; IC 5-28; IC 8-1; noncode.

**Synopsis:** Broadband grants and high speed Internet service. Authorizes the office of community and rural affairs (office) to award grants to qualified broadband providers in connection with qualified broadband projects involving the deployment of infrastructure to provide qualified broadband service in unserved areas in Indiana. Defines "qualified broadband service" as a connection to the Internet at an average speed of at least ten 10 megabits per second downstream and at least one megabit per second upstream, regardless of the technology used. Defines an "unserved area" as a geographic area in Indiana in which there is not at least one provider of terrestrial broadband service at the designated speeds. Provides that grants shall be made from the rural economic development fund. Provides that in awarding grants, the office shall give priority to first extending the deployment of qualified broadband service to areas in which: (A) Internet connections are unavailable; or (B) the only available Internet connections provide for an average speed of less than 10 megabits per second downstream. Sets forth factors that the office must consider in  
(Continued next page)

**Effective:** Upon passage; July 1, 2018.

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## Ober, Negele, Hatfield, Pelath

(SENATE SPONSORS — HOUCHIN, KOCH, MERRITT, LEISING,  
BUCHANAN, MESSMER, RANDOLPH LONNIE M)

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January 3, 2018, read first time and referred to Committee on Utilities, Energy and Telecommunications.

January 29, 2018, amended, reported — Do Pass.

January 31, 2018, read second time, ordered engrossed. Engrossed.

February 1, 2018, read third time, passed. Yeas 92, nays 0.

SENATE ACTION

February 6, 2018, read first time and referred to Committee on Utilities.

March 1, 2018, amended, reported favorably — Do Pass.

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EH 1065—LS 6584/DI 128



## Digest Continued

determining whether to award a grant. Sets forth conditions that apply to the awarding of grants. Requires the office to adopt guidelines to implement these provisions and authorizes the office to collaborate with state agencies and political subdivisions in adopting the guidelines and administering grants. For purposes of the statute concerning the high speed Internet service deployment and adoption initiative (initiative), changes the minimum speed thresholds for high speed Internet service to at least 10 megabits per second downstream and at least one megabit per second upstream. (Current law sets the minimum speed threshold at 384 kilobits per second in at least one direction.) Amends the Indiana Code section that requires the economic development corporation (IEDC) to map the availability of broadband service in Indiana as part of the initiative to require the IEDC to publish the map created as a data layer to the statewide geographic information system (GIS) base map. Authorizes the office of technology, in addition to the IEDC, to apply for state broadband and development grants under specified federal laws and any other sources for state or federal grants. Reorders the priorities that the IEDC is required to establish in developing and implementing the initiative. Changes the minimum and maximum speed thresholds for those geographic areas which are designated as priorities under the initiative. Amends the Indiana Code section that allows a holder of video service franchises issued by the utility regulatory commission (IURC) to apply to the IURC for direct marketing authority in a service area served by the holder to specify that such authority includes the authority to market directly to all businesses, as well as all households (as set forth in current law), in the service area. Directs the IURC to study certain topics regarding broadband services in Indiana and issue a report to the interim study committee on energy, utilities, and telecommunications before October 1, 2018.

**EH 1065—LS 6584/DI 128**



March 2, 2018

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1065

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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 4-4-9.7-9, AS ADDED BY P.L.144-2006,  
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 9. (a) The rural economic development fund is  
4 established for the purpose of enhancing and developing rural  
5 communities. The fund shall be administered by the office.  
6 (b) The expenses of administering the fund shall be paid from the  
7 money in the fund.  
8 (c) Notwithstanding IC 5-13, the treasurer of state shall invest the  
9 money in the fund not currently needed to meet the obligations of the  
10 fund under IC 5-10.3-5. The treasurer of state may contract with  
11 investment management professionals, investment advisers, and legal  
12 counsel to assist in the management of the fund and may pay the state  
13 expenses incurred under those contracts.  
14 (d) Money in the fund at the end of a state fiscal year does not revert  
15 to the state general fund.  
16 (e) Money in the fund may be used for the following purposes:  
17 (1) To create, assess, and assist a pilot project to enhance the

**EH 1065—LS 6584/DI 128**



- 1 economic and community development in a rural area.  
 2 (2) To establish a local revolving loan fund for:  
 3 (A) an industrial;  
 4 (B) a commercial;  
 5 (C) an agricultural; or  
 6 (D) a tourist;  
 7 venture.  
 8 (3) To provide a loan for an economic development project in a  
 9 rural area.  
 10 (4) To provide technical assistance to a rural organization.  
 11 (5) To assist in the development and creation of a rural  
 12 cooperative.  
 13 (6) To address rural workforce development challenges.  
 14 (7) To assist in addressing telecommunications needs in a rural  
 15 area, **including the awarding of grants under IC 4-4-38.**  
 16 (8) To provide funding for rural economic development projects  
 17 concerning the following issues:  
 18 (A) Infrastructure, including water, wastewater, and storm  
 19 water infrastructure needs.  
 20 (B) Housing.  
 21 (C) Health care.  
 22 (D) Local planning.  
 23 (E) Land use.  
 24 (F) Other rural economic development issues, as determined  
 25 by the office.  
 26 (9) To provide funding for the establishment of new regional rural  
 27 development groups and the operation of existing regional rural  
 28 development groups.  
 29 (f) Expenditures from the fund are subject to appropriation by the  
 30 general assembly and approval by the office.  
 31 SECTION 2. IC 4-4-38 IS ADDED TO THE INDIANA CODE AS  
 32 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 33 1, 2018]:  
 34 **Chapter 38. Broadband Grants for Unserved Areas**  
 35 **Sec. 1. As used in this chapter, "office" refers to the office of**  
 36 **community and rural affairs established by IC 4-4-9.7-4.**  
 37 **Sec. 2. As used in this chapter, "qualified broadband project"**  
 38 **means a project for the deployment of broadband infrastructure**  
 39 **for the provision of qualified broadband service, regardless of the**  
 40 **delivery technology, in unserved areas in Indiana.**  
 41 **Sec. 3. (a) As used in this chapter, "qualified broadband project**  
 42 **expenses" means capital expenses directly related to a qualified**



1 broadband project, including design, construction, engineering,  
2 permitting, and testing expenses.

3 (b) The term does not include operating or maintenance  
4 expenses related to a qualified broadband project.

5 Sec. 4. As used in this chapter, "qualified broadband provider"  
6 means any company, firm, corporation, partnership, or association  
7 that, at the time of submission of a grant application under this  
8 chapter:

9 (1) either:

10 (A) has been providing broadband service to at least one  
11 hundred (100) residences and businesses in Indiana for at  
12 least three (3) consecutive years; or

13 (B) is:

14 (i) a corporation organized under IC 8-1-13; or

15 (ii) a corporation organized under IC 23-17 that is an  
16 electric cooperative and that has at least one (1) member  
17 that is a corporation organized under IC 8-1-13;

18 that provides or will provide, alone or in conjunction with  
19 one (1) or more other legal entities, broadband service  
20 within the corporation's electric service territory; and

21 (2) has demonstrated, to the satisfaction of the office:

22 (A) financial;

23 (B) technical; and

24 (C) operational;

25 capability in building and operating a broadband network.

26 Sec. 5. As used in this chapter, "qualified broadband service"  
27 means a connection to the Internet that provides capacity for  
28 transmission at an average speed of at least ten (10) megabits per  
29 second downstream and at least one (1) megabit per second  
30 upstream, regardless of the technology or medium used to provide  
31 the connection.

32 Sec. 6. As used in this chapter, "unserved area" means a  
33 geographic area of Indiana, identified at the census block level, in  
34 which there is not at least one (1) provider of terrestrial broadband  
35 service offering a connection to the Internet that provides capacity  
36 for transmission at an average speed of at least ten (10) megabits  
37 per second downstream and at least one (1) megabit per second  
38 upstream.

39 Sec. 7. (a) Subject to:

40 (1) subsection (b);

41 (2) section 8 of this chapter; and

42 (3) IC 4-4-9.7-9(f);



1 the office shall establish procedures for awarding grants from the  
 2 rural economic development fund established by IC 4-4-9.7-9 to  
 3 qualified broadband providers for qualified broadband project  
 4 expenses incurred in connection with qualified broadband projects.

5 (b) In awarding grants under this chapter, the office shall  
 6 establish the following priorities:

7 (1) First, extending the deployment of qualified broadband  
 8 service to areas in which:

9 (A) Internet connections are unavailable; or

10 (B) the only available Internet connections provide  
 11 capacity for transmission at an average speed of less than  
 12 ten (10) megabits per second downstream.

13 (2) Second, extending the deployment of high speed Internet  
 14 service to areas in which the only available Internet  
 15 connections provide capacity for transmission at an average  
 16 speed of:

17 (A) not less than ten (10) megabits; and

18 (B) not more than twenty-five (25) megabits;  
 19 per second downstream.

20 (c) Subject to section 11 of this chapter, the office shall publish  
 21 on the office's Internet web site all grant applications received by  
 22 the office under this chapter. For each grant application received,  
 23 the office shall establish a period of at least thirty (30) days from  
 24 the date the application is published on the office's Internet web  
 25 site under this subsection, during which time the office will accept  
 26 comments or objections concerning the application. The office shall  
 27 consider all comments or objections received under this subsection  
 28 in making a determination as to whether to award a grant to an  
 29 applicant under this chapter.

30 Sec. 8. (a) In determining whether to award a grant under this  
 31 chapter in connection with a proposed qualified broadband  
 32 project, the office shall consider the following:

33 (1) The community's need for, and the likely economic impact  
 34 of, the proposed qualified broadband project in the unserved  
 35 area.

36 (2) The likelihood that the unserved area will not be served  
 37 with qualified broadband service without state grant funding.

38 (3) Whether funding has been allocated for the unserved area  
 39 from the federal Connect America Fund or from any other  
 40 federal funding program.

41 (4) Whether the broadband infrastructure proposed in  
 42 connection with the qualified broadband project is scalable to



1 accommodate higher broadband speeds in the future.

2 (5) Awarding grants under this chapter with a preference for  
3 funding proposed qualified broadband projects that will  
4 provide Internet connections to the most unserved areas at the  
5 highest speeds for the lowest grant amount per area.

6 (6) The useful life of the broadband network proposed to be  
7 deployed.

8 (7) The technical, managerial, and financial capabilities of the  
9 applicant.

10 (8) The ability of the applicant to commit to providing at least  
11 twenty percent (20%) of the cost to deploy the proposed  
12 broadband infrastructure with funds not derived from other  
13 grants, loans, or subsidies. When multiple applicants apply  
14 for a grant to provide broadband service to the same census  
15 block within an unserved area, the office may establish a  
16 preference for approving applications with a greater capital  
17 contribution by the applicant.

18 (9) Any proposed plans to encourage the adoption and use of  
19 broadband services within the unserved area.

20 (10) Any other factors the office considers appropriate to  
21 enable the deployment of broadband infrastructure to provide  
22 qualified broadband service in unserved areas in Indiana.

23 (b) The following conditions apply to the awarding of grants  
24 under this chapter:

25 (1) The office shall not award a grant with respect to any  
26 geographic area if information made available to the office,  
27 through comments or objections received under section 7(c)  
28 of this chapter or otherwise, indicates any of the following:

29 (A) The area is already being served by at least one (1)  
30 provider offering qualified broadband service in the area.

31 However, any person may, in a petition filed with the  
32 office, provide evidence that one (1) or more locations  
33 within one (1) or more census blocks in the area are  
34 unserved areas. Upon receiving a petition described in this  
35 clause, the office shall notify all broadband providers  
36 operating in all census blocks included in the petition.  
37 Those broadband providers may in turn demonstrate to  
38 the office that the locations included in the petition:

39 (i) are already served with qualified broadband service;  
40 or

41 (ii) will be served with qualified broadband service not  
42 later than twenty-four (24) months after the date of the



- 1            **application for a grant under this chapter.**
- 2            **(B) The area is currently being built out for qualified**
- 3            **broadband service by a qualified broadband provider, and**
- 4            **the construction is scheduled to be completed within one**
- 5            **(1) year of the date of an application under this chapter.**
- 6            **(C) The area is currently planned for qualified broadband**
- 7            **service expansion by a qualified broadband provider:**
- 8            **(i) without state grant funding; and**
- 9            **(ii) with project completion forecast not later than two**
- 10           **(2) years after the date of an application under this**
- 11           **chapter.**
- 12           **If the office denies a grant on the basis of clause (A)(ii), (B), or**
- 13           **(C), the qualified broadband provider involved in the current**
- 14           **or planned project, as applicable, shall provide the office with**
- 15           **a schedule for completion of the current or planned build out.**
- 16           **The qualified broadband provider shall also provide the office**
- 17           **with quarterly status updates, beginning three (3) months**
- 18           **after the office's decision denying a grant for the area,**
- 19           **concerning any work done toward completion of the project**
- 20           **described in clause (A)(ii), (B), or (C). If the qualified**
- 21           **broadband provider fails to provide a schedule for completion**
- 22           **or a status report by the date required by the office, or if the**
- 23           **office determines that the time frame for project completion**
- 24           **described in clause (A)(ii), (B), or (C), as applicable, will likely**
- 25           **not be met, the office may award a grant under this chapter**
- 26           **with respect to the area and shall provide notice of that fact**
- 27           **to all former applicants that were previously denied a grant**
- 28           **under this chapter with respect to the area on the basis of**
- 29           **clause (A)(ii), (B), or (C). The qualified broadband provider**
- 30           **that failed to provide a schedule or report, or that failed to**
- 31           **meet the time frame for project completion described in**
- 32           **clause (A)(ii), (B), or (C), may not use this subdivision to**
- 33           **subsequently challenge the awarding of a grant under this**
- 34           **chapter with respect to the same area.**
- 35           **(2) The office shall not award a grant to any applicant that is**
- 36           **receiving:**
- 37           **(A) a federal grant; or**
- 38           **(B) another state grant;**
- 39           **to provide qualified broadband service to the same unserved**
- 40           **area for which a grant is sought under this chapter.**
- 41           **(3) The office shall not discriminate between different types of**
- 42           **technology used to provide qualified broadband service in**





- 1 connection with proposed qualified broadband projects.
- 2 (4) The office shall not condition the awarding of a grant on:
- 3 (A) the applicant's management of the applicant's
- 4 broadband network;
- 5 (B) the applicant's pricing for qualified broadband service;
- 6 or
- 7 (C) any other factors related to the terms and conditions
- 8 by which qualified broadband service is provided to
- 9 consumers.
- 10 (5) The office shall seek any assurances that may be necessary
- 11 or appropriate to ensure that proposed qualified broadband
- 12 projects will be substantially completed within the time period
- 13 set forth in a grant application under this chapter.
- 14 (6) The office shall condition the release of any grant funds
- 15 awarded under this chapter on:
- 16 (A) the progressive completion, as measured on a not more
- 17 than quarterly basis, of the approved qualified broadband
- 18 project; and
- 19 (B) operational testing, when possible, to confirm the level
- 20 of service proposed in the grant application.
- 21 Once funds have been released in accordance with this
- 22 subdivision, all authority and ownership of the broadband
- 23 infrastructure vests with the qualified broadband provider
- 24 that built the infrastructure.
- 25 **Sec. 9. (a) The office shall adopt guidelines to implement this**
- 26 **chapter, including guidelines governing:**
- 27 (1) the form and content of requests to provide qualified
- 28 broadband service to an unserved area;
- 29 (2) the form and content of applications for grants under this
- 30 chapter;
- 31 (3) a competitive bidding process or a process for requests for
- 32 proposals for qualified broadband projects;
- 33 (4) a process by which a broadband provider may challenge
- 34 the designation of an area as unserved; and
- 35 (5) a process by which:
- 36 (A) a person may, in a petition filed with the office, provide
- 37 evidence that one (1) or more locations within one (1) or
- 38 more census blocks are unserved areas; and
- 39 (B) upon the filing of a petition described in clause (A):
- 40 (i) the office notifies all broadband providers operating
- 41 in all census blocks included in the petition; and
- 42 (ii) those broadband providers have the opportunity to



1 demonstrate to the office that the locations included in  
 2 the petition are already served with qualified broadband  
 3 service or will be served with qualified broadband  
 4 service not later than twenty-four (24) months after the  
 5 date of the application for a grant under this chapter.

6 (b) In adopting the guidelines described in subsection (a) or in  
 7 otherwise administering this chapter, the office may collaborate  
 8 with or seek guidance from:

9 (1) the Indiana economic development corporation established  
 10 by IC 5-28-3-1;

11 (2) the broadband ready communities development center  
 12 established by IC 5-28-28.5-5;

13 (3) the Indiana department of transportation established by  
 14 IC 8-23-2-1; and

15 (4) any other agencies of the state or of political subdivisions  
 16 of the state.

17 Sec. 10. (a) Not later than August 1 of each year, the office shall  
 18 submit to the general assembly a report on the office's activities  
 19 under this chapter during the most recent state fiscal year,  
 20 including the following:

21 (1) The number, amounts, and recipients of grants awarded  
 22 under this chapter.

23 (2) The status of any funded qualified broadband projects.

24 (3) Expenses incurred and funds spent by the office in  
 25 administering this chapter.

26 (4) A list of the entities, if any, that the office collaborated  
 27 with in administering this chapter.

28 (5) An accounting of funds in the rural economic development  
 29 fund established by IC 4-4-9.7-9, including funds awarded as  
 30 grants under this chapter.

31 (6) The number of locations in Indiana to which broadband  
 32 infrastructure has been deployed with the use of grant funds  
 33 under this chapter, including address-level information for  
 34 newly connected locations.

35 (7) The overall progress of the deployment of broadband  
 36 infrastructure for the provision of qualified broadband  
 37 service in unserved areas in Indiana.

38 A report to the general assembly under this subsection must be in  
 39 an electronic format under IC 5-14-6.

40 (b) Every three (3) years, beginning in 2021, the state board of  
 41 accounts shall conduct an audit of the awarding of grants under  
 42 this chapter during the most recent three (3) state fiscal years. A



1 report of an audit conducted under this subsection shall be  
 2 submitted to the general assembly in an electronic format under  
 3 IC 5-14-6 not later than December 31 of the calendar year that  
 4 includes the end of the third state fiscal year covered by the audit.

5 Sec. 11. The office, and any agency or any political subdivision  
 6 with which the office cooperates or consults in administering this  
 7 chapter:

8 (1) shall not disclose information designated as confidential or  
 9 proprietary business information by a grant applicant or  
 10 recipient; and

11 (2) shall execute appropriate nondisclosure agreements to  
 12 prevent the disclosure of confidential or proprietary business  
 13 information in connection with grants awarded under this  
 14 chapter.

15 SECTION 3. IC 5-28-33-2, AS ADDED BY P.L.152-2009,  
 16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2018]: Sec. 2. As used in this chapter, "high speed Internet  
 18 service" means a connection to the Internet that provides capacity for  
 19 transmission at an average speed of at least ~~three hundred eighty-four~~  
 20 ~~(384) kilobits~~ **ten (10) megabits** per second downstream **and at least**  
 21 **one (1) megabit upstream**, regardless of the technology or medium  
 22 used to provide the connection.

23 SECTION 4. IC 5-28-33-3, AS AMENDED BY P.L.13-2013,  
 24 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2018]: Sec. 3. (a) The corporation shall develop a high speed  
 26 Internet service deployment and adoption initiative that includes the  
 27 creation of a statewide geographic information system (GIS) of  
 28 available telecommunications and information technology services,  
 29 including high speed Internet service.

30 (b) The corporation shall map the availability of broadband service  
 31 by census blocks established by the Bureau of the Census and depicted  
 32 in the GIS. A map created under this subsection may:

33 (1) include the percentage of households that have access to  
 34 broadband service; and

35 (2) use the Federal Communications Commission benchmark  
 36 rates for broadband service to identify different speed tiers.

37 (c) The corporation shall ~~share~~ **publish** the map created under  
 38 subsection (b) and the GIS, including updates, ~~with the Indiana~~  
 39 ~~Geographic Information Council~~ (as referred to in IC 4-23-7.3-6) as a  
 40 data layer to the statewide base map (as defined in IC 4-23-7.3-11).

41 SECTION 5. IC 5-28-33-6, AS ADDED BY P.L.152-2009,  
 42 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2018]: Sec. 6. The corporation **and the office of technology**  
 2 **(established by IC 4-13.1-2-1)** may apply for state broadband data and  
 3 development grants under the federal Broadband Data Improvement  
 4 Act and the American Recovery and Reinvestment Act of 2009 **and**  
 5 **any other relevant sources for state or federal grants.**

6 SECTION 6. IC 5-28-33-9, AS ADDED BY P.L.152-2009,  
 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2018]: Sec. 9. The corporation shall establish the following  
 9 priorities in developing and implementing the high speed Internet  
 10 service deployment and adoption initiative:

11 (1) First, extending the deployment of high speed Internet service  
 12 to areas where:

13 (A) Internet connections are unavailable; or

14 (B) the only available Internet connections provide capacity  
 15 for transmission at an average speed of less than ~~two hundred~~  
 16 ~~(200) kilobits~~ **five (5) megabits** per second downstream.

17 **(2) Second, supporting programs to promote broadband**  
 18 **adoption throughout Indiana.**

19 ~~(2) Second;~~ **(3) Third,** extending the deployment of high speed  
 20 Internet service to areas where the only available Internet  
 21 connections provide capacity for transmission at an average speed  
 22 of:

23 (A) not less than ~~two hundred (200) kilobits;~~ **five (5)**  
 24 **megabits;** and

25 (B) not more than ~~one and five-tenths (1.5) ten (10)~~ **ten (10)**  
 26 megabits;  
 27 per second downstream.

28 ~~(3) Third, supporting programs to promote broadband adoption~~  
 29 ~~throughout Indiana.~~

30 SECTION 7. IC 5-28-33-10, AS ADDED BY P.L.152-2009,  
 31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2018]: Sec. 10. The corporation **and the office of technology**  
 33 **(established by IC 4-13.1-2-1)** ~~is~~ **are** designated as the ~~single only~~  
 34 eligible ~~entity~~ **entities** to receive a grant under 47 U.S.C. 1304.

35 SECTION 8. IC 8-1-34-30, AS AMENDED BY P.L.65-2016,  
 36 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2018]: Sec. 30. (a) As used in this section, "designated  
 38 employee" means a holder's:

39 (1) employee; or

40 (2) authorized agent;

41 whom the holder designates or will designate to receive direct  
 42 marketing authority.

(b) As used in this section, "direct marketing authority" means the



1 authority granted by the commission to a holder to market any service  
 2 or product offered by the holder directly to all households **and**  
 3 **businesses** in a service area served by the holder.

4 (c) As used in this section, "political subdivision" has the meaning  
 5 set forth in IC 36-1-2-13.

6 (d) A holder may apply to the commission, in the manner and form  
 7 prescribed by the commission, for direct marketing authority. An  
 8 application must include the following information with respect to each  
 9 designated employee of the holder:

- 10 (1) Name.
- 11 (2) Home address.
- 12 (3) Driver's license number.
- 13 (4) A certification described in subsection (e)(1).

14 (e) In an application under subsection (d), a holder shall include the  
 15 following:

16 (1) A certification by the holder that each designated employee  
 17 satisfies the following requirements:

- 18 (A) The employee is at least eighteen (18) years of age.
- 19 (B) The employee has a high school diploma or the equivalent  
 20 of a high school diploma.
- 21 (C) The employee has not been convicted of a felony within  
 22 the seven (7) years immediately preceding the date of the  
 23 application.
- 24 (D) Within the seven (7) years immediately preceding the date  
 25 of the application, the employee has not been released from  
 26 incarceration after serving time for a felony conviction.
- 27 (E) The employee has not been convicted of:
  - 28 (i) a misdemeanor involving fraud, deceit, or dishonesty;
  - 29 (ii) a battery offense included in IC 35-42-2 as a  
 30 misdemeanor; or
  - 31 (iii) two (2) or more misdemeanors involving the illegal use  
 32 of alcohol or the illegal sale, use, or possession of a  
 33 controlled substance;  
 34 within the five (5) years immediately preceding the date of the  
 35 application.
- 36 (F) The employee has a valid driver's license.

37 (2) Proof of financial responsibility.

38 (f) A holder may comply with subsection (e)(1) by submitting to the  
 39 commission a document signed by the holder in which the holder:

- 40 (1) identifies each designated employee by name, home address,  
 41 and driver's license number;
- 42 (2) certifies that each designated employee has been the subject



1 of a criminal history background check for each jurisdiction in the  
 2 United States in which the designated employee has lived or  
 3 worked within the seven (7) years immediately preceding the date  
 4 of the application; and

5 (3) affirms that the background check described in subdivision (2)  
 6 for each designated employee indicates that the designated  
 7 employee satisfies the requirements set forth in subsection (e)(1),  
 8 as applicable.

9 (g) Not more than fifteen (15) days after the commission receives an  
 10 application under subsection (d), the commission shall determine  
 11 whether the application is complete and properly verified. If the  
 12 commission determines that the application is incomplete or not  
 13 properly verified, the commission shall notify the applicant holder of  
 14 the deficiency and allow the holder to resubmit the application after  
 15 correcting the deficiency. If the commission determines that the  
 16 application is complete and properly verified, the commission shall  
 17 issue an order granting the holder direct marketing authority. The order  
 18 must contain the following:

19 (1) The name of the holder.

20 (2) The names of designated employees of the holder.

21 (3) A grant of direct marketing authority to the holder and  
 22 designated employees of the holder.

23 (4) The date on which the order takes effect.

24 The commission shall provide public notice of an order granting direct  
 25 marketing authority under this subsection by posting the order on the  
 26 commission's Internet web site.

27 (h) A holder that has direct marketing authority shall notify the  
 28 commission in a timely manner of any changes to the holder's list of  
 29 designated employees. A designated employee may exercise direct  
 30 marketing authority immediately upon the holder's submission to the  
 31 commission of all information required under subsection (e)(1) with  
 32 respect to the designated employee.

33 (i) Only the commission is authorized to grant direct marketing  
 34 authority to a holder under this section. However, subject to subsection  
 35 (j), with respect to direct marketing activities in a holder's service area  
 36 within a political subdivision, this section does not prohibit a holder  
 37 from electing to:

38 (1) apply for marketing or solicitation authority directly from the  
 39 political subdivision; and

40 (2) exercise any marketing or solicitation authority under a  
 41 license, permit, or other authority granted by the political  
 42 subdivision before, on, or after June 30, 2013;



1 instead of applying for and exercising direct marketing authority  
2 granted by the commission under this section.

3 (j) A political subdivision may not do any of the following:

4 (1) Require a holder that is granted direct marketing authority  
5 from the commission under this section to also obtain marketing  
6 or solicitation authority from the political subdivision in order to  
7 engage in direct marketing in the holder's service area within the  
8 political subdivision.

9 (2) Impose any licensing requirement or fee on a holder in  
10 connection with any direct marketing authority granted to the  
11 holder by the commission under this section with respect to the  
12 holder's service area within the political subdivision.

13 (3) Except as provided in subsection (k), otherwise regulate a  
14 holder that is granted direct marketing authority from the  
15 commission under this section and that engages in direct  
16 marketing in the holder's service area within the political  
17 subdivision.

18 (k) A political subdivision may enforce any ordinance or regulation  
19 that:

20 (1) imposes restrictions as to the hours or manner in which direct  
21 marketing activities may be performed in the political  
22 subdivision; and

23 (2) applies uniformly to all persons engaging in direct marketing  
24 or other soliciting in the political subdivision, regardless of:

25 (A) the product or service being marketed; or

26 (B) the type of business engaged in by the person engaging in  
27 the direct marketing or other soliciting.

28 **SECTION 9. [EFFECTIVE UPON PASSAGE] (a) As used in this**  
29 **SECTION, "commission" refers to the Indiana utility regulatory**  
30 **commission created by IC 8-1-1-2.**

31 **(b) As used in this SECTION, "committee" refers to the interim**  
32 **study committee on energy, utilities, and telecommunications**  
33 **established by IC 2-5-1.3-4(8).**

34 **(c) Before October 1, 2018, the commission shall study the**  
35 **following topics:**

36 **(1) The types of service for which disbursements from the**  
37 **Indiana universal service fund may be used.**

38 **(2) The eligibility requirements for service providers to**  
39 **receive disbursements from the Indiana universal service**  
40 **fund.**

41 **(3) Broadband deployment (expansion and improvement of**  
42 **access to broadband services).**



1           **(4) Any other matter concerning universal service reform that**  
2           **the commission considers appropriate.**

3           **(d) Not later than October 1, 2018, the commission shall issue a**  
4           **final report to the committee, in an electronic format under**  
5           **IC 5-14-6, containing the commission's findings and**  
6           **recommendations on the topics outlined in subsection (c).**

7           **(e) This SECTION expires January 1, 2019.**

8           **SECTION 10. An emergency is declared for this act.**





## COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1065, 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, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 5-28-33-2, AS ADDED BY P.L.152-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. As used in this chapter, "high speed Internet service" means a connection to the Internet that provides capacity for transmission at an average speed of at least ~~three hundred eighty-four (384) kilobits~~ **twenty-five (25) megabits** per second downstream **and at least three (3) megabits upstream**, regardless of the technology or medium used to provide the connection.

SECTION 2. IC 5-28-33-6, AS ADDED BY P.L.152-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. The corporation **and the office of technology (established by IC 4-13.1-2-1)** may apply for state broadband data and development grants under the federal Broadband Data Improvement Act and the American Recovery and Reinvestment Act of 2009 **and any other relevant sources for state or federal grants.**

SECTION 3. IC 5-28-33-9, AS ADDED BY P.L.152-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. The corporation shall establish the following priorities in developing and implementing the high speed Internet service deployment and adoption initiative:

(1) First, extending the deployment of high speed Internet service to areas where:

(A) Internet connections are unavailable; or

(B) the only available Internet connections provide capacity for transmission at an average speed of less than ~~two hundred (200) kilobits~~ **five (5) megabits** per second downstream.

(2) Second, extending the deployment of high speed Internet service to areas where the only available Internet connections provide capacity for transmission at an average speed of:

(A) not less than ~~two hundred (200) kilobits;~~ **five (5) megabits;** and

(B) not more than ~~one and five-tenths (1.5) twenty-five (25) megabits;~~

per second downstream.



(3) Third, supporting programs to promote broadband adoption throughout Indiana.

SECTION 4. IC 5-28-33-10, AS ADDED BY P.L.152-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 10. The corporation **and the office of technology (established by IC 4-13.1-2-1)** ~~is~~ **are** designated as the ~~single only~~ eligible ~~entity~~ **entities** to receive a grant under 47 U.S.C. 1304."

Delete page 2.

Page 3, delete lines 1 through 29.

Page 3, line 36, delete "September 1, 2018," and insert "**October 1, 2018,**".

Page 4, delete lines 5 through 8.

Page 4, line 9, delete "(8)" and insert "**(5)**".

Page 4, line 9, delete "concerning:" and insert "**concerning**".

Page 4, line 10, delete "(A)".

Page 4, line 10, delete "reform;" and insert "**reform**".

Page 4, delete lines 11 through 12.

Page 4, run in lines 9 through 13.

Page 4, line 14, after "study," insert "**and notwithstanding IC 8-1-2.6-1.1, IC 8-1-2.6-13, and IC 8-1-32.5-6,**".

Page 4, line 19, delete "September 1, 2018," and insert "**October 1, 2018,**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1065 as introduced.)

OBER

Committee Vote: yeas 10, nays 0.

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#### COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred House Bill No. 1065, 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 4-4-9.7-9, AS ADDED BY P.L.144-2006,

**EH 1065—LS 6584/DI 128**



SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. (a) The rural economic development fund is established for the purpose of enhancing and developing rural communities. The fund shall be administered by the office.

(b) The expenses of administering the fund shall be paid from the money in the fund.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the fund may be used for the following purposes:

(1) To create, assess, and assist a pilot project to enhance the economic and community development in a rural area.

(2) To establish a local revolving loan fund for:

- (A) an industrial;
- (B) a commercial;
- (C) an agricultural; or
- (D) a tourist;

venture.

(3) To provide a loan for an economic development project in a rural area.

(4) To provide technical assistance to a rural organization.

(5) To assist in the development and creation of a rural cooperative.

(6) To address rural workforce development challenges.

(7) To assist in addressing telecommunications needs in a rural area, **including the awarding of grants under IC 4-4-38.**

(8) To provide funding for rural economic development projects concerning the following issues:

- (A) Infrastructure, including water, wastewater, and storm water infrastructure needs.
- (B) Housing.
- (C) Health care.
- (D) Local planning.
- (E) Land use.
- (F) Other rural economic development issues, as determined by the office.

(9) To provide funding for the establishment of new regional rural



development groups and the operation of existing regional rural development groups.

(f) Expenditures from the fund are subject to appropriation by the general assembly and approval by the office.

SECTION 2. IC 4-4-38 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

**Chapter 38. Broadband Grants for Unserved Areas**

**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.** As used in this chapter, "qualified broadband project" means a project for the deployment of broadband infrastructure for the provision of qualified broadband service, regardless of the delivery technology, in unserved areas in Indiana.

**Sec. 3. (a)** As used in this chapter, "qualified broadband project expenses" means capital expenses directly related to a qualified broadband project, including design, construction, engineering, permitting, and testing expenses.

**(b)** The term does not include operating or maintenance expenses related to a qualified broadband project.

**Sec. 4.** As used in this chapter, "qualified broadband provider" means any company, firm, corporation, partnership, or association that, at the time of submission of a grant application under this chapter:

**(1)** either:

**(A)** has been providing broadband service to at least one hundred (100) residences and businesses in Indiana for at least three (3) consecutive years; or

**(B)** is:

**(i)** a corporation organized under IC 8-1-13; or

**(ii)** a corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13;

that provides or will provide, alone or in conjunction with one (1) or more other legal entities, broadband service within the corporation's electric service territory; and

**(2)** has demonstrated, to the satisfaction of the office:

**(A)** financial;

**(B)** technical; and

**(C)** operational;

capability in building and operating a broadband network.

**Sec. 5.** As used in this chapter, "qualified broadband service"



means a connection to the Internet that provides capacity for transmission at an average speed of at least ten (10) megabits per second downstream and at least one (1) megabit per second upstream, regardless of the technology or medium used to provide the connection.

**Sec. 6.** As used in this chapter, "unserved area" means a geographic area of Indiana, identified at the census block level, in which there is not at least one (1) provider of terrestrial broadband service offering a connection to the Internet that provides capacity for transmission at an average speed of at least ten (10) megabits per second downstream and at least one (1) megabit per second upstream.

**Sec. 7. (a)** Subject to:

- (1) subsection (b);
- (2) section 8 of this chapter; and
- (3) IC 4-4-9.7-9(f);

the office shall establish procedures for awarding grants from the rural economic development fund established by IC 4-4-9.7-9 to qualified broadband providers for qualified broadband project expenses incurred in connection with qualified broadband projects.

**(b)** In awarding grants under this chapter, the office shall establish the following priorities:

- (1) First, extending the deployment of qualified broadband service to areas in which:
  - (A) Internet connections are unavailable; or
  - (B) the only available Internet connections provide capacity for transmission at an average speed of less than ten (10) megabits per second downstream.
- (2) Second, extending the deployment of high speed Internet service to areas in which the only available Internet connections provide capacity for transmission at an average speed of:
  - (A) not less than ten (10) megabits; and
  - (B) not more than twenty-five (25) megabits; per second downstream.

**(c)** Subject to section 11 of this chapter, the office shall publish on the office's Internet web site all grant applications received by the office under this chapter. For each grant application received, the office shall establish a period of at least thirty (30) days from the date the application is published on the office's Internet web site under this subsection, during which time the office will accept comments or objections concerning the application. The office shall



consider all comments or objections received under this subsection in making a determination as to whether to award a grant to an applicant under this chapter.

**Sec. 8. (a) In determining whether to award a grant under this chapter in connection with a proposed qualified broadband project, the office shall consider the following:**

**(1) The community's need for, and the likely economic impact of, the proposed qualified broadband project in the unserved area.**

**(2) The likelihood that the unserved area will not be served with qualified broadband service without state grant funding.**

**(3) Whether funding has been allocated for the unserved area from the federal Connect America Fund or from any other federal funding program.**

**(4) Whether the broadband infrastructure proposed in connection with the qualified broadband project is scalable to accommodate higher broadband speeds in the future.**

**(5) Awarding grants under this chapter with a preference for funding proposed qualified broadband projects that will provide Internet connections to the most unserved areas at the highest speeds for the lowest grant amount per area.**

**(6) The useful life of the broadband network proposed to be deployed.**

**(7) The technical, managerial, and financial capabilities of the applicant.**

**(8) The ability of the applicant to commit to providing at least twenty percent (20%) of the cost to deploy the proposed broadband infrastructure with funds not derived from other grants, loans, or subsidies. When multiple applicants apply for a grant to provide broadband service to the same census block within an unserved area, the office may establish a preference for approving applications with a greater capital contribution by the applicant.**

**(9) Any proposed plans to encourage the adoption and use of broadband services within the unserved area.**

**(10) Any other factors the office considers appropriate to enable the deployment of broadband infrastructure to provide qualified broadband service in unserved areas in Indiana.**

**(b) The following conditions apply to the awarding of grants under this chapter:**

**(1) The office shall not award a grant with respect to any geographic area if information made available to the office,**



through comments or objections received under section 7(c) of this chapter or otherwise, indicates any of the following:

(A) The area is already being served by at least one (1) provider offering qualified broadband service in the area. However, any person may, in a petition filed with the office, provide evidence that one (1) or more locations within one (1) or more census blocks in the area are unserved areas. Upon receiving a petition described in this clause, the office shall notify all broadband providers operating in all census blocks included in the petition. Those broadband providers may in turn demonstrate to the office that the locations included in the petition:

(i) are already served with qualified broadband service; or

(ii) will be served with qualified broadband service not later than twenty-four (24) months after the date of the application for a grant under this chapter.

(B) The area is currently being built out for qualified broadband service by a qualified broadband provider, and the construction is scheduled to be completed within one (1) year of the date of an application under this chapter.

(C) The area is currently planned for qualified broadband service expansion by a qualified broadband provider:

(i) without state grant funding; and

(ii) with project completion forecast not later than two (2) years after the date of an application under this chapter.

If the office denies a grant on the basis of clause (A)(ii), (B), or (C), the qualified broadband provider involved in the current or planned project, as applicable, shall provide the office with a schedule for completion of the current or planned build out. The qualified broadband provider shall also provide the office with quarterly status updates, beginning three (3) months after the office's decision denying a grant for the area, concerning any work done toward completion of the project described in clause (A)(ii), (B), or (C). If the qualified broadband provider fails to provide a schedule for completion or a status report by the date required by the office, or if the office determines that the time frame for project completion described in clause (A)(ii), (B), or (C), as applicable, will likely not be met, the office may award a grant under this chapter with respect to the area and shall provide notice of that fact



to all former applicants that were previously denied a grant under this chapter with respect to the area on the basis of clause (A)(ii), (B), or (C). The qualified broadband provider that failed to provide a schedule or report, or that failed to meet the time frame for project completion described in clause (A)(ii), (B), or (C), may not use this subdivision to subsequently challenge the awarding of a grant under this chapter with respect to the same area.

(2) The office shall not award a grant to any applicant that is receiving:

(A) a federal grant; or

(B) another state grant;

to provide qualified broadband service to the same unserved area for which a grant is sought under this chapter.

(3) The office shall not discriminate between different types of technology used to provide qualified broadband service in connection with proposed qualified broadband projects.

(4) The office shall not condition the awarding of a grant on:

(A) the applicant's management of the applicant's broadband network;

(B) the applicant's pricing for qualified broadband service; or

(C) any other factors related to the terms and conditions by which qualified broadband service is provided to consumers.

(5) The office shall seek any assurances that may be necessary or appropriate to ensure that proposed qualified broadband projects will be substantially completed within the time period set forth in a grant application under this chapter.

(6) The office shall condition the release of any grant funds awarded under this chapter on:

(A) the progressive completion, as measured on a not more than quarterly basis, of the approved qualified broadband project; and

(B) operational testing, when possible, to confirm the level of service proposed in the grant application.

Once funds have been released in accordance with this subdivision, all authority and ownership of the broadband infrastructure vests with the qualified broadband provider that built the infrastructure.

Sec. 9. (a) The office shall adopt guidelines to implement this chapter, including guidelines governing:





- (1) the form and content of requests to provide qualified broadband service to an unserved 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 qualified broadband projects;
- (4) a process by which a broadband provider may challenge the designation of an area as unserved; and
- (5) a process by which:

(A) a person may, in a petition filed with the office, provide evidence that one (1) or more locations within one (1) or more census blocks are unserved areas; and

(B) upon the filing of a petition described in clause (A):

(i) the office notifies all broadband providers operating in all census blocks included in the petition; and

(ii) those broadband providers have the opportunity to demonstrate to the office that the locations included in the petition are already served with qualified broadband service or will be served with qualified broadband service not later than twenty-four (24) months after the date of the application for a grant under this chapter.

(b) In adopting the guidelines described in subsection (a) or in otherwise administering this chapter, the office may collaborate with or seek guidance from:

- (1) the Indiana economic development corporation established by IC 5-28-3-1;
- (2) the broadband ready communities development center established by IC 5-28-28.5-5;
- (3) the Indiana department of transportation established by IC 8-23-2-1; and
- (4) any other agencies of the state or of political subdivisions of the state.

**Sec. 10. (a)** Not later than August 1 of each year, the office shall submit to the general assembly a report on the office's activities under this chapter during the most recent state fiscal year, including the following:

- (1) The number, amounts, and recipients of grants awarded under this chapter.
- (2) The status of any funded qualified broadband projects.
- (3) Expenses incurred and funds spent by the office in administering this chapter.
- (4) A list of the entities, if any, that the office collaborated



with in administering this chapter.

**(5) An accounting of funds in the rural economic development fund established by IC 4-4-9.7-9, including funds awarded as grants under this chapter.**

**(6) The number of locations in Indiana to which broadband infrastructure has been deployed with the use of grant funds under this chapter, including address-level information for newly connected locations.**

**(7) The overall progress of the deployment of broadband infrastructure for the provision of qualified broadband service in unserved areas in Indiana.**

**A report to the general assembly under this subsection must be in an electronic format under IC 5-14-6.**

**(b) Every three (3) years, beginning in 2021, the state board of accounts shall conduct an audit of the awarding of grants under this chapter during the most recent three (3) state fiscal years. A report of an audit conducted under this subsection shall be submitted to the general assembly in an electronic format under IC 5-14-6 not later than December 31 of the calendar year that includes the end of the third state fiscal year covered by the audit.**

**Sec. 11. The office, and any agency or any political subdivision with which the office cooperates or consults in administering this chapter:**

**(1) shall not disclose information designated as confidential or proprietary business information by a grant applicant or recipient; and**

**(2) shall execute appropriate nondisclosure agreements to prevent the disclosure of confidential or proprietary business information in connection with grants awarded under this chapter."**

Page 1, line 6, delete "twenty-five (25)" and insert "**ten (10)**".

Page 1, line 7, delete "three (3) megabits" and insert "**one (1) megabit**".

Page 1, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 4. IC 5-28-33-3, AS AMENDED BY P.L.13-2013, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) The corporation shall develop a high speed Internet service deployment and adoption initiative that includes the creation of a statewide geographic information system (GIS) of available telecommunications and information technology services, including high speed Internet service.

(b) The corporation shall map the availability of broadband service



by census blocks established by the Bureau of the Census and depicted in the GIS. A map created under this subsection may:

- (1) include the percentage of households that have access to broadband service; and
- (2) use the Federal Communications Commission benchmark rates for broadband service to identify different speed tiers.

(c) The corporation shall ~~share~~ **publish** the map created under subsection (b) and the GIS, including updates, ~~with the Indiana Geographic Information Council (as referred to in IC 4-23-7.3-6)~~ as a data layer to the statewide base map (as defined in IC 4-23-7.3-11).".

Page 2, between lines 9 and 10, begin a new line block indented and insert:

**"(2) Second, supporting programs to promote broadband adoption throughout Indiana."**

Page 2, line 10, strike "(2) Second," and insert "**(3) Third,**".

Page 2, line 15, delete "twenty-five (25)" and insert "**ten (10)**".

Page 2, strike lines 18 through 19.

Page 2, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 8. IC 8-1-34-30, AS AMENDED BY P.L.65-2016, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 30. (a) As used in this section, "designated employee" means a holder's:

- (1) employee; or
- (2) authorized agent;

whom the holder designates or will designate to receive direct marketing authority.

(b) As used in this section, "direct marketing authority" means the authority granted by the commission to a holder to market any service or product offered by the holder directly to all households **and businesses** in a service area served by the holder.

(c) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(d) A holder may apply to the commission, in the manner and form prescribed by the commission, for direct marketing authority. An application must include the following information with respect to each designated employee of the holder:

- (1) Name.
- (2) Home address.
- (3) Driver's license number.
- (4) A certification described in subsection (e)(1).

(e) In an application under subsection (d), a holder shall include the following:

**EH 1065—LS 6584/DI 128**



- (1) A certification by the holder that each designated employee satisfies the following requirements:
- (A) The employee is at least eighteen (18) years of age.
  - (B) The employee has a high school diploma or the equivalent of a high school diploma.
  - (C) The employee has not been convicted of a felony within the seven (7) years immediately preceding the date of the application.
  - (D) Within the seven (7) years immediately preceding the date of the application, the employee has not been released from incarceration after serving time for a felony conviction.
  - (E) The employee has not been convicted of:
    - (i) a misdemeanor involving fraud, deceit, or dishonesty;
    - (ii) a battery offense included in IC 35-42-2 as a misdemeanor; or
    - (iii) two (2) or more misdemeanors involving the illegal use of alcohol or the illegal sale, use, or possession of a controlled substance;
 within the five (5) years immediately preceding the date of the application.
  - (F) The employee has a valid driver's license.
- (2) Proof of financial responsibility.
- (f) A holder may comply with subsection (e)(1) by submitting to the commission a document signed by the holder in which the holder:
- (1) identifies each designated employee by name, home address, and driver's license number;
  - (2) certifies that each designated employee has been the subject of a criminal history background check for each jurisdiction in the United States in which the designated employee has lived or worked within the seven (7) years immediately preceding the date of the application; and
  - (3) affirms that the background check described in subdivision (2) for each designated employee indicates that the designated employee satisfies the requirements set forth in subsection (e)(1), as applicable.
- (g) Not more than fifteen (15) days after the commission receives an application under subsection (d), the commission shall determine whether the application is complete and properly verified. If the commission determines that the application is incomplete or not properly verified, the commission shall notify the applicant holder of the deficiency and allow the holder to resubmit the application after correcting the deficiency. If the commission determines that the



application is complete and properly verified, the commission shall issue an order granting the holder direct marketing authority. The order must contain the following:

- (1) The name of the holder.
- (2) The names of designated employees of the holder.
- (3) A grant of direct marketing authority to the holder and designated employees of the holder.
- (4) The date on which the order takes effect.

The commission shall provide public notice of an order granting direct marketing authority under this subsection by posting the order on the commission's Internet web site.

(h) A holder that has direct marketing authority shall notify the commission in a timely manner of any changes to the holder's list of designated employees. A designated employee may exercise direct marketing authority immediately upon the holder's submission to the commission of all information required under subsection (e)(1) with respect to the designated employee.

(i) Only the commission is authorized to grant direct marketing authority to a holder under this section. However, subject to subsection (j), with respect to direct marketing activities in a holder's service area within a political subdivision, this section does not prohibit a holder from electing to:

- (1) apply for marketing or solicitation authority directly from the political subdivision; and
- (2) exercise any marketing or solicitation authority under a license, permit, or other authority granted by the political subdivision before, on, or after June 30, 2013;

instead of applying for and exercising direct marketing authority granted by the commission under this section.

(j) A political subdivision may not do any of the following:

- (1) Require a holder that is granted direct marketing authority from the commission under this section to also obtain marketing or solicitation authority from the political subdivision in order to engage in direct marketing in the holder's service area within the political subdivision.
- (2) Impose any licensing requirement or fee on a holder in connection with any direct marketing authority granted to the holder by the commission under this section with respect to the holder's service area within the political subdivision.
- (3) Except as provided in subsection (k), otherwise regulate a holder that is granted direct marketing authority from the commission under this section and that engages in direct



marketing in the holder's service area within the political subdivision.

(k) A political subdivision may enforce any ordinance or regulation that:

(1) imposes restrictions as to the hours or manner in which direct marketing activities may be performed in the political subdivision; and

(2) applies uniformly to all persons engaging in direct marketing or other soliciting in the political subdivision, regardless of:

(A) the product or service being marketed; or

(B) the type of business engaged in by the person engaging in the direct marketing or other soliciting."

Page 2, delete lines 33 through 34.

Page 2, line 35, delete "(2)" and insert "**(1)**".

Page 2, line 37, delete "(3)" and insert "**(2)**".

Page 2, line 40, delete "(4)" and insert "**(3)**".

Page 2, line 42, delete "(5)" and insert "**(4)**".

Page 3, delete lines 2 through 7.

Page 3, line 8, delete "(e)" and insert "**(d)**".

Page 3, line 12, delete "(f)" and insert "**(e)**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1065 as printed January 29, 2018.)

MERRITT, Chairperson

Committee Vote: Yeas 11, Nays 0.

