

# HOUSE BILL No. 1426

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-4-38.5.

**Synopsis:** Broadband development. Changes the criteria for eligibility of broadband grants for rural areas.

**Effective:** Upon passage.

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## Sullivan, Negele

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January 14, 2021, read first time and referred to Committee on Utilities, Energy and Telecommunications.

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

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

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

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

# HOUSE BILL No. 1426

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1 SECTION 1. IC 4-4-38.5-3, AS ADDED BY P.L.189-2019,  
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 3. As used in this chapter, "eligible broadband  
4 service" means a terrestrial connection to the Internet that provides an  
5 actual speed of at least **the higher of:**  
6 (1) twenty-five (25) megabits per second ~~downstream download~~  
7 and at least three (3) megabits per second ~~upstream;~~ **upload; or**  
8 **(2) the Federal Communications Commission stated minimum**  
9 **standard;**  
10 regardless of the technology or medium used to provide the connection.  
11 SECTION 2. IC 4-4-38.5-4, AS ADDED BY P.L.189-2019,  
12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 UPON PASSAGE]: Sec. 4. As used in this chapter, "eligible broadband  
14 service provider" means any company, firm, corporation, partnership,  
15 or association that:  
16 (1) either:  
17 (A) ~~has been providing~~ **provides any combination of voice,**



- 1 broadband, **or electronic distribution or transmission**  
 2 service; ~~to at least one hundred (100) residences and~~  
 3 ~~businesses in Indiana for at least three (3) consecutive years;~~  
 4 or  
 5 (B) is:  
 6 (i) a corporation organized under IC 8-1-13; or  
 7 (ii) a corporation organized under IC 23-17 that is an electric  
 8 cooperative and that has at least one (1) member that is a  
 9 corporation organized under IC 8-1-13; and  
 10 (2) has demonstrated, to the satisfaction of the office:  
 11 (A) financial;  
 12 (B) technical; and  
 13 (C) operational;  
 14 capability in building and operating a broadband network,  
 15 according to standards for determining such capability in  
 16 guidelines adopted by the office under section 10 of this chapter.
- 17 SECTION 3. IC 4-4-38.5-9, AS ADDED BY P.L.189-2019,  
 18 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 UPON PASSAGE]: Sec. 9. (a) The office shall establish procedures for  
 20 the awarding of grants from the fund after July 31, 2019, by state  
 21 agencies to eligible broadband service providers for eligible broadband  
 22 projects.  
 23 (b) The procedures established under this section must establish ~~the~~  
 24 ~~following~~ priorities for the awarding of grants under this chapter ~~for~~  
 25 ~~(1) First~~, extending the deployment of eligible broadband service  
 26 to areas in which:  
 27 ~~(A) (1)~~ Internet connections are unavailable; or  
 28 ~~(B) (2)~~ the only available connections to the Internet are at  
 29 actual speeds ~~of that are less than the higher of the~~  
 30 **following two (2) standards:**  
 31 ~~(A) Less than ten (10)~~ **Twenty-five (25)** megabits per  
 32 second ~~downstream: download and three (3) megabits per~~  
 33 **second upload.**  
 34 ~~(B) The Federal Communications Commission stated~~  
 35 **minimum standard.**  
 36 ~~(2) Second~~, extending the deployment of eligible broadband  
 37 service to areas in which the only available connections to the  
 38 Internet are at actual speeds of:  
 39 ~~(A) not less than ten (10) megabits; and~~  
 40 ~~(B) not more than twenty-five (25) megabits;~~  
 41 ~~per second downstream.~~  
 42 ~~(3) Projects for areas described in subdivision (2) shall not be~~



1 funded before projects described in subdivision (1):

2 (e) The procedures established under this section may not permit the  
3 awarding of a grant from the fund for any proposed broadband project  
4 in an area in which eligible broadband service is available.

5 (d) (c) The procedures established under this section may not permit  
6 the office to award a grant from the fund for any project in a rural area  
7 for which funding has been allocated from the federal Connect  
8 America Fund or from any other similar federal funding program the  
9 express purpose of which is to provide broadband service to rural or  
10 unserved areas, **if the proposed Next Level Connections project**  
11 **would be completed prior to the disbursement of funds and**  
12 **deployment of the federal program project in that area.**

13 (e) (d) The procedures established under this section must establish  
14 a system of priorities for awarding grants under this chapter, weighted  
15 as determined by the office in guidelines adopted under section 10 of  
16 this chapter, that gives preference to eligible broadband projects that  
17 meet the following criteria:

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

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

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

31 **(4) Projects that involve an agreement or committed**  
32 **partnership between an eligible broadband service provider**  
33 **and a local unit of government or other locally based entity.**

34 (f) (e) The procedures established under this section must prohibit  
35 a state agency, in awarding any grant from the fund, from  
36 discriminating between different types of technology used to provide  
37 eligible broadband service in connection with proposed eligible  
38 broadband projects.

39 (g) (f) The procedures established under this section must, subject  
40 to section 14 of this chapter, require the office to publish on the office's  
41 Internet web site all grant applications received by the office under this  
42 chapter. For each grant application received, the office shall establish



1 a period of at least thirty (30) days from the date the application is  
 2 published on the office's Internet web site under this subsection, during  
 3 which time the office will accept comments or objections concerning  
 4 the application. The office shall consider all comments or objections  
 5 received under this subsection in making a determination as to whether  
 6 to award a grant to an applicant under this chapter.

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

11 (1) The form and content of requests to provide eligible  
 12 broadband service to a rural area.

13 (2) The form and content of applications for grants under this  
 14 chapter.

15 (3) A competitive bidding process or a process for requests for  
 16 proposals for eligible broadband projects.

17 (4) Standards for determining whether a broadband service  
 18 provider has demonstrated:

19 (A) financial;

20 (B) technical; and

21 (C) operational;

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

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

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

30 (A) directly related to an eligible broadband project; and

31 (B) eligible to receive funding under this chapter.

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

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

37 SECTION 5. IC 4-4-38.5-13, AS ADDED BY P.L.189-2019,  
 38 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 UPON PASSAGE]: Sec. 13. (a) Beginning in 2020, not later than  
 40 August 1 of each year, the office shall submit to the general assembly  
 41 a report on the awarding of grants under this chapter during the most  
 42 recent state fiscal year, including the following:



- 1 (1) The number, amounts, and recipients of grants awarded under  
 2 this chapter, along with the state agency awarding each grant.  
 3 (2) The status of any funded eligible broadband projects.  
 4 (3) Expenses incurred and funds spent by the office in  
 5 administering this chapter.  
 6 (4) A list of the entities, if any, that the office collaborated with in  
 7 administering this chapter.  
 8 (5) An accounting of money in the fund, including funds awarded  
 9 as grants under this chapter.  
 10 (6) The number of locations in rural areas to which broadband  
 11 infrastructure has been deployed with the use of grant funds under  
 12 this chapter. ~~including address-level information for newly~~  
 13 ~~connected locations.~~  
 14 (7) The overall progress of the deployment of broadband  
 15 infrastructure for the provision of eligible broadband service in  
 16 rural areas in Indiana.  
 17 A report to the general assembly under this subsection must be in an  
 18 electronic format under IC 5-14-6.  
 19 (b) Every three (3) years, beginning in 2021, the state board of  
 20 accounts shall conduct an audit of the awarding of grants under:  
 21 (1) IC 4-4-38; and  
 22 (2) this chapter;  
 23 as appropriate, during the most recent three (3) state fiscal years. A  
 24 report of an audit conducted under this subsection shall be submitted  
 25 to the general assembly in an electronic format under IC 5-14-6 not  
 26 later than December 31 of the calendar year that includes the end of the  
 27 third state fiscal year covered by the audit.  
 28 **SECTION 6. An emergency is declared for this act.**

