

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.

SENATE ENROLLED ACT No. 377

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 4-4-38.5-11, AS ADDED BY P.L.189-2019, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The rural broadband fund is established for the purpose of:

- (1) awarding grants under:
 - (+) (A) this chapter after July 31, 2019; and
 - (-) (B) IC 4-4-38 before August 1, 2019;
 - (2) providing financial assistance under the program established by the office under section 10.5 of this chapter for expenses described in section 10.5(b) of this chapter incurred before July 1, 2025;
 - (3) providing funding for the creation and annual maintenance of the public broadband portal created and administered by the office under IC 4-4-41-8; and
 - (4) awarding grants under the Indiana broadband connectivity program under IC 4-4-41.
- (b) The office shall administer the fund.
- (c) The fund consists of:
- (1) money appropriated by the general assembly;
 - (2) money received by the office from federal grants or programs for broadband infrastructure; and

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(3) donations, gifts, and money received from any other source, including transfers from other funds or accounts.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter and IC 4-4-38.

SECTION 2. IC 4-4-41 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 41. Indiana Broadband Connectivity Program

Sec. 1. As used in this chapter, "broadband Internet" means a connection to the Internet that provides an actual speed of at least fifty (50) megabits per second downstream and at least five (5) megabits per second upstream, regardless of the technology or medium used to provide the connection.

Sec. 2. As used in this chapter, "fund" refers to the rural broadband fund established by IC 4-4-38.5-11.

Sec. 3. As used in this chapter, "minimum broadband Internet" means a connection to the Internet that provides an actual speed of at least twenty-five (25) megabits per second downstream and at least three (3) megabits per second upstream, regardless of the technology or medium used to provide the connection.

Sec. 4. As used in this chapter, "office" refers to the office of community and rural affairs established by IC 4-4-9.7-4.

Sec. 5. As used in this chapter, "program" refers to the Indiana broadband connectivity program established by section 7 of this chapter.

Sec. 6. As used in this chapter, "registered provider" means a company, firm, corporation, partnership, or association that provides broadband Internet service in Indiana and that has registered with the program under section 8 of this chapter.

Sec. 7. (a) The Indiana broadband connectivity program is established for the purpose of expanding the availability of broadband Internet connectivity throughout Indiana by:

(1) connecting Indiana residents and businesses that lack access to broadband Internet service with providers of broadband Internet service through the public broadband portal created under section 8 of this chapter; and

(2) providing funding under section 9 of this chapter to assist broadband Internet providers in meeting the expense of extending broadband Internet service to addresses at which minimum broadband Internet service is unavailable.

(b) The office shall administer the program.



Sec. 8. (a) The office shall contact broadband Internet providers to solicit the providers' registration with the program. The office shall not:

- (1) require a provider to provide any proprietary business information to the office for purposes of participating in the program; or**
- (2) require a provider to participate in the program.**

(b) The office shall create and administer a public broadband portal:

- (1) that is accessible to individuals through the office's Internet web site and through a mailing address designated by the office for the purpose of public access to the portal; and**
- (2) through which an individual may submit the individual's residential or business address to report that minimum broadband Internet connectivity is unavailable at the address.**

The public broadband portal created and administered by the office under this section must solicit information as to whether one (1) or more eligible students reside at an address that is reported by an individual under subdivision (2). The office may contract or consult with one (1) or more third parties in the creation or administration of the public broadband portal required by this section.

(c) At least every three (3) months, the office shall:

- (1) post addresses, including ZIP codes and any reported information as to whether an eligible student resides at an address, submitted under subsection (b)(2) to an Internet web site that is accessible only to registered providers; and**
- (2) not less than twenty-four (24) hours after the addresses are posted, send notice of the posting to registered providers by electronic mail.**

(d) Not later than ten (10) business days after a registered provider receives notice of a posting of addresses under subsection (c), the registered provider may provide notice to the office of any posted address at which the registered provider's minimum broadband Internet service is available.

(e) If the office does not receive notice under subsection (d) regarding an address within ten (10) business days after posting the address under subsection (c), the office shall, not later than twenty (20) business days after the expiration of the ten (10) business day period described in subsection (d), transmit to each registered provider a bid notification for provision of broadband Internet service at the address.

(f) A registered provider that receives a bid notification for an address under subsection (e) and wishes to submit a bid for provision of broadband Internet service to the address must, not



later than sixty (60) days after receiving the bid notification, send to the office a bid that includes:

- (1) a proposal for making a line extension from the provider's existing broadband Internet infrastructure to the address;
- (2) an estimate of the state's share of the cost for the line extension; and
- (3) a statement of the amount of the cost of the line extension that the provider agrees to bear.

(g) The office shall, not later than thirty (30) business days after the close of the sixty (60) day bidding period for an address under subsection (f), evaluate the bids received and select the provider whose bid presents the lowest cost to the state for extension of the provider's broadband Internet infrastructure to the address.

(h) As used in this section, "eligible student" means a student who is:

- (1) a resident of Indiana;
- (2) less than twenty-three (23) years of age; and
- (3) enrolled in a school in Indiana providing any combination of kindergarten through grade 12 instruction.

Sec. 9. (a) The office shall:

- (1) award a grant from the fund to a provider selected by the office under section 8(g) of this chapter to extend broadband Internet service to an address; and
- (2) enter into an agreement with the provider under which:
 - (A) the provider agrees to extend broadband Internet service to the address; and
 - (B) the office agrees to distribute the amount of the grant to the provider upon the provider's satisfactory completion of extension of broadband Internet service to the address and the provider's submission of:
 - (i) an invoice for the provider's expenses in extending broadband Internet service to the address; and
 - (ii) a statement that broadband Internet service is now available at the address.

(b) The amount of a grant under this section may not exceed the following:

- (1) A per-line extension amount that exceeds twenty-five thousand dollars (\$25,000), regardless of the number of addresses served by the line extension.
- (2) A per-passing amount that exceeds the state's cost per passing for all grants awarded from the fund under IC 4-4-38.5 as of the last day of the immediately preceding state fiscal year, as calculated by the office.

Sec. 10. (a) Not later than November 1 of each year, the office shall:

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- (1) issue to the executive director of the legislative services agency, for distribution to the members of the general assembly convening in November of that year; and
 - (2) post to the office's Internet web site;
- a report regarding the program.

(b) The report under subsection (a) must include the following information with regard to the immediately preceding calendar year:

- (1) The number of addresses submitted under section 8(b)(2) of this chapter:
 - (A) in total; and
 - (B) categorized by the Indiana legislative district in which the address is located.
- (2) The number of grants, and the amount of the grants, awarded under this chapter:
 - (A) in total; and
 - (B) categorized by the Indiana legislative district in which the grant was used to extend broadband Internet service.

(c) The report issued under subsection (a)(1) must be in an electronic format under IC 5-14-6.

Sec. 11. The office shall adopt rules under IC 4-22-2 necessary for the administration of this chapter. In adopting the rules required by this section, the office may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the office under this section and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the office under IC 4-22-2-24 through IC 4-22-2-36.

SECTION 3. IC 4-4-43 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 43. Indiana Broadband Mapping Program

Sec. 1. (a) The office may maintain a geographic information system or similar data base that contains spatial data regarding the availability of broadband Internet service in Indiana.

(b) The office may create and may, subject to subsection (c), regularly update the data base using broadband Internet coverage information compiled by the Federal Communications Commission.

(c) Not later than July 1, 2022, the office:

- (1) may evaluate the broadband Internet coverage map created by the Federal Communications Commission under the Broadband Deployment Accuracy and Technological Availability Act (Public Law 116-130); and
- (2) if the office determines that the map provides broadband



Internet coverage information:

(A) at a level of detail that allows for determination of broadband Internet availability at individual Indiana addresses; or

(B) at a level of detail greater than that of the broadband Internet coverage map provided by the office on the office's Internet web site;

may use the information to update the broadband Internet coverage map provided by the office on the office's Internet web site.

(d) If the office determines in the office's evaluation under subsection (c) that the map does not provide broadband Internet coverage information:

(1) at a level of detail that allows for determination of broadband Internet availability at individual Indiana addresses; or

(2) at a level of detail greater than that of the broadband Internet coverage map provided by the office on the office's Internet web site;

the office shall present the office's determination to the interim study committee on energy, utilities, and telecommunications during the 2022 legislative interim.

SECTION 4. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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