

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 1133

Short Title: Broadband Modernization Act. (Public)

Sponsors: Representatives Farkas, Saine, and Arp (Primary Sponsors).

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Energy and Public Utilities, if favorable, Appropriations, if favorable, Rules, Calendar, and Operations of the House

May 31, 2022

A BILL TO BE ENTITLED

AN ACT TO STANDARDIZE THE DEFINITION OF BROADBAND AND TO MODERNIZE  
BROADBAND SPEED BENCHMARKS IN THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** G.S. 143B-1320 reads as rewritten:

"§ 143B-1320. **Definitions; scope; exemptions.**

(a) Definitions. – The following definitions apply in this Article:

(1) Broadband service. – Internet access service of at least 25 megabits per second download and at least 3 megabits per second upload, regardless of the technology or medium used to provide the service.

~~(4)~~(1a) CGIA. – Center for Geographic Information and Analysis.

...

(16) Separate agency. – Any agency that has maintained responsibility for its information technology personnel, operations, projects, assets, and funding. The agency head shall work with the State CIO to ensure that the agency has all required information technology support.

(16a) Served area. – A designated geographic area that presently has access to broadband service. The term may also include individual homes and businesses.

~~(16a)~~(16c) Significant cybersecurity incident. – A cybersecurity incident that is likely to result in demonstrable harm to the State's security interests, economy, critical infrastructure, or to the public confidence, civil liberties, or public health and safety of the residents of North Carolina. A significant cybersecurity incident is determined by the following factors:

a. Incidents that meet thresholds identified by the Department jointly with the Department of Public Safety that involve information:

1. That is not releasable to the public and that is restricted or highly restricted according to Statewide Data Classification and Handling Policy; or

2. That involves the exfiltration, modification, deletion, or unauthorized access, or lack of availability to information or systems within certain parameters to include (i) a specific threshold of number of records or users affected as defined in



- 1 G.S. 75-65 or (ii) any additional data types with required  
 2 security controls.
- 3 b. Incidents that involve information that is not recoverable or cannot be  
 4 recovered within defined time lines required to meet operational  
 5 commitments defined jointly by the State agency and the Department  
 6 or can be recovered only through additional measures and has a high  
 7 or medium functional impact to the mission of an agency.
- 8 (17) State agency or agency. – Any agency, department, institution, commission,  
 9 committee, board, division, bureau, office, unit, officer, or official of the State.  
 10 The term does not include the legislative or judicial branches of government  
 11 or The University of North Carolina.
- 12 (18) State Chief Information Officer or State CIO. – The head of the Department,  
 13 who is a Governor's cabinet level officer.
- 14 (19) State CIO approved data center. – A data center designated by the State CIO  
 15 for State agency use that meets operational standards established by the  
 16 Department.
- 17 (20) Underserved area. – A designated geographic area that (i) presently does not  
 18 have broadband service and (ii) has transmission speeds of less than 25  
 19 megabits per second download and 3 megabits per second upload. The term  
 20 may also include individual homes and businesses.
- 21 (21) Unserved area. – A designated geographic area that presently does not have  
 22 broadband service. The term may also include individual homes and  
 23 businesses.

24 ...."

25 SECTION 1.(b) G.S. 143B-1373 reads as rewritten:

26 "§ 143B-1373. **Growing Rural Economies with Access to Technology (GREAT) program.**

- 27 (a) As used in this section, the following definitions apply:
- 28 (1) Agriculture. – Activities defined in G.S. 106-581.1.
- 29 (2) Broadband service. – For the purposes of this section, terrestrially deployed  
 30 Internet access service ~~with transmission speeds of at least 25 megabits per~~  
 31 ~~second (Mbps) download and at least 3 megabits per second upload (25:3); that~~  
 32 meets the transmission speed standard for broadband service defined in  
 33 G.S. 143B-1320(a)(1).
- 34 ...
- 35 (14) ~~Unserved area. – A designated geographic area that is presently without access~~  
 36 ~~to broadband service, as defined in this section, offered by a wireline or fixed~~  
 37 ~~wireless provider. As defined in G.S. 143B-1320(a)(21). Areas where a~~  
 38 private provider has been designated to receive funds through other State- or  
 39 federally funded programs designed specifically for broadband deployment  
 40 shall be considered served if such funding is intended to result in construction  
 41 of broadband in the area within 18 months or for the duration of the federal  
 42 funding program for that area, or if the funding recipient is otherwise in good  
 43 standing with the funding agency's regulations governing the funding  
 44 program.
- 45 (15) ~~Unserved household or business. – A household or business that does not~~  
 46 ~~presently have access to broadband service, as defined in this subsection.~~

47 ...."

48 SECTION 1.(c) G.S. 143B-1374 reads as rewritten:

49 "§ 143B-1374. **Satellite-Based Broadband Grant Program.**

- 50 (a) The following definitions apply in this section:

- (1) Broadband service. – Internet access service, regardless of the technology or medium used to provide the service, ~~with that meets the transmission speeds that are equal to or greater than the requirements for the minimum performance tier speed standard for broadband service defined in G.S. 143B-1320(a)(1) and with latency equal to or lesser than the requirements for low latency, as both metrics are provided by the Federal Communications Commission in Paragraph 39 of the report and order adopted January 30, 2020, and released February 7, 2020.~~

...."

**SECTION 1.(d)** G.S. 146-29.2 reads as rewritten:

**"§ 146-29.2. Lease or interest in real property for communication purposes.**

- (a) The following definitions apply in this section:

...

- (1b) Broadband. – Internet access service ~~with transmission speeds that are equal to or greater than the requirements for basic broadband tier 1 service as defined by the Federal Communications Commission for broadband data gathering and reporting, that meets the transmission speed standard for broadband service defined in G.S. 143B-1320(a)(1),~~ regardless of the technology or medium used to provide the service.

...."

**SECTION 1.(e)** G.S. 153A-459, as amended by Section 38.10(a) of S.L. 2021-180,

reads as rewritten:

**"§ 153A-459. County broadband acceleration.**

A county may provide grants to unaffiliated private or nonprofit providers of broadband service, as that term is defined in ~~G.S. 143B-1373(a)(2),~~ G.S. 143B-1320(a)(1), for the purpose of expanding broadband service in unserved areas in the county. The grants shall be awarded on a technology neutral basis, shall be open to all private or nonprofit providers of broadband service, and may require matching funds by the private or nonprofit providers. A county shall seek and consider requests for proposal from providers prior to awarding a broadband grant and shall use reasonable means to ensure that potential applicants are made aware of the grant; provided, however, a county is not required to seek and consider requests for proposal when providing financial or other support in connection with an application from a private provider for a broadband service grant under G.S. 143B-1373. The county may use general fund revenue as well as State or federal funds for the grants. For purposes of this section, the term "unserved area" has the same meaning as in G.S. 143B-1373(a)(14). For any grants awarded pursuant to this section after the date this section becomes effective, the term "unserved area" shall not include any location where a private provider has been designated to receive funds through State- or federally funded programs designed specifically for broadband service deployment if the recipient of the funding is in good standing with the grantor agency's requirements regarding construction build-out and time lines. Nothing in this section authorizes a county to provide high-speed Internet broadband service."

**SECTION 1.(f)** G.S. 160A-340 reads as rewritten:

**"§ 160A-340. Definitions.**

The following definitions apply in this Article:

- (1) City-owned communications service provider. – A city that provides communications service using a communications network, whether directly, indirectly, or through an interlocal agreement or a joint agency.
- (2) Communications network. – A wired or wireless network for the provision of communications service.
- (3) Communications service. – The provision of cable, video programming, telecommunications, broadband, or high-speed Internet access service to the

public, or any sector of the public, for a fee, regardless of the technology used to deliver the service. The terms "cable service," "telecommunications service," and "video programming service" have the same meanings as in G.S. 105-164.3. The following is not considered the provision of communications service:

- a. The sharing of data or voice between governmental entities for internal governmental purposes.
- b. The remote reading or polling of data from utility or parking meters, or the provisioning of energy demand reduction or smart grid services for an electric, water, or sewer system.
- c. The provision of free services to the public or a subset thereof.

- (4) High-speed Internet access service. – Internet access service ~~with that meets the transmission speeds that are equal to or greater than the requirements speed standard for basic broadband tier 1 service as defined by the Federal Communications Commission for broadband data gathering and reporting in G.S. 143B-1320(a)(1).~~
- (5) Interlocal agreement. – An agreement between units of local government as authorized by Part 1 of Article 20 of Chapter 160A of the General Statutes.
- (6) Joint agency. – A joint agency created under Part 1 of Article 20 of Chapter 160A of the General Statutes."

**SECTION 2.(a)** G.S. 143B-1320, as amended by Section 1(a) of this act, reads as

rewritten:

**"§ 143B-1320. Definitions; scope; exemptions.**

(a) Definitions. – The following definitions apply in this Article:

- (1) Broadband service. – Internet access service of at least ~~25~~100 megabits per second download and at least ~~3~~20 megabits per second upload, regardless of the technology or medium used to provide the service.
- ...
- (20) Underserved area. – A designated geographic area that (i) presently does not have broadband service and (ii) has transmission speeds of less than ~~25~~100 megabits per second download and ~~3~~20 megabits per second upload. The term may also include individual homes and businesses.
- (21) Unserved area. – A designated geographic area that presently does not have broadband ~~service.~~service or presently has transmission speeds of 25 megabits per second download and 3 megabits per second upload, or less, but does not have transmission speeds meeting the definition of broadband service. The term may also include individual homes and businesses.

...."

**SECTION 2.(b)** G.S. 143B-1373 reads as rewritten:

**"§ 143B-1373. Growing Rural Economies with Access to Technology (GREAT) program.**

...

(g) Applications shall be scored based upon a system that awards a single point for criteria considered to be the minimum level for the provision of broadband service with additional points awarded to criteria that exceed minimum levels. The Office shall score project applications in accordance with the following:

- ...
- (6) Base speed multiplier. – Projects that will provide minimum download and minimum upload speeds shall have the aggregate points given under subdivisions (1) through (5) of this subsection multiplied by a factor at the level indicated in the table below:

**Minimum Download:**

|   | <b>Minimum Upload</b>                             | <b>Score Multiplier</b> |
|---|---|-------------------------|
| 1 |   |                         |
| 2 | <del>Up to 100:10 Mbps.</del>                     | <del>1.35</del>         |
| 3 | <del>100:10</del> 100:20 Mbps. up to 200:20 Mbps. | 1.75                    |
| 4 | 200:20 Mbps. or greater.                          | 2.00                    |
| 5 | 100 Mbps., symmetrical.                           | 3.00                    |
| 6 | Greater than 100:100 Mbps.                        | 4.00                    |
| 7 | ...."   |                         |

8           **SECTION 2.(c)** This section becomes effective July 1, 2023.  
 9           **SECTION 3.(a)** There is appropriated from the General Fund to the Department of  
 10 Information Technology the sum of one hundred thousand dollars (\$100,000) in nonrecurring  
 11 funds for the 2022-2023 fiscal year to update requirements of broadband programs administered  
 12 by the Department that are impacted by the increased broadband speed benchmarks established  
 13 in this act and other administrative costs associated with broadband grant programs.  
 14           **SECTION 3.(b)** This section becomes effective July 1, 2022.  
 15           **SECTION 4.** Except as otherwise provided, this act is effective when it becomes  
 16 law.