As Passed by the House

133rd General Assembly
Regular Session
Sub. H. B. No. 13
2019-2020

Representatives Carfagna, O'Brien


A BILL

To amend sections 133.13, 727.01, and 4928.17 and to enact sections 188.01, 188.03, 188.05, 188.06, 188.07, 188.08, 188.09, 188.10, 188.13, 188.15, 188.16, 188.17, 188.18, 188.19, 188.20, 188.21, 188.23, 188.24, 188.25, 188.30, 188.31, 188.33, 188.34, 188.35, 188.36, 188.37, 188.40, 188.41, 188.43, 188.44, 188.45, 188.46, 188.50, 188.51, 188.53, 188.55, 188.60, 188.61, 188.63, 188.70, 188.71, 188.73, 188.75, 188.76, 188.77, 188.80, 188.81, 188.83, 188.84, 188.85, 188.87, 188.88, 188.89, 188.91, 188.93, 188.95, 303.251, 505.881, 4926.01, 4926.02, 4926.03, 4926.04, 4926.05, 4926.06, 4926.07, 4926.09, 4926.10, 4926.13, 4926.15, 4926.16, 4926.20, 4926.21, 4926.26, 4926.27, 4926.29, 4926.31, 4926.311, 4926.33, 4926.35, 4926.36, 4926.37, 4926.38, 4926.39, 4926.40, 4926.50, 4926.51, 4926.52, 4926.54, 4926.56, 4926.58, 4926.60, 4926.63, 4926.64, 4926.65, 4926.70, 4926.71, 4926.72, 4926.85, 4926.86, 4926.88, 4926.90, 4926.91,
4926.92, 4926.93, and 4926.95 of the Revised Code regarding broadband expansion, including access to electric cooperative easements and facilities and railroad rights of way, to repeal sections 4926.01, 4926.03, 4926.04, 4926.05, 4926.06, 4926.07, 4926.09, 4926.10, 4926.13, 4926.15, 4926.16, 4926.20, 4926.21, 4926.26, 4926.27, 4926.29, 4926.31, 4926.33, 4926.35, 4926.36, 4926.37, 4926.38, 4926.39, and 4926.40 of the Revised Code on the date that is three years after the act's effective date, and to make an appropriation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 133.13, 727.01, and 4928.17 be amended and sections 188.01, 188.03, 188.05, 188.06, 188.07, 188.08, 188.09, 188.10, 188.13, 188.15, 188.16, 188.17, 188.18, 188.19, 188.20, 188.21, 188.23, 188.24, 188.25, 188.30, 188.31, 188.33, 188.34, 188.35, 188.36, 188.37, 188.40, 188.41, 188.43, 188.44, 188.45, 188.46, 188.50, 188.51, 188.53, 188.55, 188.60, 188.61, 188.63, 188.70, 188.71, 188.73, 188.75, 188.76, 188.77, 188.80, 188.81, 188.83, 188.84, 188.85, 188.87, 188.88, 188.89, 188.90, 188.91, 188.92, 188.93, 188.95, 303.251, 505.881, 4926.01, 4926.02, 4926.03, 4926.04, 4926.05, 4926.06, 4926.07, 4926.09, 4926.10, 4926.13, 4926.15, 4926.16, 4926.20, 4926.21, 4926.26, 4926.27, 4926.29, 4926.31, 4926.33, 4926.35, 4926.36, 4926.37, 4926.38, 4926.39, 4926.40, 4926.50, 4926.51, 4926.52, 4926.54, 4926.56, 4926.58, 4926.60, 4926.63, 4926.64, 4926.65, 4926.70, 4926.71, 4926.72, 4926.85, 4926.86, 4926.88, 4926.90, 4926.91,
4926.92, 4926.93, and 4926.95 of the Revised Code be enacted to read as follows:

**Sec. 133.13.** If the special assessments are to be paid in one annual installment, the taxing authority of a subdivision may issue securities in anticipation of its levy or collection of special assessments to pay the costs of the subdivision's broadband funding gap portion for an eligible project under sections 188.01 to 188.77 of the Revised Code, lighting, sprinkling, sweeping, cleaning, providing related or similar services or the services described in section 727.011 of the Revised Code, or of removing snow, ice, and debris from, or treating the surface of, streets, alleys, and public ways and places.

Such securities shall not be general obligations of the issuing subdivision, and shall not pledge to the payment of debt charges any receipts other than the special assessments anticipated, except that a municipal corporation, without incurring debt subject to direct or indirect debt limitations, may also pledge and apply proceeds of its municipal income tax to pay those debt charges. No property tax shall be levied or pledged for the payment of debt charges on the securities. The securities shall mature no later than the last day of December of the year in which the special assessments anticipated are scheduled to be collected.

The legislation authorizing the securities shall appropriate the special assessments anticipated, and such special assessments shall be deemed to be pledged and appropriated, first to the payment of the debt charges on the securities. After provision has been made for the payment in full of those debt charges, the balance of the special
assessments may be appropriated and applied for the purposes for which they were levied.

Sec. 188.01. As used in sections 188.01 to 188.77 of the Revised Code:

(A) "Application" means an application made under section 188.13 of the Revised Code for a program grant.

(B) "Broadband funding gap" means the difference between the total amount of money a broadband provider calculates is necessary to construct the last mile of a specific broadband network and the total amount of money that the provider has determined is the maximum amount of money that is cost effective for the provider to invest in last mile construction for that network.

(C)(1) "Broadband provider" means one of the following:

(a) A video service provider as defined in section 1332.21 of the Revised Code;

(b) A provider that is capable of providing tier one or tier two broadband service and is one of the following:

(i) A telecommunications service provider;

(ii) A satellite broadcasting service provider;

(iii) A wireless service provider as defined in section 4927.01 of the Revised Code.

(2) "Broadband provider" does not include a governmental or quasi-governmental entity.

(D) "Eligible project" means a project to provide tier two broadband service access to residences in an unserved area or tier one area of a municipal corporation or township that is
eligible for funding under sections 188.13 to 188.46 of the Revised Code.

(E) "Last mile" means the last portion of a physical broadband network that connects an eligible project to the broader network used to provide tier two broadband service, and to which both of the following apply:

(1) It includes other network infrastructure in the last portion of the network that is needed to provide tier two broadband service to residences as part of an eligible project, but does not include network infrastructure in any portion of the network that is outside of the last portion.

(2) It is not required to be, or limited to, a specific distance measurement of one mile or any other specific distance.

(F) "Ohio residential broadband expansion grant program" means the program established under sections 188.01 to 188.77 of the Revised Code.

(G) "Program grant" means money awarded under the Ohio residential broadband expansion grant program to assist in covering the broadband funding gap for an eligible project.

(H) "Satellite broadcasting service" has the same meaning as in section 5739.01 of the Revised Code.

(I) "Telecommunications service" has the same meaning as in section 1332.21 of the Revised Code.

(J) "Tier one broadband service" means a retail wireline or wireless broadband service capable of delivering internet access at speeds of at least ten but less than twenty-five megabits per second downstream and at least one but less than three megabits per second upstream.
(K) "Tier two broadband service" means a retail wireline
or wireless broadband service capable of delivering internet
access at speeds of at least twenty-five megabits per second
downstream and at least three megabits per second upstream.

(L) "Tier one area" means an area that has access to tier
one broadband service but not tier two broadband service. "Tier
one area" includes an area where construction of a network to
provide tier one broadband service is in progress and is
scheduled to be completed within a two-year period. "Tier one
area" excludes an area where construction of a network to
provide tier two broadband service is in progress and is
scheduled to be completed within a two-year period.

(M) "Unserved area" means an area without access to tier
one broadband service or tier two broadband service. "Unserved
area" excludes an area where construction of a network to
provide tier one broadband service or tier two broadband service
is in progress and is scheduled to be completed within a two-
year period.

Sec. 188.03. There is hereby established the Ohio
residential broadband expansion grant program within the
department of commerce. The department shall administer and
provide staff assistance for the program. The department shall
be responsible for receiving and reviewing applications for
program grants and for sending completed applications to the
broadband expansion program authority for final review and award
of program grants.

Sec. 188.05. (A)(1) There is hereby created, within the
department of commerce, the broadband expansion program
authority, which shall consist of the director of commerce or
the director's designee, the chief investment officer of
JobsOhio or the chief investment officer's designee, and three other members as follows: one member appointed by the president of the senate, one member appointed by the speaker of the house of representatives, and one member appointed by the governor.

(2) Appointed members shall have expertise in broadband infrastructure and technology. Appointed members may not be affiliated with or employed by the broadband industry or in a position to benefit from a program grant.

(3) The assignment of designees by the director and the chief investment officer shall be made in writing.

(B) Appointed members shall serve four year terms and are eligible for reappointment.

(C) Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term.

(D)(1)(a) Appointed members shall receive a monthly stipend as calculated under section 145.016 of the Revised Code in an amount that will qualify each member for one year of retirement service credit under the Ohio public employees retirement system for each year of the member's term.

(b) Notwithstanding the requirement of section 145.58 of the Revised Code that eligibility for health care coverage provided under that section be based on years and types of service credit in accordance with rules adopted by the public employees retirement board, if the board provides health care coverage under that section, no service credit earned for service as a member of the authority shall be considered for
purposes of determining eligibility for coverage under that section.

(c) Members shall receive reimbursement for their necessary and actual expenses incurred in performing the business of the authority. The reimbursements constitute, as applicable, administrative costs of the Ohio residential broadband expansion grant program.

(2) An appointed member of the authority who is currently serving as an administrative department head under section 121.03 of the Revised Code is not eligible to receive a stipend under division (A) of this section.

(3) The department shall be responsible for paying all reimbursements and stipends under this section.

(E) The director, or the director's designee, shall serve as chairperson of the authority. The members of the authority annually shall elect a vice-chairperson from the members of the authority. Three members of the authority constitute a quorum to transact and vote on the business of the authority. An affirmative vote of three members is necessary to approve any business, including the election of the vice-chairperson.

(F) If the director assigns a designee to serve on the authority, the director shall appoint a professional employee of the department of commerce to serve as the director's designee at authority meetings. In the absence of the director or the director's designee, the vice-chairperson of the authority shall serve as chairperson of authority meetings.

(G) The authority is not an agency for purposes of sections 101.82 to 101.87 of the Revised Code.

Sec. 188.06. (A) Members of the broadband expansion
program authority may attend meetings of the authority electronically by means of electronic communication if all of the following apply:

(1) At least three of the members attending the meeting are present in person at the place where the meeting is conducted.

(2) The means of electronic communication permits, for the duration of the meeting, simultaneous communication among the members attending electronically, the members attending in person, and all members of the public attending in person.

(3) All votes taken at the meeting are to be taken by roll call vote.

(B) Except in the case of an emergency, a member who intends to attend a meeting by means of electronic communication shall notify the chairperson of the member's intent not less than forty-eight hours before the scheduled time of the meeting.

Sec. 188.07. The broadband expansion program authority shall consider each application for a program grant that the department of commerce has reviewed and sent to it. The authority shall score all applications according to the scoring system established under section 188.40 of the Revised Code and award program grants based on that system according to sections 188.43 and 188.44 of the Revised Code.

Sec. 188.08. The broadband expansion program authority shall do the following:

(A) Continually examine, and propose updates to, any broadband plan provided by law enacted by the general assembly or executive order issued by the governor:
(B) Monitor the Ohio residential broadband expansion grant program, including by doing the following:

(1) Tracking the details for annual applications to the program, including:

(a) The number of applications;

(b) The geographic locations of the eligible projects listed in the applications;

(c) The broadband providers submitting applications;

(d) A description of the tier two broadband infrastructure and technology proposed in applications;

(e) A description of any public right-of-way or public facilities to be utilized for the projects;

(f) The speeds of the tier two broadband services under the projects;

(g) The amount of the grant funds requested for each project and the proportion of project funding to be provided by the broadband provider and by other entities;

(h) The number of residential and nonresidential locations that will have access to tier two broadband service under each project.

(2) Tracking the program grants awarded annually, including:

(a) The number of program grants;

(b) The geographic location or locations of the projects;

(c) The broadband providers that received program grants and the entities or companies that submitted the application;
(d) A description of the tier two broadband infrastructure and technology deployed in each project;

(e) A description of any public right-of-way or public facilities utilized as part of the project;

(f) The speeds of the tier two broadband services enabled by each project;

(g) The amounts of each program grant, the share of the project funding provided by the broadband provider, and any share of the project funding provided by other entities;

(h) The number of residential and nonresidential locations that will have access to tier two broadband service for each project.

(3) Listing the amount of any unencumbered program grant funds that remain available for award under the Ohio residential broadband expansion grant program;

(4) Adding any additional factors deemed necessary by the authority to monitor the program.

(C) Review all progress reports and operational reports required under section 188.70 of the Revised Code.

(D) Review all pending county requests made pursuant to section 188.51 of the Revised Code for program grants.

(E) Identify any best practices for, and impediments to, the continued expansion of tier two broadband infrastructure and technology in the state;

(F) Coordinate and promote the availability of publicly accessible digital literacy programs to increase fluency in the use and security of interactive digital tools and searchable
networks, including the ability to use digital tools safely and effectively for learning, collaborating, and producing;

(G) Identify, examine, and report on any federal or state government grant or loan program that would promote the deployment of tier two broadband infrastructure and technology in the state;

(H) Track the availability, location, rates and speeds, and adoption of programs that offer tier one broadband service and tier two broadband service in an affordable manner to low-income consumers in this state.

Sec. 188.09. The broadband expansion program authority shall conduct hearings to gather information necessary to accomplish the duties specified under section 188.08 of the Revised Code.

Sec. 188.10. The broadband expansion program authority, upon majority approval of the authority's members, shall submit a written public report of its findings and recommendations to the governor and the general assembly not later than the first of December of each calendar year.

The authority shall not disclose any proprietary information or trade secrets in the report. Copies of the report shall be available on the department of commerce's web site.

Sec. 188.13. A broadband provider may apply for a program grant under the Ohio residential broadband expansion grant program.

Sec. 188.15. Program grants under the Ohio residential broadband expansion grant program shall be awarded only for eligible projects.
Sec. 188.16. An application shall be ineligible for a program grant under the Ohio residential broadband expansion grant program if either of the following apply:

(A) It proposes to provide tier two broadband service to areas where tier two broadband service is presently available.

(B) In the proposed area of service, construction of a network to provide tier two broadband service currently is in progress and either of the following applies:

(1) It is being constructed, without grant program funding, by the broadband provider that submitted the application.

(2) It is scheduled to be completed by another broadband provider not later than two years after the date of a challenge submitted under section 188.30 of the Revised Code.

Sec. 188.17. The broadband expansion program authority shall award program grants under the Ohio residential broadband expansion grant program using funds from the Ohio residential broadband expansion grant program fund created in section 188.37 of the Revised Code.

Sec. 188.18. (A) Each fiscal year, the department of commerce shall fund program grants until funds for that fiscal year are no longer available.

(B) Any application pending at the end of the fiscal year shall be deemed denied, but may be refiled in a subsequent fiscal year provided that all information in the application is still current or has been updated.

Sec. 188.19. (A)(1) Each fiscal year, the department of commerce shall accept applications for program grants.
(2) To apply for a program grant, a broadband provider shall submit an application to the department on a form prescribed by the department and shall provide the information required under section 188.20 of the Revised Code. The form shall include a statement informing the applicant that failure to comply with the program or to meet the required tier two broadband service proposed in the application may require the refund of all or a portion of the program grant awarded for the project.

(3) Applications may be submitted in person or by certified mail or electronic mail, or uploaded to a designated department web site for applications.

(B) Applications shall be accepted during a submission period specified by the broadband expansion program authority. Each submission period shall be at least sixty but not more than ninety days. Each fiscal year there shall be not more than two submission periods.

(C) The department shall publish information from submitted applications on the department's web site as follows:

(1) Not later than five days after the close of the submission period in which the application is made, the department shall publish, for each completed application, the list of residential addresses included with the completed applications under division (A)(1)(a) of section 188.20 of the Revised Code.

(2) Not later than thirty-five days after the close of the submission period in which the application is made, the department shall publish all information from each completed application that it determines is not confidential under section
188.23 of the Revised Code.

(D) If an application is incomplete, the department shall notify the broadband provider that submitted the application. The notification shall list what information is incomplete and shall describe the procedure for refiling a completed application.

(E) The department shall review an application determined incomplete under division (D) of this section as provided in sections 188.19 to 188.36 of the Revised Code if the application is completed and refiled:

(1) Before the end of the submission period described under division (B) of this section; or

(2) Not later than fourteen days after the end of the submission period described under division (B) of this section, if the department, for good cause shown, has granted the broadband provider an extension period of not more than fourteen days in which to file the completed application.

(F) The department shall deny an incomplete application if the broadband provider fails to complete and refile it within the applicable submission period or extension period. Applications that are denied shall not be published on the department's web site.

Sec. 188.20. (A) An application for a program grant under the Ohio residential broadband expansion grant program shall include, at a minimum, the following information for an eligible project:

(1) The location and description of the project, including:
(a) The residential addresses in the unserved or tier one areas where tier two broadband service will be available following completion of the project;

(b) A notarized letter of intent that the broadband provider will provide access to tier two broadband service to all of the residential addresses listed in the project;

(c) A notarized letter of intent by the broadband provider that none of the funds provided by the program grant will be used to extend or deploy facilities to any residences other than those in the unserved or tier one areas that are part of the project.

(2) The amount of the broadband funding gap and the amount of state funds requested;

(3) The amount of any financial or in-kind contributions to be used towards the broadband funding gap and identification of the contribution sources, which may include, but are not limited to, any combination of the following:

(a) Funds that the broadband provider is willing to contribute to the broadband funding gap;

(b) Funds received or approved under any other federal or state government grant or loan program;

(c) General revenue funds of a municipal corporation, township, or county comprising the area of the eligible project;

(d) Other discretionary funds of the municipal corporation, township, or county comprising the area of the eligible project;

(e) Any alternate payment terms that the broadband provider and any legislative authority in which the project is
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located have negotiated and agreed to pursuant to section 188.25
of the Revised Code;

(f) Contributions or grants from individuals,
organizations, or companies;

(g) Property tax assessments made by the municipal
corporation under Chapter 727. of the Revised Code, township
under section 505.881 of the Revised Code, or county under
section 303.251 of the Revised Code.

(4) The source and amount of any financial or in-kind
contributions received or approved for any part of the overall
eligible project cost, but not applied to the broadband funding
gap;

(5) A description of, or documentation demonstrating, the
broadband provider's managerial and technical expertise and
experience with broadband service projects;

(6) Whether the broadband provider plans to use wired,
wireless, or satellite technology to complete the project;

(7) A description of the scalability of the project;

(8) The megabit-per-second broadband download and upload
speeds planned for the project;

(9) A description of the broadband provider's customer
service capabilities, including any locally based call centers
or customer service offices;

(10) A copy of the broadband provider's general customer
service policies, including any policy to credit customers for
service outages or the provider's failure to keep scheduled
appointments for service;
(11) The length of time that the broadband provider has been operating in the state;

(12) Proof that the broadband provider has the financial stability to complete the project;

(13) A projected construction timetable, including the anticipated date of the provision of tier two broadband service access within the project;

(14) A description of anticipated or preliminary government authorizations, permits, and other approvals required in connection with the project, and an estimated timetable for the acquisition of such approvals;

(15) A notification from the broadband provider informing the department of commerce of any information contained in the application, or within related documents submitted with it, that the provider considers proprietary or a trade secret;

(16) A notarized statement that the broadband provider accepts the condition that noncompliance with Ohio residential broadband expansion grant program requirements may require the provider to refund all or part of any program grant the provider receives;

(17) A brief description of any arrangements, including any subleases of infrastructure or joint ownership arrangements that the broadband provider that submitted the application has entered into, or plans to enter into, with another broadband provider, an electric cooperative, or an electric distribution utility, to enable the offering of tier two broadband service under the project;

(18) Other relevant information that the department determines is necessary and prescribes by rule;
(19) Any other information the broadband provider considers necessary.

(B) To meet the requirement to provide proof of financial responsibility in the application, the broadband provider may submit publicly available financial statements with its application.

Sec. 188.21. As a condition for receiving a program grant under the Ohio residential broadband expansion grant program, the broadband expansion program authority may require a broadband provider that is awarded a program grant to provide a performance bond, letter of credit, or other financial assurance acceptable to the authority prior to the commencement of construction. The bond, letter of credit, or assurance shall be in the sum, and with the sureties, that the state prescribes and shall be payable to the state, as applicable.

The bond, letter of credit, or assurance may include the condition that the broadband provider will faithfully execute and complete the project.

The purpose of the performance bond, letter of credit, or other financial assurance is to assure completion of the project. The bond, letter of credit, or assurance shall not be required after the project is complete.

Sec. 188.23. Pursuant to rules adopted under section 188.77 of the Revised Code, the department of commerce shall evaluate the information and documents submitted by a broadband provider in an application under section 188.13 of the Revised Code or by a challenging broadband provider under section 188.30 of the Revised Code. The evaluation shall determine whether the information and documents are proprietary or constitute a trade secret.
secret. Upon receipt of the information and documents, the department shall keep them confidential and shall not publish them on the department's web site, unless the department finds that any information or document is not proprietary or a trade secret. Any information or document found not to be proprietary or a trade secret under this section shall not be considered confidential and shall be published on the department web site as is required for an application under division (C)(2) of section 188.19 of the Revised Code.

Sec. 188.24. The department of commerce shall establish an automatic notification process through which interested parties may receive electronic mail notifications when the department publishes application and other information on its web site pursuant to sections 188.01 to 188.77 of the Revised Code.

Sec. 188.25. A broadband provider may enter into an arrangement to designate video service provider fees remitted by the broadband provider for contribution towards an eligible project's broadband funding gap under the following circumstances:

(A) The broadband provider is a video service provider that, pursuant to section 1332.32 of the Revised Code, collects and remits video service provider fees to one or more legislative authorities in which an eligible project is located.

(B) The arrangement is entered into by mutual consent with one or more of the legislative authorities in which the eligible project is located.

Sec. 188.30. (A)(1)(a) A broadband provider that provides tier two broadband service within or directly adjacent to an eligible project may challenge, in writing, all or part of a
completed application for a program grant for the project not later than sixty-five days after the close of the submission period, or an extension granted under division (E)(2) of section 188.19 of the Revised Code, in which the application was made.

(b) The department, for good cause shown, may grant the broadband provider an extension of not more than fourteen days in which to submit a challenge.

(2) The broadband provider challenging the application shall provide, by certified mail, a written copy of the challenge to the department and to the broadband provider that submitted the application. The copy provided to the department may include any information the challenging broadband provider considers to be proprietary or a trade secret. Proprietary information or trade secrets may be redacted from the copy provided to the broadband provider that submitted the application.

(B) No challenge to an application may be accepted before the completed application is published in its entirety on the department of commerce's web site pursuant to division (C)(2) of section 188.19 of the Revised Code.

Sec. 188.31. (A) To successfully challenge an application, a broadband provider shall provide sufficient evidence to the department of commerce demonstrating that all or part of a project under the application is ineligible for a grant. The challenge shall, at minimum, include the following information:

(1) Sufficient evidence disputing the notarized letter of intent submitted with the application that the eligible project contains unserved or tier one areas;

(2) Sufficient evidence attesting to the challenging
broadband provider's existing or planned offering of tier two broadband service to all or part of the eligible project, which evidence shall include the following:

(a) With regard to existing tier two broadband service, a signed, notarized statement submitted by the challenging broadband provider that sufficiently identifies the part of the eligible project to which the challenging broadband provider offers broadband service;

(b) With regard to the planned provision of tier two broadband service by a challenging broadband provider as described in division (B) of section 188.16 of the Revised Code, both of the following:

(i) A signed, notarized statement submitted by the challenging broadband provider that sufficiently identifies the part of the eligible project to which the challenging broadband provider will offer broadband service;

(ii) A summary of the construction efforts that includes the dates when tier two broadband construction is expected to be completed and when tier two broadband service will first be offered to the part of the eligible project being challenged.

(B) To demonstrate that all or part of a project under the application is ineligible for a grant, a challenging broadband provider may present shapefile data, residential addresses, maps, or similar geographic details. Census block or census tract level data shall not be acceptable as evidence of ineligibility of all or part of a project.

Sec. 188.33. (A) Not later than thirty days after receipt of a challenge under sections 188.30 to 188.35 of the Revised Code, the broadband expansion program authority may do either of
the following:

(1) Suspend, subject to division (B) of this section, all or part of the application;

(2) Reject the challenge, approve the application, and proceed with the application process.

(B) The authority shall allow the broadband provider that submitted the application being challenged to revise the application consistent with sections 188.01 to 188.77 of the Revised Code, if the authority upholds a challenge to all or part of the application.

(C) The authority shall notify both the broadband provider that submitted the application and the challenging broadband provider of any decision made under this section by providing a copy of the decision by certified mail or electronic mail. The authority shall update the status of the application on the department of commerce web site.

Sec. 188.34. (A) If the broadband expansion program authority suspends all or part of an application, the broadband provider that submitted the application may revise and resubmit the application not later than fourteen days after receiving the suspension notification sent by the authority pursuant to section 188.33 of the Revised Code. The broadband provider may request, and the authority may grant for good cause shown, an extension period of not more than fourteen days in which the broadband provider may resubmit the application.

(B) When revising the application, the broadband provider shall not expand the scope or impact of the original application, nor shall the provider add any new residential addresses to the eligible project.
(C) The broadband provider shall provide a copy of the revised application to both the authority and the challenging broadband provider by certified mail or by electronic mail or by uploading it to the department of commerce designated web site for applications. The department shall publish the revised application on the department's public web site provided that any information determined to be proprietary or a trade secret under section 188.23 of the Revised Code is redacted.

(D) Any failure to respond to the notification or properly revise the application to the authority's satisfaction shall be considered a withdrawal of the application.

Sec. 188.35. Upon receipt of a revised application under section 188.34 of the Revised Code, the broadband expansion program authority shall review the revised application and decide whether to accept it or uphold the challenge under sections 188.30 to 188.35 of the Revised Code within fourteen days. The authority shall provide a copy of its decision to both the broadband provider that submitted the revised application and the challenging broadband provider by certified mail or electronic mail and shall update the status of the application on the department's web site. The decision shall be considered final, and further challenges to the revised application are prohibited.

Sec. 188.36. If the broadband expansion program authority upholds a challenge to an application under sections 188.30 to 188.35 of the Revised Code and the challenging broadband provider fails to provide tier two broadband service as described in the challenge, the challenging broadband provider, after a reasonable opportunity to be heard, may be required to do either or both of the following, in addition to being subject
to other remedies available under the law:

(A) Pay to the department of commerce the amount of the original broadband funding gap described in section 188.20 of the Revised Code for the application that was challenged;

(B) Comply with the requirements of any other penalties prescribed by rule of the department and imposed after consultation with the authority.

Sec. 188.37. Any money collected under section 188.36 of the Revised Code and funds appropriated for the Ohio residential broadband expansion grant program shall be deposited into the Ohio residential broadband expansion grant program fund, which is hereby created in the state treasury. All amounts in the fund, including interest earned on those amounts, shall be used by the department of commerce exclusively for grants under sections 188.01 to 188.77 of the Revised Code.

Sec. 188.40. The department of commerce, in consultation with the broadband expansion program authority, shall establish a weighted scoring system to evaluate and select applications for program grants. The scoring system shall be available on the department's web site at least thirty days before the beginning of the application submission period set by the department by rule.

Sec. 188.41. (A) The scoring system established under section 188.40 of the Revised Code shall prioritize applications, from highest to lowest weight, in the following order:

(1) Eligible projects for unserved areas, rather than tier one areas;

(2) Eligible projects located within distressed areas as
defined under section 122.19 of the Revised Code;

(3) Eligible projects that are receiving or have been approved to receive any financial or in-kind contributions towards the broadband funding gap identified in the application under division (A)(3) of section 188.20 of the Revised Code, including the amounts and proportions of the contributions;

(4) Eligible projects for which the proposed construction will utilize state rights-of-way or otherwise require attachment to, or use of, public facilities or conduit to provide tier two broadband service to an eligible project;

(5) Eligible projects based on proposed upstream and downstream speeds and the scalability of the tier two broadband service infrastructure proposed to be deployed to speeds higher than twenty-five megabits per second downstream and three megabits per second upstream;

(6) Eligible projects based on each of the following, in equal measure, without favoring one broadband provider over another:

(a) Demonstrated support, supported by evidence, for community and economic development efforts in, or adjacent to, the projects, including the provision of tier two broadband service to commercial and nonresidential entities as a result of, but not funded directly by, the program;

(b) The broadband provider's experience, technical ability, and financial capability in successfully deploying and providing tier two broadband service;

(c) The length of time the broadband provider has been providing tier two broadband service in the state;
(d) The extent to which funding is necessary to deploy tier two broadband service infrastructure in an economically feasible manner to the eligible project;

(e) The ability of the broadband provider to leverage nearby or adjacent tier one or tier two broadband service infrastructure to facilitate the proposed deployment and provision of tier two broadband service to the eligible project;

(f) If existing tier one or tier two broadband service infrastructure exists in the area of the eligible project, the extent to which the project utilizes or upgrades the existing tier one or tier two infrastructure, rather than duplicates it;

(g) The eligible projects' location within Ohio opportunity zones as defined under division (A)(2) of section 122.84 of the Revised Code.

(B) The department may include in the weighted scoring system any other factors it determines to be reasonable, appropriate, and consistent with the purpose of facilitating the economic deployment of tier two broadband service to unserved or tier one areas. The factors included under this division shall be considered after the weighted factors described in division (A) of this section.

Sec. 188.43. (A) The broadband expansion program authority shall award program grants under the Ohio residential broadband expansion grant program after reviewing applications sent to the authority by the department of commerce. Awards shall be granted after the authority scores applications based on the scoring system under sections 188.40 and 188.41 of the Revised Code.

(B) In awarding program grants, the authority shall consider all regulatory obligations under applicable law. The
authority may not consider any of the following:

(1) Proposed project conditions that require open access networks or that establish a specific rate, service, or other obligation not specified for the Ohio residential broadband expansion grant program;

(2) Factors that would constrain a broadband provider that receives a grant from offering or providing tier two broadband service in the same manner as the service is offered by broadband providers in other areas of the state without funding from the Ohio residential broadband expansion grant program.

(C) Upon making the program grant awards, the authority shall notify the broadband providers that submitted applications of the award decisions. The authority shall publish the program grant awards on the department of commerce's web site.

Sec. 188.44. After the broadband expansion program authority awards a program grant under section 188.43 of the Revised Code, the department of commerce shall disburse the program grant as follows:

(A) A portion of the program grant, not to exceed thirty per cent, shall be disbursed before construction of the project begins.

(B) A portion of the program grant, not to exceed sixty per cent, shall be disbursed through periodic payments over the course of construction of the eligible project as determined by the department by rules adopted under section 188.77 of the Revised Code.

(C) The remaining portion shall be disbursed not later than sixty days after the broadband provider notifies the authority that it has completed construction of the project.
Sec. 188.45. (A) The department of commerce may, through an independent third party, conduct speed verification tests of an eligible project that receives a program grant. Such tests shall occur as follows:

(1) After the construction is complete, but prior to the final disbursement made under division (C) of section 188.44 of the Revised Code to verify that tier two broadband service is being offered;

(2) At any time during the reporting period required under division (B) of section 188.70 of the Revised Code, after receiving a complaint concerning a residence that is part of the eligible project.

(B) To evaluate compliance with tier two broadband service standards, speed verification tests conducted under this section shall be conducted on at least two different days and at two different times on each of those days.

(C) The department may withhold payments under this section for failure to meet at least the minimum speeds required under division (A)(8) of section 188.20 of the Revised Code. Payments may be held until such speeds are achieved.

Sec. 188.46. (A) If the department of commerce determines that a broadband provider that has been awarded a program grant under the Ohio residential broadband expansion grant program has not complied with the requirements of the program, the department shall notify the provider of the noncompliance. In accordance with rules adopted by the department under section 188.77 of the Revised Code, the department shall give the provider an opportunity to explain or cure the noncompliance.

(B) After reviewing the broadband provider's explanation
or effort to cure the noncompliance, the following shall apply:

(1) The department may require the provider to refund an amount equal to all, or a portion of, the amount of the program grant awarded to the provider, as determined by the department.

(2) The department may require the broadband provider to refund to the appropriate municipal corporation, township, or county the entire amount of general revenue funds or other discretion ary funds that it contributed toward the broadband funding gap under division (A)(3)(c) or (d) of section 188.20 of the Revised Code.

(C) Not more than thirty days after the department's decision requiring a refund for program noncompliance or a failure to explain or cure it, the broadband provider shall pay the refund required under division (B) of this section. Payments shall be made directly to the municipal corporation, township, or county that contributed funds toward the broadband funding gap.

**Sec. 188.50.** Upon adoption of a resolution, a board of county commissioners may request the department of commerce to solicit applications from broadband providers for program grants under the Ohio residential broadband expansion grant program for eligible projects in the municipal corporations and townships of the county.

A request made by a county shall identify, to the extent possible, the residential addresses in unserved or tier one areas of the county and provide a point of contact at the county and the municipal corporations and townships in which the addresses are located. The request may include any relevant information, documents, or materials that may be helpful for an
Sec. 188.51. Upon receipt of a request from a board of county commissioners pursuant to section 188.50 of the Revised Code, the department of commerce shall solicit, on behalf of the county, applications for program grants for eligible projects under the Ohio residential broadband expansion grant program. Not later than seven days after receipt of the request, the department shall make the request, and any accompanying information submitted with the request, available for review on the department's web site. The request shall remain available on the web site for a period not to exceed two years.

Sec. 188.53. An application for a program grant under the Ohio residential broadband expansion grant program made in response to a request under section 188.50 of the Revised Code shall fully comply with all of the program requirements. Nothing in sections 188.50, 188.51, and 188.53 of the Revised Code shall be construed as providing relief from compliance with any program requirements.

Sec. 188.55. The department of commerce shall not be responsible for any failure by a broadband provider to respond to a request made by the department pursuant to section 188.51 of the Revised Code or to submit an application for a program grant under the Ohio residential broadband expansion grant program.

Sec. 188.60. (A) An eligible project shall not proceed unless the broadband expansion program authority awards a program grant under section 188.43 of the Revised Code.

(B) After receiving a program grant award, the broadband provider shall construct and install last mile broadband
infrastructure to the eligible project.

**Sec. 188.61.** Under alternate payment term arrangements made under section 188.25 of the Revised Code, unless otherwise negotiated, the participating legislative authorities in which the eligible project is located shall assume all financial responsibility for all of the eligible project costs incurred by the broadband provider prior to completion of the project or the award of a program grant.

**Sec. 188.63.** (A) Nothing in sections 188.01 to 188.77 of the Revised Code entitles the state of Ohio, the department of commerce, the broadband expansion program authority, or any other governmental entity to any ownership or other rights to broadband infrastructure constructed by a broadband provider pursuant to a program grant awarded to an eligible project.

(B) Nothing in sections 188.01 to 188.77 of the Revised Code prevents an assignment, sale, change in ownership, or other similar transaction associated with broadband infrastructure constructed by a broadband provider pursuant to a program grant awarded to an eligible project. No assignment, sale, change in ownership, or other similar transaction relieves the successor of any obligation under sections 188.01 to 188.77 of the Revised Code.

**Sec. 188.70.** (A) Each broadband provider that receives a program grant shall submit to the department an annual progress report on the status of the deployment of the broadband network described in the eligible project for which the program grant award was made.

(B) The broadband provider shall submit an operational report with the department not later than sixty days after the
completion of the project and annually thereafter for a period of four years.

**Sec. 188.71.** (A) The reports required under section 188.70 of the Revised Code and except as provided in section 188.75 of the Revised Code, all information and documents in them shall be in a format specified by the department of commerce and shall be publicly available on the department's web site.

(B) In each report, the broadband provider shall include an account of how program grant funds have been used and the project's progress toward fulfilling the objectives for which the program grant was awarded. The reports, at a minimum, shall include the following:

1. The number of residences that have access to tier two broadband services as a result of the eligible project;

2. The number of commercial and nonresidential entities that are not funded directly by the grant program but have access to tier two broadband service as a result of the eligible project;

3. The upstream and downstream speed of the broadband service provided;

4. The average price of broadband service;

5. The number of broadband service subscriptions attributable to the program grant.

**Sec. 188.73.** The department of commerce may set a due date for the reports required under section 188.70 of the Revised Code and, for good cause shown, may grant extensions of the report due dates.

**Sec. 188.75.** Reports required under section 188.70 of the
Revised Code, and all information and documents in them, shall be maintained on a confidential basis by the department of commerce and shall not be published on the department's web site until the department determines what information or documents are not confidential pursuant to section 188.23 of the Revised Code.

Sec. 188.76. (A) The broadband expansion program authority shall complete an annual report for the Ohio residential broadband expansion grant program. The report shall evaluate the success of the program grants awarded under section 188.43 of the Revised Code in making tier two broadband services available to unserved and tier one areas. The report shall include the following information:

(1) The number of applications received;

(2) The number of applications that received program grants;

(3) The amount of broadband infrastructure constructed for eligible projects;

(4) The number of residences receiving, for that year, tier two broadband service for the first time under the program;

(5) Findings and recommendations that have been agreed to by a majority of the authority members.

(B) The report shall be published on the department of commerce's web site and shall be included as part of its annual report filed under section 121.18 of the Revised Code. The authority shall present the report annually to the governor and the general assembly not later than the first of December of each calendar year.
Sec. 188.77. (A) The department of commerce shall adopt rules for the Ohio residential broadband expansion grant program. The rules shall establish an application form and application procedures for the program and procedures for periodic program grant disbursements.

(B) The rules may include the following:

(1) Requirements for a program application in addition to the requirements described in section 188.20 of the Revised Code;

(2) Procedures for and circumstances under which partial funding of applications is permitted;

(3) Procedures for broadband expansion program authority meetings, extension periods for applications and application challenges, hearings, and opportunities for public comment.

(C) The department may adopt rules and procedures to implement sections 188.51, 188.53, and 188.55 of the Revised Code.

(D) Rules adopted under this section are not subject to section 121.95 of the Revised Code.

(E) The department and the authority are not subject to division (F) of section 121.95 of the Revised Code regarding the development and adoption of rules pursuant to this section.

Sec. 188.80. As used in sections 188.80 to 188.91 of the Revised Code:

(A) "Broadband service" means any wholesale or retail service that consists of, or includes the provision of, connectivity to a high-speed, high-capacity transmission medium that can carry signals from or to multiple sources and that
either provides access to the internet or provides computer processing, information storage, information content or protocol conversion, including any service applications or information service provided over such high-speed access service. "Broadband service" includes video service, voice over internet protocol service, and internet protocol-enabled services.

(B) "Electric cooperative" has the same meaning as in section 4928.01 of the Revised Code.

(C) "Internet protocol-enabled services" and "voice over internet protocol service" have the same meanings as in section 4927.01 of the Revised Code.

(D) "Servient estate" means the land burdened by an easement.

(E) "Video programming" means any programming generally considered comparable to programming provided by a television broadcast station.

(F) "Video service" means video programming services without regard to delivery technology, including internet protocol technology and video programming provided as a part of a service that enables users to access content, information, electronic mail, or other services offered over the public internet.

Sec. 188.81. An easement granted to an electric cooperative for purposes of transmitting, delivering, or otherwise providing electric power may be used, apportioned, or subleased to provide broadband service and such use, apportionment, or sublease shall not be considered an additional burden on the servient estate.

Sec. 188.83. (A) If the owner of the servient estate of an
easement described in section 188.81 of the Revised Code brings an action regarding the use, apportionment, or sublease of the easement for broadband service, the court may award damages to the owner equal to not more than the difference between the following:

(1) The fair market value of the owner's interest in the property of the estate immediately before the provision of broadband service;

(2) The fair market value of the owner's interest in the property of the estate immediately after the provision of broadband service.

(B) Any damages awarded under division (A) of this section shall be a fixed amount that shall not continue, accumulate, or accrue.

(C) The values described in division (A) of this section shall be established by the testimony of a qualified real estate appraiser.

Sec. 188.84. The court may not grant injunctive relief or any other equitable relief for an action described in section 188.83 of the Revised Code.

Sec. 188.85. Actions described in section 188.83 of the Revised Code shall be brought within one year of any alleged damage described in that section. Any action not brought within one year will result in forfeiture of that claim.

Sec. 188.87. Past, current, or future revenues or profits derived or to be derived from the use, apportionment, or sublease of an easement for broadband service are not admissible for any purpose in an action described in section 188.83 of the Revised Code.
Sec. 188.88. Any court determination regarding an easement subject to an action described in section 188.83 of the Revised Code shall be considered a finding that the provision of broadband service is an allowable use or purpose under the easement as if the use or purpose was specifically stated in the terms of the easement.

Sec. 188.89. A court determination described in section 188.88 of the Revised Code shall be filed by the defendant in the action with the county recorder of the county in which the servient estate subject to the determination is located. The recorder shall make a notation in the official record that links the determination to the servient estate and the easement subject to the determination.

Sec. 188.91. The owner of a servient estate of an easement described in section 188.81 of the Revised Code may not bring an action described in section 188.83 of the Revised Code if any of the following apply:

(A) The owner, either directly or through the owner's membership in the electric cooperative or otherwise, authorized the electric cooperative's electric delivery system for the provision of broadband services.

(B) The owner, or any of the previous owners of the property that makes up the servient estate, has agreed to, or granted permission for, the use of the easement to provide broadband service.

(C) The facilities providing broadband service are used or are capable of being used to assist in the transmission, delivery, or use of electric service.

Sec. 188.93. Sections 188.80 to 188.91 of the Revised Code
shall not be construed as expanding the authority of the state, its agencies, or political subdivisions beyond the authority existing under federal law or the laws of this state.

Sec. 188.95. Sections 163.01 to 163.22 of the Revised Code do not apply regarding the application of sections 188.80 to 188.91 of the Revised Code.

Sec. 303.251. (A) If a program grant is awarded for an eligible project under sections 188.01 to 188.77 of the Revised Code, the board of county commissioners of the county in which the project is situated, by resolution, may levy a special assessment upon residential property within the county for the purpose of providing a contribution from the county towards the funding gap for the eligible project. Assessments under this section shall be levied only upon the residential property that is subject to the eligible project. Before adopting the resolution, the board shall send written notice to each affected property owner stating the estimated assessment for that property. If an owner objects to the stated estimated assessment, the owner shall file a written objection with the board not later than two weeks after the notice is mailed. The board shall review the written objections and may revise the estimated assessments before adopting the resolution. If the property owner objects to the final assessment for the property levied in the resolution, the owner may appeal the final assessment under Chapter 2506. of the Revised Code.

(B) The assessment shall be at a rate that will produce a total assessment that is not more than the county's contribution towards the funding gap for the eligible project as described in the application under section 188.20 of the Revised Code. The board shall certify the amount to be levied upon each affected
property to the county auditor, who shall enter the amount on
the tax duplicate for collection by the county treasurer in
equal semiannual installments in the same manner and at the same
times as the collection of taxes on real property. Assessments
shall be paid by owners of the properties upon which assessments
are levied.

(C) The assessments, when collected, shall be paid by the
county auditor by warrant on the county treasurer into a special
fund in the county treasury created for the purpose of funding
an eligible project for which a program grant is awarded under
sections 188.01 to 188.77 of the Revised Code and that is
located in the county. The board may expend moneys from the fund
only for the purposes for which the assessments were levied.

Sec. 505.881. (A) If a program grant is awarded for an
eligible project under sections 188.01 to 188.77 of the Revised
Code, the board of township trustees in which the project is
situated, by resolution, may levy a special assessment upon
residential property within the township for the purpose of
providing a contribution from the township towards the broadband
funding gap for the eligible project. Assessments under this
section shall be levied only upon the residential property that
is subject to the eligible project. Before adopting the
resolution, the board shall send written notice to each affected
property owner stating the estimated assessment for that
property. If an owner objects to the stated estimated
assessment, the owner shall file a written objection with the
board not later than two weeks after the notice is mailed. The
board shall review the written objection and may revise the
estimated assessment before adopting the resolution. If the
property owner objects to the final assessment for the property
levied in the resolution, the owner may appeal the final
assessment under Chapter 2506. of the Revised Code.

(B) The assessment shall be at a rate that will produce a total assessment that is not more than the township's contribution towards the funding gap for the eligible project as described in the application under section 188.20 of the Revised Code. The board shall certify the amount to be levied upon each affected property to the county auditor, who shall enter the amount on the tax duplicate for collection by the county treasurer in equal semiannual installments in the same manner and at the same times as the collection of taxes on real property. Assessments shall be paid by owners of the properties upon which assessments are levied.

(C) The assessments, when collected, shall be paid by the county auditor by warrant on the county treasurer into a special fund in the township treasury created for the purpose of funding an eligible project for which a program grant is awarded under sections 188.01 to 188.77 of the Revised Code and that is located in the township. The board may expend moneys from the fund only for the purposes for which the assessments were levied.

Sec. 727.01. Each municipal corporation shall have special power to levy and collect special assessments. The legislative authority of a municipal corporation may assess upon the abutting, adjacent, and contiguous, or other specially benefited, lots or lands in the municipal corporation, any part of the cost connected with the improvement of any street, alley, dock, wharf, pier, public road, place, boulevard, parkway, or park entrance or an easement of the municipal corporation available for the purpose of the improvement to be made in it by grading, draining, curbing, paving, repaving, repairing,
treatning the surface with substances designed to lay the dust on
it or preserve it, constructing sidewalks, piers, wharves,
docks, retaining walls, sewers, sewage disposal works and
treatment plants, sewage pumping stations, water treatment
plants, water pumping stations, reservoirs, and water storage
tanks or standpipes, together with the facilities and
appurtenances necessary and proper therefor, drains, storm-water
retention basins, watercourses, water mains, or laying of water
pipe, or the lighting, sprinkling, sweeping, or cleaning
thereof, or removing snow therefrom, any part of the cost and
expense of planting, maintaining, and removing shade trees
thereupon; any part of the cost of a voluntary action, as
defined in section 3746.01 of the Revised Code, undertaken
pursuant to Chapter 3746. of the Revised Code by a special
improvement district created under Chapter 1710. of the Revised
Code, including the cost of acquiring property with respect to
which the voluntary action is undertaken; any part of the cost
and expense of constructing, maintaining, repairing, cleaning,
and enclosing ditches; any part of the cost and expense of
operating, maintaining, and replacing heating and cooling
facilities for enclosed pedestrian canopies and malls; any part
of the cost and expense of acquiring and improving parking
facilities and structures for off-street parking of motor
vehicles or of acquiring land and improving it by clearing,
grading, draining, paving, lighting, erecting, constructing, and
equipping it for parking facilities and structures for off-
street parking of motor vehicles, to the extent authorized by
section 717.05 of the Revised Code, but only if no special
assessment made for the purpose of developing off-street parking
facilities and structures is levied against any land being used
solely for off-street parking or against any land used solely
for single or two-family dwellings; any part of the cost and
expense of operating and maintaining the off-street parking facilities and structures; and any part of the cost connected with changing the channel of, or narrowing, widening, dredging, deepening, or improving, any stream or watercourse, and for constructing or improving any levees or boulevards on any stream or watercourse, or along or about any stream or watercourse, together with any retaining wall, riprap protection, bulkhead, culverts, approaches, flood gates, waterways, or drains incidental to any stream or watercourse, or for making any other improvement of any river or lake front, whether it is privately or publicly owned, which the legislative authority declares conducive to the public health, convenience, or welfare. If a program grant is awarded for an eligible project under sections 188.01 to 188.77 of the Revised Code, a municipal corporation may levy, against dwellings that are subject to the project, a special assessment for the purpose of providing a contribution from the municipal corporation towards the funding gap for the project. The assessment shall be at a rate that will produce a total assessment that is not more than the municipal corporation's contribution towards the funding gap for the eligible project as described in the application under section 188.20 of the Revised Code. In addition, a municipal corporation may levy a special assessment for public improvement or public services plans of a district formed under Chapter 1710. of the Revised Code, as provided in that chapter. Except as otherwise provided in Chapter 1710. of the Revised Code, special assessments may be levied by any of the following methods:

(A) By a percentage of the tax value of the property assessed;

(B) In proportion to the benefits that may result from the improvement;
(C) By the front foot of the property bounding and
abutting upon the improvement.

Sec. 4926.01. As used in sections 4926.01 to 4926.40 of
the Revised Code:

(A) "Broadband facilitator" means an electric distribution
utility that applies to construct, and constructs, broadband
infrastructure to serve priority unserved areas but does not
offer or provide broadband service to retail customers.

(B) "Broadband infrastructure" means any equipment,
facilities, electronics, property, and technology deployments
that are used for the purpose of providing access to and
transmitting broadband service.

(C)(1) "Broadband provider" means an entity capable of
providing broadband service that is one of the following:

(a) A video service provider as defined in section 1332.21
of the Revised Code;

(b) A telecommunications service provider;

(c) A satellite broadcasting service provider;

(d) A wireless service provider as defined in section
4927.01 of the Revised Code.

(2) "Broadband provider" excludes a governmental entity,
quasi-governmental entity, an electric distribution utility, a
broadband facilitator, and any affiliate of an electric
distribution utility or a broadband facilitator.

(D) "Broadband service" means high-speed internet access
service capable of providing a minimum download speed of twenty-
five megabits per second and a minimum upload speed of three
megabits per second upstream.

(E) "Certified territory" has the same meaning as in section 4933.81 of the Revised Code.

(F) "Electric cooperative" and "electric distribution utility" have the same meanings as in section 4928.01 of the Revised Code.

(G) "Eligible project" means a project to offer or provide broadband service to retail customers in a priority unserved area.

(H) "Last mile" means the portion of a physical broadband network, other than the broadband facilitator's broadband infrastructure, that connects an eligible project to the broader network used to provide broadband service. "Last mile" includes other network infrastructure such as pole attachments and make-ready work needed to provide broadband service to retail customers as part of an eligible project.

(I) "Last mile investment costs" means investment costs approved under section 4926.20 of the Revised Code for pole attachments and make-ready work.

(J) "Make-ready work" means, as determined by the nature of the work required, "make-ready," "complex make-ready," or "simple make-ready" as those terms are defined in 47 C.F.R. 1.1402.

(K) "Net cost" means costs for broadband infrastructure, including, but not limited to, a carrying charge on capital investments that reflects a broadband facilitator's weighted average cost of capital, depreciation, amortization, accretion, tax and expenses, plus operation and maintenance expenses, less any income generated by leasing broadband infrastructure.
constructed under sections 4926.01 to 4926.40 of the Revised Code.

(L) "Priority unserved area" means an unserved area in one of the thirty-two counties within the Appalachian region of Ohio that ranks in the top four Ohio counties when considering the number of unserved customers in the county, the cost per customer of serving unserved areas in the county, and other factors as specified in rules adopted by the public utilities commission pursuant to section 4926.40 of the Revised Code.

(M) "Satellite broadcasting service" has the same meaning as in section 5739.01 of the Revised Code.

(N) "Telecommunications service" has the same meaning as in section 1332.21 of the Revised Code.

(O) "Unserved area" means any area of the state in which internet access service capable of providing a minimum download speed of ten megabits per second and a minimum upload speed of one megabit per second is not available to potential retail customers located in the area.

Sec. 4926.02. It is the public policy of the state to:

(A) Facilitate the provision of broadband infrastructure under just and reasonable rates, terms, and conditions;

(B) Facilitate the provision of broadband service in priority unserved areas in the state;

(C) Provide access to broadband service to priority unserved areas of the state by facilitating the construction of broadband infrastructure;

(D) Not unduly favor or advantage any broadband provider.
Sec. 4926.03. (A) Subject to sections 4926.04 to 4926.40 of the Revised Code, a broadband facilitator may construct broadband infrastructure in priority unserved areas that are located inside of its certified territory or in the territory of an electric cooperative or a municipal electric utility under an agreement under section 4926.04 of the Revised Code.

(B) Nothing in sections 4926.01 to 4926.40 of the Revised Code authorizes a broadband facilitator to construct, own, or operate broadband infrastructure to provide broadband service to retail customers or to provide services as an internet service provider or telecommunications service provider.

Sec. 4926.04. (A) As part of its capacity as a broadband facilitator, an electric distribution facility may enter into an agreement with an electric cooperative or municipal electric utility to construct broadband infrastructure in a priority unserved area if the geographic area is served by the cooperative or municipal electric utility and the geographic area is adjacent to the electric distribution utility's certified territory. An agreement pursuant to this section shall be based on mutually accepted commercial terms and shall provide for the full and timely recovery of the facilitator's net costs associated with the construction of the infrastructure.

(B) A cooperative or municipal electric utility shall provide compensation to the facilitator as specified in the terms of the agreement.

(C) The electric distribution utility in its capacity as a broadband facilitator shall file a copy of the agreement with the public utilities commission for review and approval as part of an application under section 4926.07 of the Revised Code.
Sec. 4926.05. A broadband facilitator shall establish a written policy for constructing broadband infrastructure pursuant to sections 4926.04 to 4926.40 of the Revised Code. The policy shall be available to the public and shall include the following:

(A) Procedures for executing agreements entered under section 4926.04 of the Revised Code;

(B) The method for the full and timely recovery of the facilitator's net costs associated with the construction of the infrastructure;

(C) Procedures for a nondiscriminatory competitive selection process to select a qualified broadband provider as part of the application process in sections 4926.10 and 4926.13 of the Revised Code;

(D) A nondiscriminatory procedure for other providers to request interconnection access to the infrastructure;

(E) A list of any just and reasonable charges associated with granting or leasing interconnection access and the standards upon which those charges are calculated.

Sec. 4926.06. (A) A broadband facilitator that constructs broadband infrastructure pursuant to sections 4926.04 to 4926.40 of the Revised Code shall establish a nondiscriminatory competitive selection process that at a minimum meets the following requirements:

(1) The facilitator shall submit a request for proposals to select at least one broadband provider capable of completing the last mile to an eligible project;

(2) If no providers respond to the request for proposals
submitted under division (A) of this section, the facilitator may submit a second request for proposals that includes proposed funding for up to fifty per cent of the last mile investment associated with completing the last mile for an eligible project.

(3) A provider participating in the competitive selection process under this section demonstrates all of the following:

(a) Extensive experience, technical ability, and financial capability to successfully deploy broadband service in the priority unserved area;

(b) The length of time the provider has been providing broadband service in the state;

(c) The ability of the provider to leverage nearby or adjacent broadband infrastructure to facilitate the completion of the last mile of the eligible project.

(B) The public utilities commission shall review the competitive selection process as part of an application under section 4926.07 of the Revised Code. The commission shall confirm that the process was conducted prudently and achieved a reasonable competitive result.

Sec. 4926.07. (A) A broadband facilitator shall file an application with the public utilities commission for approval of broadband infrastructure construction before constructing the infrastructure in a priority unserved area of the facilitator's certified territory.

(B) A facilitator shall not file an application under this section unless the facilitator has selected at least one broadband provider to complete the last mile for the infrastructure described in the application.
Sec. 4926.09. An application filed under section 4926.07 of the Revised Code shall be filed on a form prescribed by the public utilities commission.

Sec. 4926.10. An application filed by a broadband facilitator under section 4926.07 of the Revised Code shall include all of the following:

(A) The location and a detailed description of the priority unserved area in which the broadband infrastructure will be constructed;

(B) The number of new customers that are expected to have access to broadband service after the infrastructure is constructed;

(C) The incremental benefits, including any economic development benefits, that are attributable to the construction of the infrastructure;

(D) The estimated cost of the infrastructure;

(E) The estimated time to construct the infrastructure;

(F) Whether the application includes proposed funding for last mile investment pursuant to a competitive selection process for a broadband provider held under division (A)(2) of section 4926.06 of the Revised Code;

(G) Any information the facilitator received from the provider selected under the competitive selection process pursuant to section 4926.06 of the Revised Code and any updates to that information.

(H) A copy of the agreement entered into by the facilitator and at least one provider following a competitive selection process held under section 4926.06 of the Revised Code.
and in which the provider commits to completing the last mile
related to the eligible project and offering retail broadband
service in the priority unserved area within eighteen months
after the infrastructure is constructed;

(I) A copy of the facilitator's policy established under
section 4926.05 of the Revised Code;

(J) A copy of any agreement entered into under section
4926.04 of the Revised Code.

Sec. 4926.13. (A) The public utilities commission may
approve an application filed under section 4926.07 of the
Revised Code if, upon review of the application and determining
the application is complete, the commission does all of the
following:

(1) Finds that the area in which the broadband facilitator
proposes to construct broadband infrastructure qualifies as a
priority unserved area;

(2) Determines that the application is not in violation of
section 4926.15 of the Revised Code;

(3) Finds, after reviewing the facilitator's estimated
costs to construct the infrastructure, that the costs are just
and reasonable;

(4) Finds, after reviewing the facilitator's estimated
benefits or conducting its own review, that there are
incremental benefits, including economic development benefits,
attributable to the construction of the infrastructure;

(5) Finds that the infrastructure does not duplicate or
overlap with infrastructure previously approved under this
section.
(6) Finds that the infrastructure does not duplicate or overlap with federal funding under the connect America funds or the rural digital opportunity fund;

(7) Determines whether the facilitator's competitive selection process under section 4926.06 of the Revised Code was conducted prudently and achieved a reasonable, competitive result.

(B) An application approved under this section shall be in the form of an order of the commission, which order shall supersede any conflicting or otherwise applicable tariff or schedule for broadband infrastructure or last mile investments in a previous order.

(C) The commission shall deny the application if any of the following apply:

(1) The application is incomplete.

(2) The commission is unable to make the findings and determinations required under this section.

(3) The commission determines that the capital investment associated with the eligible project described in the application exceeds two million five hundred thousand dollars, provided that the capital investment does not include the facilitator's operation and maintenance expenses associated with the capital investment in the infrastructure, total future revenue requirement collections of the facilitator under section 4926.21 of the Revised Code, or last mile funding for a broadband provider.

Sec. 4926.15. No broadband facilitator may construct broadband infrastructure in a geographic area in which a broadband provider has been awarded a program grant under the
Ohio residential broadband expansion grant program under sections 188.40 to 188.44 of the Revised Code unless the provider that receives the program grant does not construct the project for which the program grant was awarded.

Sec. 4926.16. Within one hundred eighty days after a broadband facilitator submits an application to the public utilities commission under section 4926.07 of the Revised Code, the commission shall approve or deny the application.

Sec. 4926.20. (A) Except as provided in division (B) of this section and pursuant to an application approved under section 4926.13 of the Revised Code, the public utilities commission shall approve a rate mechanism that allows an electric distribution utility to fully and timely recover the following from its retail electric service customers:

(1) The net costs incurred by a broadband facilitator to construct, own, and maintain broadband infrastructure, which shall reflect a credit for any revenues recovered pursuant to an agreement under section 4926.04 of the Revised Code;

(2) Up to fifty per cent of any last mile investment costs as approved in the application.

(B) The commission shall not approve the rate mechanism described in division (A) of this section if the commission determines that the mechanism will result in a double recovery of any costs by the electric distribution utility. If the commission disapproves a rate mechanism pursuant to this division, the commission may subsequently approve a revised rate mechanism if the double recovery is cured.

Sec. 4926.21. A rate mechanism approved by the public utilities commission under section 4926.20 of the Revised Code
shall do the following:

(A) Fully and timely recover net costs related to broadband infrastructure, if the costs are prudently incurred, which shall reflect a credit for any revenues recovered pursuant to an agreement under section 4926.04 of the Revised Code;

(B) Fully and timely recover last mile investment costs as specified by the commission;

(C) Fully and timely recover the costs described in division (A) and (B) of this section, authorize a monthly charge, including deferrals, that does not exceed one dollar per customer per month for residential customers and does not exceed five dollars and fifty cents per customer per month for nonresidential customers.

Sec. 4926.26. An existing rate mechanism previously authorized by the public utilities commission may be used as the mechanism under section 4926.20 of the Revised Code, if the existing mechanism will continue to exist for the full term of the cost recovery for broadband infrastructure and any last mile investment costs. The commission shall determine whether the existing rate mechanism is suitable for the infrastructure cost recovery. A surcharge previously approved for an electric distribution utility under division (B)(2)(h) of section 4928.143 of the Revised Code may be considered a suitable rate mechanism under this section.

Sec. 4926.27. If the public utilities commission, under section 4926.26 of the Revised Code, authorizes the use of an existing rate mechanism, and that mechanism subsequently expires or is terminated before the broadband infrastructure costs or last mile investment costs approved under section 4926.20 of the
Revised Code, if any, are fully recovered, the commission, in a timely manner, shall establish a new rate mechanism under section 4926.20 of the Revised Code to ensure uninterrupted full and timely recovery of those approved infrastructure costs and last mile investment costs.

Sec. 4926.29. (A) The public utilities commission annually shall review and update the rates charged under a rate mechanism established under section 4926.20 of the Revised Code until an electric distribution utility's approved net costs and any approved last mile investment costs are fully recovered.

(B) In the annual rate review, the commission shall include the approved broadband infrastructure net costs and any approved last mile investment costs for the year under review.

Sec. 4926.31. Recovery of approved costs related to broadband infrastructure and any approved last mile investment costs under sections 4926.20 to 4926.29 of the Revised Code are not subject to Chapter 4909. of the Revised Code or the earnings test under division (F) of section 4928.143 of the Revised Code.

Sec. 4926.311. A broadband facilitator that constructs broadband infrastructure pursuant to an application approved under section 4926.13 of the Revised Code shall not, after the infrastructure is constructed, sell or transfer the infrastructure to an affiliate of an electric distribution utility.

Sec. 4926.33. An electric distribution utility acting as a broadband facilitator with an application approved under section 4926.13 of the Revised Code for an eligible project shall request or receive from a telecommunications service provider or a video service provider a reduced per pole rental rate, with
the reduced rate to be determined by the public utilities
commission, for attachments to any pole in a county where an
eligible project is approved for a priority unserved area. The
electric distribution utility acting as a facilitator shall
fully and timely recover through an approved rate mechanism the
revenue difference between the reduced pole rental tariff rate
approved by the commission and the rate that would otherwise
apply to such attachments, either in a pending or future rate
proceeding under section 4909.18 of the Revised Code or another
appropriate rate proceeding as determined by the commission. The
electric distribution utility acting as a facilitator shall
apply to the commission for any amendment to its pole attachment
tariff necessary to implement this section.

Sec. 4926.35. A broadband provider may request
interconnection access to broadband infrastructure constructed
by a broadband facilitator pursuant to an application approved
under section 4926.13 of the Revised Code.

Sec. 4926.36. (A) Not later than thirty days after receipt
of a request for interconnection access to broadband
infrastructure constructed pursuant to an application approved
under section 4926.13 of the Revised Code, a broadband
facilitator shall grant access to the broadband provider. Access
may be granted only if the provider commits in writing to
offering broadband service. In the agreement, the facilitator
may condition the provider's access based on either of the
following:

(1) Infrastructure space availability;

(2) The provider's compliance with applicable engineering
and construction standards and administrative procedures;
(B) A broadband facilitator that constructs broadband infrastructure pursuant to sections 4926.04 to 4926.40 of the Revised Code shall not charge any broadband provider for interconnecting with the broadband infrastructure for the purpose of either deploying last mile facilities to offer broadband service to unserved retail customers or transmitting the broadband service in the priority unserved area of an eligible project.

Sec. 4926.37. The thirty-day period described in section 4926.36 of the Revised Code does not apply if a broadband facilitator, including the facilitator's representative or agent, has more than one hundred interconnection requests pending at the time that the request is made.

Sec. 4926.38. A broadband facilitator may suspend broadband interconnection access granted to a broadband provider that defaults on payment of the facilitator's charges.

Sec. 4926.39. A broadband provider shall not be responsible for costs of any kind, including pole replacement, transfer, or relocation or make-ready costs, if the broadband facilitator requests or requires payment for such costs in order to make room for or otherwise permit broadband infrastructure construction pursuant to an application approved under section 4926.13 of the Revised Code. Any pole replaced in order to construct the broadband infrastructure shall remain the property of the owner of the pole that was replaced.

Sec. 4926.40. Not later than one hundred twenty days after the effective date of this section, the public utilities commission shall adopt rules to implement sections 4926.01 to 4926.40 of the Revised Code.
Sec. 4926.50. As used in sections 4926.50 to 4926.95 of the Revised Code:

"Attachment" means any wire, wireless facility, cable, antennae facility, or apparatus for the transmission of text, signs, signals, pictures, sounds, or other forms of information installed by or on behalf of a provider upon any pole owned or controlled, in whole or in part, by one or more electric cooperatives.

"Broadband provider" has the same meaning as in section 188.01 of the Revised Code.

"Electric cooperative" has the same meaning as in section 4928.01 of the Revised Code.

"Incremental cost" means pole attachment costs incurred by an electric cooperative for providing long-run service.

"Make-ready work" has the same meaning as in section 4926.01 of the Revised Code.

"Provider" means a broadband provider, telecommunications service provider, video service provider, or wireless service provider.

"Telecommunications service provider" means a provider of "telecommunications service" as defined in section 4927.01 of the Revised Code.

"Video service provider" has the same meaning as in section 1332.21 of the Revised Code.

"Wireless service provider" has the same meaning as in section 4927.01 of the Revised Code.

Sec. 4926.51. On the request of a provider, an electric
cooperative shall grant the provider nondiscriminatory access to
the cooperative's poles under just and reasonable rates, terms,
and conditions for their attachments in accordance with sections
4926.52 to 4926.72 of the Revised Code.

**Sec. 4926.52.** A provider requesting access to an electric
cooperative's poles shall submit the request in writing, and the
cooperative shall review the request under a uniformly applied,
efficient, and transparent process.

**Sec. 4926.54.** An electric cooperative may require a
provider to execute an agreement for a pole attachment under
nondiscriminatory, just, and reasonable rates, terms, and
conditions in accordance with sections 4926.52 to 4926.72 of the
Revised Code if the cooperative requires all other attaching
parties to execute such an agreement.

**Sec. 4926.56.** After receiving a request for access, an
electric cooperative shall grant or deny access within the time
frame established by the federal communications commission.

**Sec. 4926.58.** An electric cooperative may deny a provider
access to its poles for either of the following reasons if the
reasons are applied on a nondiscriminatory basis:

(A) Insufficient capacity;

(B) Safety, reliability, or generally applicable
engineering standards.

**Sec. 4926.60.** If an electric cooperative denies an access
request submitted under section 4926.58 of the Revised Code, the
cooperative must confirm the denial in writing. The denial shall
be specific and shall include all relevant evidence and
information supporting the denial and an explanation of how that
evidence and information relates to the factors described in
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section 4926.58 of the Revised Code on which the denial is
based.

Sec. 4926.63. (A) A provider and an electric cooperative
shall comply with the process for make-ready work under 47
U.S.C. 224 and the federal communications commission orders and
regulations implementing that section.

(B) The cooperative shall provide a good-faith estimate
for any make-ready work, which shall include pole replacement if
necessary. All make-ready costs shall be based on the
cooperative's actual costs not recovered through the annual
recurring attachment rate. The cooperative shall provide
detailed documentation of the actual costs.

(C) A cooperative that charges an annual recurring
attachment fee shall establish the fee in accordance with the
cable pole attachment rate formula established in 47 U.S.C.
224(d) and commission orders and regulations implementing that
formula.

Sec. 4926.64. The attachment of facilities on the poles of
an electric cooperative by a provider shall comply with the
following:

(A) The most recent, applicable, nondiscriminatory safety
and reliability standards adopted by the cooperative;

(B) The national electric safety code adopted by the
institute of electrical and electronics engineers in effect on
the date of the attachment.

Sec. 4926.65. Nothing in sections 4926.50 to 4926.95 of
the Revised Code affects a provider or other attaching party's
obligation to obtain any necessary authorization before
occupying public ways or private rights-of-way with its
attachment.

Sec. 4926.70. If an electric cooperative's pole facility is modified, a party with a preexisting attachment to the modified facility is considered to directly benefit from a modification if, after receiving notification of the modification, the party adds to or modifies its attachment.

Sec. 4926.71. (A) If an electric cooperative's pole facility is modified, all parties that obtain access to the facility as a result of the modification and all parties that directly benefit from the modification shall share proportionately in the cost of the modification.

(B) If a party makes an attachment to the facility after the completion of the modification, the party shall share proportionately in the costs of the modification if that modification rendered the added attachment possible.

Sec. 4926.72. Unless a modification by an electric cooperative is necessary for an electric service that uses smart grid or other technology, a party with a preexisting attachment to a pole is not required to bear any of the costs of rearranging or replacing its attachment if the rearrangement or replacement is necessary because of another party's request for an additional attachment or a modification of an existing attachment.

Sec. 4926.85. An electric cooperative or a provider may file a complaint regarding pole attachment disputes with respect to sections 4926.50 to 4926.95 of the Revised Code with the court of commons pleas of the county in which the cooperative's Ohio headquarters is located.

Sec. 4926.86. The court of common pleas of the county in
which an electric cooperative's Ohio headquarters is located has jurisdiction to hear complaints and to grant remedies with respect to sections 4926.50 to 4926.95 of the Revised Code regarding attachment disputes for which a complaint is filed.

Sec. 4926.88. Before a court of common pleas may order any remedy under section 4926.93 of the Revised Code regarding a pole attachment complaint filed with respect to section 4926.50 to 4926.95 of the Revised Code, the court shall determine, and a complainant shall establish, by a preponderance of the evidence, both of the following:

(A) Whether any rate, term, or condition complained of is not just and reasonable or a denial of access was unlawful.

(B) Whether one of the following occurs on or after the effective date of this section:

(1) Any rate, term, or condition described in the complaint is contained in a new pole attachment agreement or in a previously existing pole attachment agreement that is amended, renewed, or replaced by executing a new agreement;

(2) There has been an unreasonable denial of access or unreasonable refusal to enter into a new, amended, renewed, or replacement pole attachment agreement.

Sec. 4926.90. (A) The complainant under section 4926.85 of the Revised Code has the burden of establishing a prima facie case that the rate, term, or condition complained of is not just and reasonable or that the denial of access was unlawful.

(B) In a case involving a denial of access, the electric cooperative has the burden of establishing, by a preponderance of the evidence, that the denial was lawful, once a prima facie case is established by the complainant.
Sec. 4926.91. In a complaint filed under section 4926.85 of the Revised Code, if an electric cooperative claims that the proposed rate is lower than its incremental costs, the cooperative has the burden of establishing, by a preponderance of the evidence, its incremental costs.

Sec. 4926.92. In a complaint filed under section 4926.85 of the Revised Code, there is a rebuttable presumption that the charged rate is just and reasonable, if the electric cooperative can show that its charged rate does not exceed an annual recurring attachment rate calculated in accordance with the cable pole attachment rate formula in 47 U.S.C. 224(d) and federal communications commission orders and regulations implementing that formula.

Sec. 4926.93. (A) If, pursuant to a complaint filed under section 4926.85 of the Revised Code, a court of common pleas determines that any rate, term, or condition described in the complaint is not just and reasonable, it may do, but is not limited to doing, any of the following:

(1) Terminate the rate, term, or condition and prescribe a just and reasonable rate, term, or condition;

(2) Require entry into a pole attachment agreement on just and reasonable rates, terms, and conditions;

(3) Require access to poles as provided under sections 4926.52 to 4926.72 of the Revised Code;

(4) Substitute in the pole attachment agreement the just and reasonable rate, term, or condition established by the court;

(5) Order a refund or payment, as appropriate.
(B) A refund or payment ordered under this section may not exceed the difference between the actual amount paid under the unjust and unreasonable rate, term, or condition and the amount that would have been paid under the rate, term, or condition established by the court for the period described in the complaint, provided that the period during which refunds or payments are made does not exceed two years.

Sec. 4926.95. A court of common pleas determination resolving a complaint under sections 4926.85 to 4926.93 of the Revised Code shall be issued in the form of a final appealable order.

Sec. 4928.17. (A) Except as otherwise provided in sections 4928.142 or 4928.143 or 4928.31 to 4928.40 of the Revised Code and beginning on the starting date of competitive retail electric service, no electric utility shall engage in this state, either directly or through an affiliate, in the businesses of supplying a noncompetitive retail electric service and supplying a competitive retail electric service, or in the businesses of supplying a noncompetitive retail electric service and supplying a product or service other than retail electric service, unless the utility implements and operates under a corporate separation plan that is approved by the public utilities commission under this section, is consistent with the policy specified in section 4928.02 of the Revised Code, and achieves all of the following:

(1) The plan provides, at minimum, for the provision of the competitive retail electric service or the nonelectric product or service through a fully separated affiliate of the utility, and the plan includes separate accounting requirements, the code of conduct as ordered by the commission pursuant to a
rule it shall adopt under division (A) of section 4928.06 of the Revised Code, and such other measures as are necessary to effectuate the policy specified in section 4928.02 of the Revised Code.

(2) The plan satisfies the public interest in preventing unfair competitive advantage and preventing the abuse of market power.

(3) The plan is sufficient to ensure that the utility will not extend any undue preference or advantage to any affiliate, division, or part of its own business engaged in the business of supplying the competitive retail electric service or nonelectric product or service, including, but not limited to, utility resources such as trucks, tools, office equipment, office space, supplies, customer and marketing information, advertising, billing and mailing systems, personnel, and training, without compensation based upon fully loaded embedded costs charged to the affiliate; and to ensure that any such affiliate, division, or part will not receive undue preference or advantage from any affiliate, division, or part of the business engaged in business of supplying the noncompetitive retail electric service. No such utility, affiliate, division, or part shall extend such undue preference. Notwithstanding any other division of this section, a utility's obligation under division (A)(3) of this section shall be effective January 1, 2000.

(B) The commission may approve, modify and approve, or disapprove a corporate separation plan filed with the commission under division (A) of this section. As part of the code of conduct required under division (A)(1) of this section, the commission shall adopt rules pursuant to division (A) of section 4928.06 of the Revised Code regarding corporate separation and
procedures for plan filing and approval. The rules shall include
limitations on affiliate practices solely for the purpose of
maintaining a separation of the affiliate's business from the
business of the utility to prevent unfair competitive advantage
by virtue of that relationship. The rules also shall include an
opportunity for any person having a real and substantial
interest in the corporate separation plan to file specific
objections to the plan and propose specific responses to issues
raised in the objections, which objections and responses the
commission shall address in its final order. Prior to commission
approval of the plan, the commission shall afford a hearing upon
those aspects of the plan that the commission determines
reasonably require a hearing. The commission may reject and
require refiling of a substantially inadequate plan under this
section.

(C) The commission shall issue an order approving or
modifying and approving a corporate separation plan under this
section, to be effective on the date specified in the order,
only upon findings that the plan reasonably complies with the
requirements of division (A) of this section and will provide
for ongoing compliance with the policy specified in section
4928.02 of the Revised Code. However, for good cause shown, the
commission may issue an order approving or modifying and
approving a corporate separation plan under this section that
does not comply with division (A)(1) of this section but
complies with such functional separation requirements as the
commission authorizes to apply for an interim period prescribed
in the order, upon a finding that such alternative plan will
provide for ongoing compliance with the policy specified in
section 4928.02 of the Revised Code.

(D) Any party may seek an amendment to a corporate
separation plan approved under this section, and the commission, pursuant to a request from any party or on its own initiative, may order as it considers necessary the filing of an amended corporate separation plan to reflect changed circumstances.

(E) No electric distribution utility shall sell or transfer any generating asset it wholly or partly owns at any time without obtaining prior commission approval.

(F) Notwithstanding any other provision of this section, broadband infrastructure constructed under sections 4926.01 to 4926.40 of the Revised Code shall qualify as noncompetitive retail electric service under division (B) of section 4928.01 of the Revised Code.

Section 2. That existing sections 133.13, 727.01, and 4928.17 of the Revised Code are hereby repealed.

Section 3. All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2020 and those in the second column are for fiscal year 2021. The appropriations made in this act are in addition to any other appropriations made for the FY 2020-FY 2021 biennium.
RESIDENTIAL BROADBAND EXPANSION GRANTS

Notwithstanding Chapter 166. of the Revised Code, the foregoing appropriation item 800411, Residential Broadband Expansion Grants, shall be used for grants under the Ohio Residential Broadband Expansion Grant Program established in section 188.03 of the Revised Code.

On July 1, 2020, or as soon as possible thereafter, the Director of Budget and Management shall transfer $20,000,000 cash from the Facilities Establishment Fund (Fund 7037) to the Ohio Residential Broadband Expansion Grant Program Fund (Fund 5WV0).

Section 4. Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating the source and amount of funds for each appropriation made in this act, and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this act shall be accounted for as though made in H.B. 166 of the 133rd General Assembly.

The appropriations made in this act are subject to all provisions of H.B. 166 of the 133rd General Assembly that are generally applicable to such appropriations.

Section 5. That sections 4926.01, 4926.03, 4926.04,
4926.05, 4926.06, 4926.07, 4926.09, 4926.10, 4926.13, 4926.15,
4926.16, 4926.20, 4926.21, 4926.26, 4926.27, 4926.29, 4926.31,
4926.33, 4926.35, 4926.36, 4926.37, 4926.38, 4926.39, and
4926.40 of the Revised Code are hereby repealed, effective on
the date that is three years after the effective date of this
act.

Section 6. Any net costs or last mile investment costs
that the Public Utilities Commission approves for recovery by an
electric distribution utility under section 4926.20 of the
Revised Code but that has not yet been recovered by the electric
distribution utility as of the effective date of the repeal of
sections 4926.20 to 4926.31 of the Revised Code by this act may
continue to be recovered according to the provisions of sections
4926.20 to 4926.31 of the Revised Code as those sections existed
before their repeal.

Section 7. (A) Not later than the date that is three and
one-half years after the effective date of this act, each
electric distribution utility that has had an application
approved under section 4926.13 of the Revised Code shall file a
report with the public utilities commission that includes all of
the following:

(1) The number of applications the electric distribution
utility filed with the public utilities commission pursuant to
section 4926.07 of the Revised Code during the three-year period
after the effective date of this act;

(2) A description identifying the priority unserved areas
in the electric distribution utility's certified territory;

(3) A summary of each application approved by the public
utilities commission under section 4926.13 of the Revised Code
that includes a description of each priority unserved area, the
construction status of the project, and the broadband
facilitator's costs for the project;

(4) The number of broadband providers with which the
broadband facilitator contracted to complete the last mile;

(5) The total net costs for the electric distribution
utility as approved by the public utilities commission;

(6) The total last mile investment costs for the electric
distribution utility as approved by the public utilities
commission;

(7) The percentage of total net costs and last mile
investment costs recovered through the rate mechanisms approved
by the public utilities commission pursuant to section 4926.20
of the Revised Code;

(8) The number of new retail customers with access to
broadband service at the time of the report as a result of the
approved construction applications.

(B)(1) The commission shall submit the reports to the
Speaker of the House of Representatives, the President of the
Senate, and the standing committees of the House of
Representatives and the Senate that primarily deal with
broadband issues. The commission also shall submit the report to
the Broadband Ohio Office and to the Broadband Expansion Program
Authority to assist the Authority in its duties under section
188.08 of the Revised Code.

(2) To meet the requirements of division (B)(1) of this
section, the commission may combine into one report the reports
filed under this section by different electric distribution
utilities provided that the electric distribution utility
reports are included in their entirety.