

**As Passed by the Senate**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Am. H. B. No. 2**

**Representatives Carfagna, Stewart**

**Cosponsors: Representatives O'Brien, Hall, Ghanbari, Lipps, Stephens, Seitz, Stein, Koehler, Miller, J., LaRe, Ingram, Carruthers, Hoops, Baldrige, Cutrona, White, Manning, Holmes, McClain, Riedel, Ginter, Loychik, Swearingen, Richardson, Lanese, Young, T., Fraizer, Click, Edwards, Schmidt, West, Abrams, Bird, Blackshear, Boggs, Brent, Brown, Callender, Crawley, Creech, Cross, Crossman, Denson, Galonski, Grendell, Hicks-Hudson, Hillyer, Householder, Howse, Jarrells, John, Johnson, Jones, Kelly, Kick, Lampton, Leland, Lepore-Hagan, Lightbody, Liston, Miller, A., Miranda, Oelslager, Patton, Pavliga, Plummer, Robinson, Roemer, Russo, Sheehy, Smith, K., Smith, M., Sobbecki, Sweeney, Sykes, Troy, Weinstein, Wilkin, Young, B., Speaker Cupp**

**Senators Hackett, Hottinger, Antonio, Blessing, Cirino, Craig, Dolan, Fedor, Gavarone, Hoagland, Huffman, S., Johnson, Kunze, Lang, Maharath, Manning, McColley, O'Brien, Peterson, Reineke, Rulli, Schaffer, Schuring, Sykes, Thomas, Williams, Wilson, Yuko**

**A BILL**

To amend sections 133.13 and 727.01 and to enact 1  
sections 122.40, 122.401, 122.403, 122.404, 2  
122.406, 122.407, 122.408, 122.4010, 122.4013, 3  
122.4015, 122.4016, 122.4017, 122.4018, 4  
122.4019, 122.4020, 122.4021, 122.4023, 5  
122.4024, 122.4025, 122.4030, 122.4031, 6  
122.4033, 122.4034, 122.4035, 122.4036, 7  
122.4037, 122.4040, 122.4041, 122.4043, 8  
122.4044, 122.4045, 122.4046, 122.4050, 9  
122.4051, 122.4053, 122.4055, 122.4060, 10  
122.4061, 122.4063, 122.4070, 122.4071, 11  
122.4073, 122.4075, 122.4076, 122.4077, 188.01, 12  
188.02, 188.05, 188.08, 188.11, 188.14, 188.17, 13  
188.20, 188.23, 188.27, 188.30, 303.251, 14

505.881, 4926.01, 4926.03, 4926.06, 4926.09, 15  
4926.12, 4926.15, 4926.18, 4926.21, 4926.24, 16  
4926.27, 4926.30, 4926.33, 4926.36, 4926.39, 17  
4926.42, 4926.43, 4926.45, 4926.48, 4926.51, 18  
4926.54, 4926.57, and 4926.60 of the Revised 19  
Code regarding broadband expansion, including 20  
access to electric cooperative easements and 21  
facilities, to make an appropriation, and to 22  
declare an emergency. 23

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

**Section 1.** That sections 133.13 and 727.01 be amended and 24  
sections 122.40, 122.401, 122.403, 122.404, 122.406, 122.407, 25  
122.408, 122.4010, 122.4013, 122.4015, 122.4016, 122.4017, 26  
122.4018, 122.4019, 122.4020, 122.4021, 122.4023, 122.4024, 27  
122.4025, 122.4030, 122.4031, 122.4033, 122.4034, 122.4035, 28  
122.4036, 122.4037, 122.4040, 122.4041, 122.4043, 122.4044, 29  
122.4045, 122.4046, 122.4050, 122.4051, 122.4053, 122.4055, 30  
122.4060, 122.4061, 122.4063, 122.4070, 122.4071, 122.4073, 31  
122.4075, 122.4076, 122.4077, 188.01, 188.02, 188.05, 188.08, 32  
188.11, 188.14, 188.17, 188.20, 188.23, 188.27, 188.30, 303.251, 33  
505.881, 4926.01, 4926.03, 4926.06, 4926.09, 4926.12, 4926.15, 34  
4926.18, 4926.21, 4926.24, 4926.27, 4926.30, 4926.33, 4926.36, 35  
4926.39, 4926.42, 4926.43, 4926.45, 4926.48, 4926.51, 4926.54, 36  
4926.57, and 4926.60 of the Revised Code be enacted to read as 37  
follows: 38

**Sec. 122.40.** As used in sections 122.40 to 122.4077 of the 39  
Revised Code: 40

(A) "Application" means an application made under section 122.4013 of the Revised Code for a program grant. 41  
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(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. 43  
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(C) (1) "Broadband provider" means one of the following: 50

(a) A video service provider as defined in section 1332.21 of the Revised Code; 51  
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(b) A provider that is capable of providing tier one or tier two broadband service and is one of the following: 53  
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(i) A telecommunications service provider; 55

(ii) A satellite broadcasting service provider; 56

(iii) A wireless service provider as defined in section 4927.01 of the Revised Code. 57  
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(2) "Broadband provider" does not include a governmental or quasi-governmental entity. 59  
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(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 122.4013 to 122.4046 of the Revised Code. 61  
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(E) "Last mile" means the last portion of a physical broadband network that connects an eligible project to the 66  
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broader network used to provide tier two broadband service, and 68  
to which both of the following apply: 69

(1) It includes other network infrastructure in the last 70  
portion of the network that is needed to provide tier two 71  
broadband service to residences as part of an eligible project, 72  
but does not include network infrastructure in any portion of 73  
the network that is outside of the last portion. 74

(2) It is not required to be, or limited to, a specific 75  
distance measurement of one mile or any other specific distance. 76

(F) "Ohio residential broadband expansion grant program" 77  
means the program established under sections 122.40 to 122.4077 78  
of the Revised Code. 79

(G) "Program grant" means money awarded under the Ohio 80  
residential broadband expansion grant program to assist in 81  
covering the broadband funding gap for an eligible project. 82

(H) "Satellite broadcasting service" has the same meaning 83  
as in section 5739.01 of the Revised Code. 84

(I) "Telecommunications service" has the same meaning as 85  
in section 1332.21 of the Revised Code. 86

(J) "Tier one broadband service" means a retail wireline 87  
or wireless broadband service capable of delivering internet 88  
access at speeds of at least ten but less than twenty-five 89  
megabits per second downstream and at least one but less than 90  
three megabits per second upstream. 91

(K) "Tier two broadband service" means a retail wireline 92  
or wireless broadband service capable of delivering internet 93  
access at speeds of at least twenty-five megabits per second 94  
downstream and at least three megabits per second upstream. 95

(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. 122.401.** There is hereby established the Ohio residential broadband expansion grant program within the development services agency. The agency shall administer and provide staff assistance for the program. The agency 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. 122.403.** (A) (1) There is hereby created, within the development services agency, the broadband expansion program authority, which shall consist of the director of development services or the director's designee, the director of the office of InnovateOhio or the director'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. 126  
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(3) The assignment of designees by the director of development services and the director of InnovateOhio shall be made in writing. 130  
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(B) Appointed members shall serve four year terms and are eligible for reappointment. 133  
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(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. 135  
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(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. 140  
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(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. 145  
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(c) Members shall receive reimbursement for their 154

necessary and actual expenses incurred in performing the 155  
business of the authority. The reimbursements constitute, as 156  
applicable, administrative costs of the Ohio residential 157  
broadband expansion grant program. 158

(2) An appointed member of the authority who is currently 159  
serving as an administrative department head under section 160  
121.03 of the Revised Code is not eligible to receive a stipend 161  
under division (A) of this section. 162

(3) The agency shall be responsible for paying all 163  
reimbursements and stipends under this section. 164

(E) The director of development services, or the 165  
director's designee, shall serve as chairperson of the 166  
authority. The members of the authority annually shall elect a 167  
vice-chairperson from the members of the authority. Three 168  
members of the authority constitute a quorum to transact and 169  
vote on the business of the authority. An affirmative vote of 170  
three members is necessary to approve any business, including 171  
the election of the vice-chairperson. 172

(F) If the director of development services assigns a 173  
designee to serve on the authority, the director of development 174  
services shall appoint a professional employee of the 175  
development services agency to serve as the director's designee 176  
at authority meetings. In the absence of the director of 177  
development services or the director's designee, the vice- 178  
chairperson of the authority shall serve as chairperson of 179  
authority meetings. 180

(G) The authority is not an agency for purposes of 181  
sections 101.82 to 101.87 of the Revised Code. 182

**Sec. 122.404. (A) Members of the broadband expansion** 183

program authority may attend meetings of the authority 184  
electronically by means of electronic communication if all of 185  
the following apply: 186

(1) At least three of the members attending the meeting 187  
are present in person at the place where the meeting is 188  
conducted. 189

(2) The means of electronic communication permits, for the 190  
duration of the meeting, simultaneous communication among the 191  
members attending electronically, the members attending in 192  
person, and all members of the public attending in person. 193

(3) All votes taken at the meeting are to be taken by roll 194  
call vote. 195

(B) Except in the case of an emergency, a member who 196  
intends to attend a meeting by means of electronic communication 197  
shall notify the chairperson of the member's intent not less 198  
than forty-eight hours before the scheduled time of the meeting. 199

**Sec. 122.406.** The broadband expansion program authority 200  
shall consider each application for a program grant that the 201  
development services agency has reviewed and sent to it. The 202  
authority shall score all applications according to the scoring 203  
system established under section 122.4040 of the Revised Code 204  
and award program grants based on that system according to 205  
sections 122.4043 and 122.4044 of the Revised Code. 206

**Sec. 122.407.** The broadband expansion program authority 207  
shall do the following: 208

(A) Continually examine, and propose updates to, any 209  
broadband plan provided by law enacted by the general assembly 210  
or executive order issued by the governor; 211



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| <u>(B) Monitor the Ohio residential broadband expansion grant</u>      | 212 |
| <u>program, including by doing the following:</u>                      | 213 |
| <u>(1) Tracking the details for annual applications to the</u>         | 214 |
| <u>program, including:</u>   | 215 |
| <u>(a) The number of applications;</u>                                 | 216 |
| <u>(b) The geographic locations of the eligible projects</u>           | 217 |
| <u>listed in the applications;</u>                                     | 218 |
| <u>(c) The broadband providers submitting applications;</u>            | 219 |
| <u>(d) A description of the tier two broadband infrastructure</u>      | 220 |
| <u>and technology proposed in applications;</u>                        | 221 |
| <u>(e) A description of any public right-of-way or public</u>          | 222 |
| <u>facilities to be utilized for the projects;</u>                     | 223 |
| <u>(f) The speeds of the tier two broadband services under</u>         | 224 |
| <u>the projects;</u>   | 225 |
| <u>(g) The amount of the grant funds requested for each</u>            | 226 |
| <u>project and the proportion of project funding to be provided by</u> | 227 |
| <u>the broadband provider and by other entities;</u>                   | 228 |
| <u>(h) The number of residential and nonresidential locations</u>      | 229 |
| <u>that will have access to tier two broadband service under each</u>  | 230 |
| <u>project.</u>  | 231 |
| <u>(2) Tracking the program grants awarded annually,</u>               | 232 |
| <u>including:</u>  | 233 |
| <u>(a) The number of program grants;</u>                               | 234 |
| <u>(b) The geographic location or locations of the projects;</u>       | 235 |
| <u>(c) The broadband providers that received program grants</u>        | 236 |
| <u>and the entities or companies that submitted the application;</u>   | 237 |

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| <u>(d) A description of the tier two broadband infrastructure</u>       | 238 |
| <u>and technology deployed in each project;</u>                         | 239 |
| <u>(e) A description of any public right-of-way or public</u>           | 240 |
| <u>facilities utilized as part of the project;</u>                      | 241 |
| <u>(f) The speeds of the tier two broadband services enabled</u>        | 242 |
| <u>by each project;</u>   | 243 |
| <u>(g) The amounts of each program grant, the share of the</u>          | 244 |
| <u>project funding provided by the broadband provider, and any</u>      | 245 |
| <u>share of the project funding provided by other entities;</u>         | 246 |
| <u>(h) The number of residential and nonresidential locations</u>       | 247 |
| <u>that will have access to tier two broadband service for each</u>     | 248 |
| <u>project.</u>   | 249 |
| <u>(3) Listing the amount of any unencumbered program grant</u>         | 250 |
| <u>funds that remain available for award under the Ohio residential</u> | 251 |
| <u>broadband expansion grant program;</u>                               | 252 |
| <u>(4) Adding any additional factors deemed necessary by the</u>        | 253 |
| <u>authority to monitor the program.</u>                                | 254 |
| <u>(C) Review all progress reports and operational reports</u>          | 255 |
| <u>required under section 122.4070 of the Revised Code.</u>             | 256 |
| <u>(D) Review all pending county requests made pursuant to</u>          | 257 |
| <u>section 122.4051 of the Revised Code for program grants.</u>         | 258 |
| <u>(E) Identify any best practices for, and impediments to,</u>         | 259 |
| <u>the continued expansion of tier two broadband infrastructure and</u> | 260 |
| <u>technology in the state;</u>   | 261 |
| <u>(F) Coordinate and promote the availability of publicly</u>          | 262 |
| <u>accessible digital literacy programs to increase fluency in the</u>  | 263 |
| <u>use and security of interactive digital tools and searchable</u>     | 264 |

networks, including the ability to use digital tools safely and 265  
effectively for learning, collaborating, and producing; 266

(G) Identify, examine, and report on any federal or state 267  
government grant or loan program that would promote the 268  
deployment of tier two broadband infrastructure and technology 269  
in the state; 270

(H) Track the availability, location, rates and speeds, 271  
and adoption of programs that offer tier one broadband service 272  
and tier two broadband service in an affordable manner to low- 273  
income consumers in this state. 274

**Sec. 122.408.** The broadband expansion program authority 275  
shall conduct hearings to gather information necessary to 276  
accomplish the duties specified under section 122.407 of the 277  
Revised Code. 278

**Sec. 122.4010.** The broadband expansion program authority, 279  
upon majority approval of the authority's members, shall submit 280  
a written public report of its findings and recommendations to 281  
the governor and the general assembly not later than the first 282  
of December of each calendar year. 283

The authority shall not disclose any proprietary 284  
information or trade secrets in the report. Copies of the report 285  
shall be available on the development services agency's web 286  
site. 287

**Sec. 122.4013.** A broadband provider may apply for a 288  
program grant under the Ohio residential broadband expansion 289  
grant program. 290

**Sec. 122.4015.** Program grants under the Ohio residential 291  
broadband expansion grant program shall be awarded only for 292  
eligible projects. 293

Sec. 122.4016. An application shall be ineligible for a 294  
program grant under the Ohio residential broadband expansion 295  
grant program if either of the following applies: 296

(A) It proposes to provide tier two broadband service to 297  
areas where tier two broadband service is presently available. 298

(B) In the proposed area of service, construction of a 299  
network to provide tier two broadband service currently is in 300  
progress and one of the following applies: 301

(1) It is being constructed, without grant program 302  
funding, by the broadband provider that submitted the 303  
application. 304

(2) It is scheduled to be completed by another broadband 305  
provider not later than two years after the date of a challenge 306  
submitted under section 122.4030 of the Revised Code. 307

Sec. 122.4017. The broadband expansion program authority 308  
shall award program grants under the Ohio residential broadband 309  
expansion grant program using funds from the Ohio residential 310  
broadband expansion grant program fund created in section 311  
122.4037 of the Revised Code and other funds appropriated by the 312  
general assembly. 313

Sec. 122.4018. (A) Each fiscal year, the development 314  
services agency shall fund program grants until funds for that 315  
fiscal year are no longer available. 316

(B) Any application pending at the end of the fiscal year 317  
shall be deemed denied, but may be refiled in a subsequent 318  
fiscal year provided that all information in the application is 319  
still current or has been updated. 320

Sec. 122.4019. (A) (1) Each fiscal year, the development 321

services agency shall accept applications for program grants. 322

(2) To apply for a program grant, a broadband provider shall submit an application to the agency on a form prescribed by the agency and shall provide the information required under section 122.4020 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. 323  
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(3) Applications may be submitted in person or by certified mail or electronic mail, or uploaded to a designated agency web site for applications. 331  
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(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. 334  
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(C) The agency shall publish information from submitted applications on the agency's web site as follows: 339  
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(1) Not later than five days after the close of the submission period in which the application is made, the agency shall publish, for each completed application, the list of residential addresses included with the completed applications under division (A) (1) (a) of section 122.4020 of the Revised Code. 341  
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(2) Not later than thirty-five days after the close of the submission period in which the application is made, the agency shall publish all information from each completed application that it determines is not confidential under section 122.4023 of 347  
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the Revised Code. 351

(D) If an application is incomplete, the agency shall 352  
notify the broadband provider that submitted the application. 353  
The notification shall list what information is incomplete and 354  
shall describe the procedure for refiling a completed 355  
application. 356

(E) The agency shall review an application determined 357  
incomplete under division (D) of this section as provided in 358  
sections 122.4019 to 122.4036 of the Revised Code if the 359  
application is completed and refiled: 360

(1) Before the end of the submission period described 361  
under division (B) of this section; or 362

(2) Not later than fourteen days after the end of the 363  
submission period described under division (B) of this section, 364  
if the agency, for good cause shown, has granted the broadband 365  
provider an extension period of not more than fourteen days in 366  
which to file the completed application. 367

(F) The agency shall deny an incomplete application if the 368  
broadband provider fails to complete and refile it within the 369  
applicable submission period or extension period. Applications 370  
that are denied shall not be published on the agency's web site. 371

**Sec. 122.4020.** (A) An application for a program grant 372  
under the Ohio residential broadband expansion grant program 373  
shall include, at a minimum, the following information for an 374  
eligible project: 375

(1) The location and description of the project, 376  
including: 377

(a) The residential addresses in the unserved or tier one 378

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| <u>areas where tier two broadband service will be available</u>         | 379 |
| <u>following completion of the project;</u>                             | 380 |
| <u>(b) A notarized letter of intent that the broadband</u>              | 381 |
| <u>provider will provide access to tier two broadband service to</u>    | 382 |
| <u>all of the residential addresses listed in the project;</u>          | 383 |
| <u>(c) A notarized letter of intent by the broadband provider</u>       | 384 |
| <u>that none of the funds provided by the program grant will be</u>     | 385 |
| <u>used to extend or deploy facilities to any residences other than</u> | 386 |
| <u>those in the unserved or tier one areas that are part of the</u>     | 387 |
| <u>project.</u>   | 388 |
| <u>(2) The amount of the broadband funding gap and the amount</u>       | 389 |
| <u>of state funds requested;</u>  | 390 |
| <u>(3) The amount of any financial or in-kind contributions</u>         | 391 |
| <u>to be used towards the broadband funding gap and identification</u>  | 392 |
| <u>of the contribution sources, which may include, but are not</u>      | 393 |
| <u>limited to, any combination of the following:</u>                    | 394 |
| <u>(a) Funds that the broadband provider is willing to</u>              | 395 |
| <u>contribute to the broadband funding gap;</u>                         | 396 |
| <u>(b) Funds received or approved under any other federal or</u>        | 397 |
| <u>state government grant or loan program;</u>                          | 398 |
| <u>(c) General revenue funds of a municipal corporation,</u>            | 399 |
| <u>township, or county comprising the area of the eligible project;</u> | 400 |
| <u>(d) Other discretionary funds of the municipal</u>                   | 401 |
| <u>corporation, township, or county comprising the area of the</u>      | 402 |
| <u>eligible project;</u>  | 403 |
| <u>(e) Any alternate payment terms that the broadband</u>               | 404 |
| <u>provider and any legislative authority in which the project is</u>   | 405 |
| <u>located have negotiated and agreed to pursuant to section</u>        | 406 |

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| <u>122.4025 of the Revised Code;</u>                                   | 407 |
| <u>(f) Contributions or grants from individuals,</u>                   | 408 |
| <u>organizations, or companies;</u>                                    | 409 |
| <u>(g) Property tax assessments made by the municipal</u>              | 410 |
| <u>corporation under Chapter 727. of the Revised Code, township</u>    | 411 |
| <u>under section 505.881 of the Revised Code, or county under</u>      | 412 |
| <u>section 303.251 of the Revised Code.</u>                            | 413 |
| <u>(4) The source and amount of any financial or in-kind</u>           | 414 |
| <u>contributions received or approved for any part of the overall</u>  | 415 |
| <u>eligible project cost, but not applied to the broadband funding</u> | 416 |
| <u>gap;</u>  | 417 |
| <u>(5) A description of, or documentation demonstrating, the</u>       | 418 |
| <u>broadband provider's managerial and technical expertise and</u>     | 419 |
| <u>experience with broadband service projects;</u>                     | 420 |
| <u>(6) Whether the broadband provider plans to use wired,</u>          | 421 |
| <u>wireless, or satellite technology to complete the project;</u>      | 422 |
| <u>(7) A description of the scalability of the project;</u>            | 423 |
| <u>(8) The megabit-per-second broadband download and upload</u>        | 424 |
| <u>speeds planned for the project;</u>                                 | 425 |
| <u>(9) A description of the broadband provider's customer</u>          | 426 |
| <u>service capabilities, including any locally based call centers</u>  | 427 |
| <u>or customer service offices;</u>                                    | 428 |
| <u>(10) A copy of the broadband provider's general customer</u>        | 429 |
| <u>service policies, including any policy to credit customers for</u>  | 430 |
| <u>service outages or the provider's failure to keep scheduled</u>     | 431 |
| <u>appointments for service;</u>                                       | 432 |
| <u>(11) The length of time that the broadband provider has</u>         | 433 |



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| <u>been operating in the state;</u>  | 434 |
| <u>(12) Proof that the broadband provider has the financial stability to complete the project;</u>   | 435 |
| <u>(13) A projected construction timetable, including the anticipated date of the provision of tier two broadband service access within the project;</u>   | 437 |
| <u>(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;</u>   | 440 |
| <u>(15) A notification from the broadband provider informing the development services agency of any information contained in the application, or within related documents submitted with it, that the provider considers proprietary or a trade secret;</u>  | 444 |
| <u>(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;</u>   | 448 |
| <u>(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;</u> | 453 |
| <u>(18) Other relevant information that the agency determines is necessary and prescribes by rule;</u>   | 460 |

(19) Any other information the broadband provider 462  
considers necessary. 463

(B) To meet the requirement to provide proof of financial 464  
responsibility in the application, the broadband provider may 465  
submit publicly available financial statements with its 466  
application. 467

**Sec. 122.4021.** As a condition for receiving a program 468  
grant under the Ohio residential broadband expansion grant 469  
program, the broadband expansion program authority may require a 470  
broadband provider that is awarded a program grant to provide a 471  
performance bond, letter of credit, or other financial assurance 472  
acceptable to the authority prior to the commencement of 473  
construction. The bond, letter of credit, or assurance shall be 474  
in the sum, and with the sureties, that the state prescribes and 475  
shall be payable to the state, as applicable. 476

The bond, letter of credit, or assurance may include the 477  
condition that the broadband provider will faithfully execute 478  
and complete the project. 479

The purpose of the performance bond, letter of credit, or 480  
other financial assurance is to assure completion of the 481  
project. The bond, letter of credit, or assurance shall not be 482  
required after the project is complete. 483

**Sec. 122.4023.** Pursuant to rules adopted under section 484  
122.4077 of the Revised Code, the development services agency 485  
shall evaluate the information and documents submitted by a 486  
broadband provider in an application under section 122.4013 of 487  
the Revised Code or by a challenging provider under section 488  
122.4030 of the Revised Code. The evaluation shall determine 489  
whether the information and documents are proprietary or 490

constitute a trade secret. Upon receipt of the information and 491  
documents, the agency shall keep them confidential and shall not 492  
publish them on the agency's web site, unless the agency finds 493  
that any information or document is not proprietary or a trade 494  
secret. Any information or document found not to be proprietary 495  
or a trade secret under this section shall not be considered 496  
confidential and shall be published on the agency web site as is 497  
required for an application under division (C) (2) of section 498  
122.4019 of the Revised Code. 499

**Sec. 122.4024.** The development services agency shall 500  
establish an automatic notification process through which 501  
interested parties may receive electronic mail notifications 502  
when the agency publishes application and other information on 503  
its web site pursuant to sections 122.40 to 122.4077 of the 504  
Revised Code. 505

**Sec. 122.4025.** A broadband provider may enter into an 506  
arrangement to designate video service provider fees remitted by 507  
the broadband provider for contribution towards an eligible 508  
project's broadband funding gap under the following 509  
circumstances: 510

(A) The broadband provider is a video service provider 511  
that, pursuant to section 1332.32 of the Revised Code, collects 512  
and remits video service provider fees to one or more 513  
legislative authorities in which an eligible project is located. 514

(B) The arrangement is entered into by mutual consent with 515  
one or more of the legislative authorities in which the eligible 516  
project is located. 517

**Sec. 122.4030.** (A) As used in section 122.4023 and 518  
sections 122.4030 to 122.4035 of the Revised Code, "challenging 519

provider" means either of the following: 520

(1) A broadband provider that provides tier two broadband service within or directly adjacent to an eligible project; 521  
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(2) A municipal electric utility that provides tier two broadband service to an area within the eligible project that is within the geographic area served by the municipal electric utility. 523  
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(B) (1) (a) A challenging provider 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 122.4019 of the Revised Code, in which the application was made. 527  
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(b) The development services agency, for good cause shown, may grant the broadband provider an extension of not more than fourteen days in which to submit a challenge. 533  
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(2) The challenging provider shall provide, by certified mail, a written copy of the challenge to the agency and to the broadband provider that submitted the application. The copy provided to the agency may include any information the challenging 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. 536  
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(C) No challenge to an application may be accepted before the completed application is published in its entirety on the agency's web site pursuant to division (C) (2) of section 122.4019 of the Revised Code. 544  
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Sec. 122.4031. (A) To successfully challenge an 548

application, a challenging provider shall provide sufficient 549  
evidence to the development services agency demonstrating that 550  
all or part of a project under the application is ineligible for 551  
a grant. The challenge shall, at minimum, include the following 552  
information: 553

(1) Sufficient evidence disputing the notarized letter of 554  
intent submitted with the application that the eligible project 555  
contains unserved or tier one areas; 556

(2) Sufficient evidence attesting to the challenging 557  
provider's existing or planned offering of tier two broadband 558  
service to all or part of the eligible project, which evidence 559  
shall include the following: 560

(a) With regard to existing tier two broadband service, a 561  
signed, notarized statement submitted by the challenging 562  
provider that sufficiently identifies the part of the eligible 563  
project to which the challenging provider offers broadband 564  
service; 565

(b) With regard to the planned provision of tier two 566  
broadband service by a challenging provider as described in 567  
division (B) of section 122.4016 of the Revised Code, both of 568  
the following: 569

(i) A signed, notarized statement submitted by the 570  
challenging provider that sufficiently identifies the part of 571  
the eligible project to which the challenging provider will 572  
offer broadband service; 573

(ii) A summary of the construction efforts that includes 574  
the dates when tier two broadband construction is expected to be 575  
completed and when tier two broadband service will first be 576  
offered to the part of the eligible project being challenged. 577

(B) To demonstrate that all or part of a project under the 578  
application is ineligible for a grant, a challenging provider 579  
may present shapefile data, residential addresses, maps, or 580  
similar geographic details. Census block or census tract level 581  
data shall not be acceptable as evidence of ineligibility of all 582  
or part of a project. 583

**Sec. 122.4033.** (A) Not later than thirty days after 584  
receipt of a challenge under sections 122.4030 to 122.4035 of 585  
the Revised Code, the broadband expansion program authority may 586  
do either of the following: 587

(1) Suspend, subject to division (B) of this section, all 588  
or part of the application; 589

(2) Reject the challenge, approve the application, and 590  
proceed with the application process. 591

(B) The authority shall allow the broadband provider that 592  
submitted the application being challenged to revise the 593  
application consistent with sections 122.40 to 122.4077 of the 594  
Revised Code, if the authority upholds a challenge to all or 595  
part of the application. 596

(C) The authority shall notify both the broadband provider 597  
that submitted the application and the challenging provider of 598  
any decision made under this section by providing a copy of the 599  
decision by certified mail or electronic mail. The authority 600  
shall update the status of the application on the development 601  
services agency web site. 602

**Sec. 122.4034.** (A) If the broadband expansion program 603  
authority suspends all or part of an application, the broadband 604  
provider that submitted the application may revise and resubmit 605  
the application not later than fourteen days after receiving the 606

suspension notification sent by the authority pursuant to 607  
section 122.4033 of the Revised Code. The broadband provider may 608  
request, and the authority may grant for good cause shown, an 609  
extension period of not more than fourteen days in which the 610  
broadband provider may resubmit the application. 611

(B) When revising the application, the broadband provider 612  
shall not expand the scope or impact of the original 613  
application, nor shall the provider add any new residential 614  
addresses to the eligible project. 615

(C) The broadband provider shall provide a copy of the 616  
revised application to both the authority and the challenging 617  
provider by certified mail or by electronic mail or by uploading 618  
it to the development services agency's designated web site for 619  
applications. The agency shall publish the revised application 620  
on the agency's public web site provided that any information 621  
determined to be proprietary or a trade secret under section 622  
122.4023 of the Revised Code is redacted. 623

(D) Any failure to respond to the notification or properly 624  
revise the application to the authority's satisfaction shall be 625  
considered a withdrawal of the application. 626

**Sec. 122.4035.** Upon receipt of a revised application under 627  
section 122.4034 of the Revised Code, the broadband expansion 628  
program authority shall review the revised application and 629  
decide whether to accept it or uphold the challenge under 630  
sections 122.4030 to 122.4035 of the Revised Code within 631  
fourteen days. The authority shall provide a copy of its 632  
decision to both the broadband provider that submitted the 633  
revised application and the challenging provider by certified 634  
mail or electronic mail and shall update the status of the 635  
application on the development services agency's web site. The 636

decision shall be considered final, and further challenges to 637  
the revised application are prohibited. 638

**Sec. 122.4036.** If the broadband expansion program 639  
authority upholds a challenge to an application under sections 640  
122.4030 to 122.4035 of the Revised Code and the challenging 641  
provider fails to provide tier two broadband service as 642  
described in the challenge, the challenging provider, after a 643  
reasonable opportunity to be heard, may be required to do either 644  
or both of the following, in addition to being subject to other 645  
remedies available under the law: 646

(A) Pay to the development services agency the amount of 647  
the original broadband funding gap described in section 122.4020 648  
of the Revised Code for the application that was challenged; 649

(B) Comply with the requirements of any other penalties 650  
prescribed by agency rule and imposed after consultation with 651  
the authority. 652

**Sec. 122.4037.** Any money collected under section 122.4036 653  
of the Revised Code shall be deposited into the Ohio residential 654  
broadband expansion grant program fund, which is hereby created 655  
in the state treasury. All amounts in the fund, including 656  
interest earned on those amounts, shall be used by the 657  
development services agency exclusively for grants under 658  
sections 122.40 to 122.4077 of the Revised Code. 659

**Sec. 122.4040.** The development services agency, in 660  
consultation with the broadband expansion program authority, 661  
shall establish a weighted scoring system to evaluate and select 662  
applications for program grants. The scoring system shall be 663  
available on the agency's web site at least thirty days before 664  
the beginning of the application submission period set by the 665



agency by rule. 666

Sec. 122.4041. (A) The scoring system established under 667  
section 122.4040 of the Revised Code shall prioritize 668  
applications, from highest to lowest weight, in the following 669  
order: 670

(1) Eligible projects for unserved areas, rather than tier 671  
one areas; 672

(2) Eligible projects located within distressed areas as 673  
defined under section 122.19 of the Revised Code; 674

(3) Eligible projects that are receiving or have been 675  
approved to receive any financial or in-kind contributions 676  
towards the broadband funding gap identified in the application 677  
under division (A) (3) of section 122.4020 of the Revised Code, 678  
including the amounts and proportions of the contributions; 679

(4) Eligible projects for which the proposed construction 680  
will utilize state rights-of-way or otherwise require attachment 681  
to, or use of, public facilities or conduit to provide tier two 682  
broadband service to an eligible project; 683

(5) Eligible projects based on proposed upstream and 684  
downstream speeds and the scalability of the tier two broadband 685  
service infrastructure proposed to be deployed to speeds higher 686  
than twenty-five megabits per second downstream and three 687  
megabits per second upstream; 688

(6) Eligible projects based on each of the following, in 689  
equal measure, without favoring one broadband provider over 690  
another: 691

(a) Demonstrated support, supported by evidence, for 692  
community and economic development efforts in, or adjacent to, 693

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; 694  
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(b) The broadband provider's experience, technical ability, and financial capability in successfully deploying and providing tier two broadband service; 697  
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(c) The length of time the broadband provider has been providing tier two broadband service in the state; 700  
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(d) The extent to which funding is necessary to deploy tier two broadband service infrastructure in an economically feasible manner to the eligible project; 702  
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(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; 705  
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(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; 709  
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(g) The eligible projects' location within Ohio opportunity zones as defined under division (A)(2) of section 122.84 of the Revised Code. 713  
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(B) The development services agency 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. 716  
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Sec. 122.4043. (A) The broadband expansion program 723  
authority shall award program grants under the Ohio residential 724  
broadband expansion grant program after reviewing applications 725  
sent to the authority by the development services agency. Awards 726  
shall be granted after the authority scores applications based 727  
on the scoring system under sections 122.4040 and 122.4041 of 728  
the Revised Code. 729

(B) In awarding program grants, the authority shall 730  
consider all regulatory obligations under applicable law. The 731  
authority may not consider any of the following: 732

(1) Proposed project conditions that require open access 733  
networks or that establish a specific rate, service, or other 734  
obligation not specified for the Ohio residential broadband 735  
expansion grant program; 736

(2) Factors that would constrain a broadband provider that 737  
receives a grant from offering or providing tier two broadband 738  
service in the same manner as the service is offered by 739  
broadband providers in other areas of the state without funding 740  
from the Ohio residential broadband expansion grant program. 741

(C) Upon making the program grant awards, the authority 742  
shall notify the broadband providers that submitted applications 743  
of the award decisions. The authority shall publish the program 744  
grant awards on the agency's web site. 745

Sec. 122.4044. After the broadband expansion program 746  
authority awards a program grant under section 122.4043 of the 747  
Revised Code, the development services agency shall disburse the 748  
program grant as follows: 749

(A) A portion of the program grant, not to exceed thirty 750  
per cent, shall be disbursed before construction of the project 751

begins. 752

(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 agency by rules adopted under section 122.4077 of the Revised Code. 753  
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(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. 758  
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**Sec. 122.4045.** (A) The development services agency 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: 761  
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(1) After the construction is complete, but prior to the final disbursement made under division (C) of section 122.4044 of the Revised Code to verify that tier two broadband service is being offered; 765  
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(2) At any time during the reporting period required under division (B) of section 122.4070 of the Revised Code, after receiving a complaint concerning a residence that is part of the eligible project. 769  
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(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. 773  
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(C) The agency may withhold payments under this section for failure to meet at least the minimum speeds required under division (A) (8) of section 122.4020 of the Revised Code. Payments may be held until such speeds are achieved. 777  
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Sec. 122.4046. (A) If the development services agency 781  
determines that a broadband provider that has been awarded a 782  
program grant under the Ohio residential broadband expansion 783  
grant program has not complied with the requirements of the 784  
program, the agency shall notify the provider of the 785  
noncompliance. In accordance with rules adopted by the agency 786  
under section 122.4077 of the Revised Code, the agency shall 787  
give the provider an opportunity to explain or cure the 788  
noncompliance. 789

(B) After reviewing the broadband provider's explanation 790  
or effort to cure the noncompliance, the following shall apply: 791

(1) The agency may require the provider to refund an 792  
amount equal to all, or a portion of, the amount of the program 793  
grant awarded to the provider, as determined by the agency. 794

(2) The agency may require the broadband provider to 795  
refund to the appropriate municipal corporation, township, or 796  
county the entire amount of general revenue funds or other 797  
discretionary funds that it contributed toward the broadband 798  
funding gap under division (A) (3) (c) or (d) of section 122.4020 799  
of the Revised Code. 800

(C) Not more than thirty days after the agency's decision 801  
requiring a refund for program noncompliance or a failure to 802  
explain or cure it, the broadband provider shall pay the refund 803  
required under division (B) of this section. Payments shall be 804  
made directly to the municipal corporation, township, or county 805  
that contributed funds toward the broadband funding gap. 806

Sec. 122.4050. Upon adoption of a resolution, a board of 807  
county commissioners may request the development services agency 808  
to solicit applications from broadband providers for program 809

grants under the Ohio residential broadband expansion grant 810  
program for eligible projects in the municipal corporations and 811  
townships of the county. 812

A request made by a county shall identify, to the extent 813  
possible, the residential addresses in unserved or tier one 814  
areas of the county and provide a point of contact at the county 815  
and the municipal corporations and townships in which the 816  
addresses are located. The request may include any relevant 817  
information, documents, or materials that may be helpful for an 818  
application. 819

**Sec. 122.4051.** Upon receipt of a request from a board of 820  
county commissioners pursuant to section 122.4050 of the Revised 821  
Code, the development services agency shall solicit, on behalf 822  
of the county, applications for program grants for eligible 823  
projects under the Ohio residential broadband expansion grant 824  
program. Not later than seven days after receipt of the request, 825  
the agency shall make the request, and any accompanying 826  
information submitted with the request, available for review on 827  
the agency's web site. The request shall remain available on the 828  
web site for a period not to exceed two years. 829

**Sec. 122.4053.** An application for a program grant under 830  
the Ohio residential broadband expansion grant program made in 831  
response to a request under section 122.4050 of the Revised Code 832  
shall fully comply with all of the program requirements. Nothing 833  
in sections 122.4050, 122.4051, and 122.4053 of the Revised Code 834  
shall be construed as providing relief from compliance with any 835  
program requirements. 836

**Sec. 122.4055.** The development services agency shall not 837  
be responsible for any failure by a broadband provider to 838  
respond to a request made by the agency pursuant to section 839

122.4051 of the Revised Code or to submit an application for a 840  
program grant under the Ohio residential broadband expansion 841  
grant program. 842

**Sec. 122.4060.** (A) An eligible project shall not proceed 843  
unless the broadband expansion program authority awards a 844  
program grant under section 122.4043 of the Revised Code. 845

(B) After receiving a program grant award, the broadband 846  
provider shall construct and install last mile broadband 847  
infrastructure to the eligible project. 848

**Sec. 122.4061.** Under alternate payment term arrangements 849  
made under section 122.4025 of the Revised Code, unless 850  
otherwise negotiated, the participating legislative authorities 851  
in which the eligible project is located shall assume all 852  
financial responsibility for all of the eligible project costs 853  
incurred by the broadband provider prior to completion of the 854  
project or the award of a program grant. 855

**Sec. 122.4063.** (A) Nothing in sections 122.40 to 122.4077 856  
of the Revised Code entitles the state of Ohio, the development 857  
services agency, the broadband expansion program authority, or 858  
any other governmental entity to any ownership or other rights 859  
to broadband infrastructure constructed by a broadband provider 860  
pursuant to a program grant awarded to an eligible project. 861

(B) Nothing in sections 122.40 to 122.4077 of the Revised 862  
Code prevents an assignment, sale, change in ownership, or other 863  
similar transaction associated with broadband infrastructure 864  
constructed by a broadband provider pursuant to a program grant 865  
awarded to an eligible project. No assignment, sale, change in 866  
ownership, or other similar transaction relieves the successor 867  
of any obligation under sections 122.40 to 122.4077 of the 868

Revised Code. 869

Sec. 122.4070. (A) Each broadband provider that receives a 870  
program grant shall submit to the development services agency an 871  
annual progress report on the status of the deployment of the 872  
broadband network described in the eligible project for which 873  
the program grant award was made. 874

(B) The broadband provider shall submit an operational 875  
report with the agency not later than sixty days after the 876  
completion of the project and annually thereafter for a period 877  
of four years. 878

Sec. 122.4071. (A) The reports required under section 879  
122.4070 of the Revised Code and except as provided in section 880  
122.4075 of the Revised Code, all information and documents in 881  
them shall be in a format specified by the development services 882  
agency and shall be publicly available on the agency's web site. 883

(B) In each report, the broadband provider shall include 884  
an account of how program grant funds have been used and the 885  
project's progress toward fulfilling the objectives for which 886  
the program grant was awarded. The reports, at a minimum, shall 887  
include the following: 888

(1) The number of residences that have access to tier two 889  
broadband services as a result of the eligible project; 890

(2) The number of commercial and nonresidential entities 891  
that are not funded directly by the grant program but have 892  
access to tier two broadband service as a result of the eligible 893  
project; 894

(3) The upstream and downstream speed of the broadband 895  
service provided; 896



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|--|-----|
| <u>(4) The average price of broadband service;</u>                             | 897 |
| <u>(5) The number of broadband service subscriptions</u>                       | 898 |
| <u>attributable to the program grant.</u>                                      | 899 |
| <b><u>Sec. 122.4073.</u></b> <u>The development services agency may set a</u>  | 900 |
| <u>due date for the reports required under section 122.4070 of the</u>         | 901 |
| <u>Revised Code and, for good cause shown, may grant extensions of</u>         | 902 |
| <u>the report due dates.</u>   | 903 |
| <b><u>Sec. 122.4075.</u></b> <u>Reports required under section 122.4070 of</u> | 904 |
| <u>the Revised Code, and all information and documents in them,</u>            | 905 |
| <u>shall be maintained on a confidential basis by the development</u>          | 906 |
| <u>services agency and shall not be published on the agency's web</u>          | 907 |
| <u>site until the agency determines what information or documents</u>          | 908 |
| <u>are not confidential pursuant to section 122.4023 of the Revised</u>        | 909 |
| <u>Code.</u>   | 910 |
| <b><u>Sec. 122.4076.</u></b> <u>(A) The broadband expansion program</u>        | 911 |
| <u>authority shall complete an annual report for the Ohio</u>                  | 912 |
| <u>residential broadband expansion grant program. The report shall</u>         | 913 |
| <u>evaluate the success of the program grants awarded under section</u>        | 914 |
| <u>122.4043 of the Revised Code in making tier two broadband</u>               | 915 |
| <u>services available to unserved and tier one areas. The report</u>           | 916 |
| <u>shall include the following information:</u>                                | 917 |
| <u>(1) The number of applications received;</u>                                | 918 |
| <u>(2) The number of applications that received program</u>                    | 919 |
| <u>grants;</u>   | 920 |
| <u>(3) The amount of broadband infrastructure constructed for</u>              | 921 |
| <u>eligible projects;</u>  | 922 |
| <u>(4) The number of residences receiving, for that year,</u>                  | 923 |
| <u>tier two broadband service for the first time under the program;</u>        | 924 |

(5) Findings and recommendations that have been agreed to 925  
by a majority of the authority members. 926

(B) The report shall be published on the development 927  
services agency's web site and shall be included as part of the 928  
agency's annual report filed under section 121.18 of the Revised 929  
Code. The authority shall present the report annually to the 930  
governor and the general assembly not later than the first of 931  
December of each calendar year. 932

**Sec. 122.4077.** (A) The development services agency shall 933  
adopt rules for the Ohio residential broadband expansion grant 934  
program. The rules shall establish an application form and 935  
application procedures for the program and procedures for 936  
periodic program grant disbursements. 937

(B) The rules may include the following: 938

(1) Requirements for a program application in addition to 939  
the requirements described in section 122.4020 of the Revised 940  
Code; 941

(2) Procedures for and circumstances under which partial 942  
funding of applications is permitted; 943

(3) Procedures for broadband expansion program authority 944  
meetings, extension periods for applications and application 945  
challenges, hearings, and opportunities for public comment. 946

(C) The agency may adopt rules and procedures to implement 947  
sections 122.4051, 122.4053, and 122.4055 of the Revised Code. 948

(D) Rules adopted under this section are not subject to 949  
section 121.95 of the Revised Code. 950

(E) The agency and the authority are not subject to 951  
division (F) of section 121.95 of the Revised Code regarding the 952

development and adoption of rules pursuant to this section. 953

**Sec. 133.13.** If the special assessments are to be paid in 954  
one annual installment, the taxing authority of a subdivision 955  
may issue securities in anticipation of its levy or collection 956  
of special assessments to pay the costs of the subdivision's 957  
broadband funding gap portion for an eligible project under 958  
sections 122.40 to 122.4077 of the Revised Code, lighting, 959  
sprinkling, sweeping, cleaning, providing related or similar 960  
services or the services described in section 727.011 of the 961  
Revised Code, or of removing snow, ice, and debris from, or 962  
treating the surface of, streets, alleys, and public ways and 963  
places. 964

Such securities shall not be general obligations of the 965  
issuing subdivision, and shall not pledge to the payment of debt 966  
charges any receipts other than the special assessments 967  
anticipated, except that a municipal corporation, without 968  
incurring debt subject to direct or indirect debt limitations, 969  
may also pledge and apply proceeds of its municipal income tax 970  
to pay those debt charges. No property tax shall be levied or 971  
pledged for the payment of debt charges on the securities. The 972  
securities shall mature no later than the last day of December 973  
of the year in which the special assessments anticipated are 974  
scheduled to be collected. 975

The legislation authorizing the securities shall 976  
appropriate the special assessments anticipated, and such 977  
special assessments shall be deemed to be pledged and 978  
appropriated, first to the payment of the debt charges on the 979  
securities. After provision has been made for the payment in 980  
full of those debt charges, the balance of the special 981  
assessments may be appropriated and applied for the purposes for 982

|   |      |
|---|------|
| which they were levied.   | 983  |
| <u>Sec. 188.01. As used in sections 188.01 to 188.23 of the</u>         | 984  |
| <u>Revised Code:</u>  | 985  |
| <u>(A) "Broadband service" means any wholesale or retail</u>            | 986  |
| <u>service that consists of, or includes the provision of,</u>          | 987  |
| <u>connectivity to a high-speed, high-capacity transmission medium</u>  | 988  |
| <u>that can carry signals from or to multiple sources and that</u>      | 989  |
| <u>either provides access to the internet or provides computer</u>      | 990  |
| <u>processing, information storage, information content or protocol</u> | 991  |
| <u>conversion, including any service applications or information</u>    | 992  |
| <u>service provided over such high-speed access service. "Broadband</u> | 993  |
| <u>service" includes video service, voice over internet protocol</u>    | 994  |
| <u>service, and internet protocol-enabled services.</u>                 | 995  |
| <u>(B) "Electric cooperative" has the same meaning as in</u>            | 996  |
| <u>section 4928.01 of the Revised Code.</u>                             | 997  |
| <u>(C) "Internet protocol-enabled services" and "voice over</u>         | 998  |
| <u>internet protocol service" have the same meanings as in section</u>  | 999  |
| <u>4927.01 of the Revised Code.</u>                                     | 1000 |
| <u>(D) "Servient estate" means the land burdened by an</u>              | 1001 |
| <u>easement.</u>  | 1002 |
| <u>(E) "Video programming" means any programming generally</u>          | 1003 |
| <u>considered comparable to programming provided by a television</u>    | 1004 |
| <u>broadcast station.</u>   | 1005 |
| <u>(F) "Video service" means video programming services</u>             | 1006 |
| <u>without regard to delivery technology, including internet</u>        | 1007 |
| <u>protocol technology and video programming provided as a part of</u>  | 1008 |
| <u>a service that enables users to access content, information,</u>     | 1009 |
| <u>electronic mail, or other services offered over the public</u>       | 1010 |
| <u>internet.</u>  | 1011 |

Sec. 188.02. 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. 1012  
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Sec. 188.05. (A) If the owner of the servient estate of an easement described in section 188.02 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: 1018  
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(1) The fair market value of the owner's interest in the property of the estate immediately before the provision of broadband service; 1024  
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(2) The fair market value of the owner's interest in the property of the estate immediately after the provision of broadband service. 1027  
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(B) Any damages awarded under division (A) of this section shall be a fixed amount that shall not continue, accumulate, or accrue. 1030  
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(C) The values described in division (A) of this section shall be established by the testimony of a qualified real estate appraiser. 1033  
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Sec. 188.08. The court may not grant injunctive relief or any other equitable relief for an action described in section 188.05 of the Revised Code. 1036  
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Sec. 188.11. Actions described in section 188.05 of the Revised Code shall be brought within one year of any alleged 1039  
1040

damage described in that section. Any action not brought within 1041  
one year will result in forfeiture of that claim. 1042

Sec. 188.14. Past, current, or future revenues or profits 1043  
derived or to be derived from the use, apportionment, or 1044  
sublease of an easement for broadband service are not admissible 1045  
for any purpose in an action described in section 188.05 of the 1046  
Revised Code. 1047

Sec. 188.17. Any court determination regarding an easement 1048  
subject to an action described in section 188.05 of the Revised 1049  
Code shall be considered a finding that the provision of 1050  
broadband service is an allowable use or purpose under the 1051  
easement as if the use or purpose was specifically stated in the 1052  
terms of the easement. 1053

Sec. 188.20. A court determination described in section 1054  
188.17 of the Revised Code shall be filed by the defendant in 1055  
the action with the county recorder of the county in which the 1056  
servient estate subject to the determination is located. The 1057  
recorder shall make a notation in the official record that links 1058  
the determination to the servient estate and the easement 1059  
subject to the determination. 1060

Sec. 188.23. The owner of a servient estate of an easement 1061  
described in section 188.02 of the Revised Code may not bring an 1062  
action described in section 188.05 of the Revised Code if any of 1063  
the following apply: 1064

(A) The owner, either directly or through the owner's 1065  
membership in the electric cooperative or otherwise, authorized 1066  
the electric cooperative's electric delivery system for the 1067  
provision of broadband services. 1068

(B) The owner, or any of the previous owners of the 1069

property that makes up the servient estate, has agreed to, or 1070  
granted permission for, the use of the easement to provide 1071  
broadband service. 1072

(C) The facilities providing broadband service are used or 1073  
are capable of being used to assist in the transmission, 1074  
delivery, or use of electric service. 1075

Sec. 188.27. Sections 188.01 to 188.23 of the Revised Code 1076  
shall not be construed as expanding the authority of the state, 1077  
its agencies, or political subdivisions beyond the authority 1078  
existing under federal law or the laws of this state. 1079

Sec. 188.30. Sections 163.01 to 163.22 of the Revised Code 1080  
do not apply regarding the application of sections 188.01 to 1081  
188.23 of the Revised Code. 1082

Sec. 303.251. (A) If a program grant is awarded for an 1083  
eligible project under sections 122.40 to 122.4077 of the 1084  
Revised Code, the board of county commissioners of the county in 1085  
which the project is situated, by resolution, may levy a special 1086  
assessment upon residential property within the county for the 1087  
purpose of providing a contribution from the county towards the 1088  
funding gap for the eligible project. Assessments under this 1089  
section shall be levied only upon the residential property that 1090  
is subject to the eligible project. Before adopting the 1091  
resolution, the board shall send written notice to each affected 1092  
property owner stating the estimated assessment for that 1093  
property. If an owner objects to the stated estimated 1094  
assessment, the owner shall file a written objection with the 1095  
board not later than two weeks after the notice is mailed. The 1096  
board shall review the written objections and may revise the 1097  
estimated assessments before adopting the resolution. If the 1098  
property owner objects to the final assessment for the property 1099

levied in the resolution, the owner may appeal the final 1100  
assessment under Chapter 2506. of the Revised Code. 1101

(B) The assessment shall be at a rate that will produce a 1102  
total assessment that is not more than the county's contribution 1103  
towards the funding gap for the eligible project as described in 1104  
the application under section 122.4020 of the Revised Code. The 1105  
board shall certify the amount to be levied upon each affected 1106  
property to the county auditor, who shall enter the amount on 1107  
the tax duplicate for collection by the county treasurer in 1108  
equal semiannual installments in the same manner and at the same 1109  
times as the collection of taxes on real property. Assessments 1110  
shall be paid by owners of the properties upon which assessments 1111  
are levied. 1112

(C) The assessments, when collected, shall be paid by the 1113  
county auditor by warrant on the county treasurer into a special 1114  
fund in the county treasury created for the purpose of funding 1115  
an eligible project for which a program grant is awarded under 1116  
sections 122.40 to 122.4077 of the Revised Code and that is 1117  
located in the county. The board may expend moneys from the fund 1118  
only for the purposes for which the assessments were levied. 1119

**Sec. 505.881.** (A) If a program grant is awarded for an 1120  
eligible project under sections 122.40 to 122.4077 of the 1121  
Revised Code, the board of township trustees in which the 1122  
project is situated, by resolution, may levy a special 1123  
assessment upon residential property within the township for the 1124  
purpose of providing a contribution from the township towards 1125  
the broadband funding gap for the eligible project. Assessments 1126  
under this section shall be levied only upon the residential 1127  
property that is subject to the eligible project. Before 1128  
adopting the resolution, the board shall send written notice to 1129



each affected property owner stating the estimated assessment 1130  
for that property. If an owner objects to the stated estimated 1131  
assessment, the owner shall file a written objection with the 1132  
board not later than two weeks after the notice is mailed. The 1133  
board shall review the written objection and may revise the 1134  
estimated assessment before adopting the resolution. If the 1135  
property owner objects to the final assessment for the property 1136  
levied in the resolution, the owner may appeal the final 1137  
assessment under Chapter 2506. of the Revised Code. 1138

(B) The assessment shall be at a rate that will produce a 1139  
total assessment that is not more than the township's 1140  
contribution towards the funding gap for the eligible project as 1141  
described in the application under section 122.4020 of the 1142  
Revised Code. The board shall certify the amount to be levied 1143  
upon each affected property to the county auditor, who shall 1144  
enter the amount on the tax duplicate for collection by the 1145  
county treasurer in equal semiannual installments in the same 1146  
manner and at the same times as the collection of taxes on real 1147  
property. Assessments shall be paid by owners of the properties 1148  
upon which assessments are levied. 1149

(C) The assessments, when collected, shall be paid by the 1150  
county auditor by warrant on the county treasurer into a special 1151  
fund in the township treasury created for the purpose of funding 1152  
an eligible project for which a program grant is awarded under 1153  
sections 122.40 to 122.4077 of the Revised Code and that is 1154  
located in the township. The board may expend moneys from the 1155  
fund only for the purposes for which the assessments were 1156  
levied. 1157

**Sec. 727.01.** Each municipal corporation shall have special 1158  
power to levy and collect special assessments. The legislative 1159

authority of a municipal corporation may assess upon the 1160  
abutting, adjacent, and contiguous, or other specially 1161  
benefited, lots or lands in the municipal corporation, any part 1162  
of the cost connected with the improvement of any street, alley, 1163  
dock, wharf, pier, public road, place, boulevard, parkway, or 1164  
park entrance or an easement of the municipal corporation 1165  
available for the purpose of the improvement to be made in it by 1166  
grading, draining, curbing, paving, repaving, repairing, 1167  
treating the surface with substances designed to lay the dust on 1168  
it or preserve it, constructing sidewalks, piers, wharves, 1169  
docks, retaining walls, sewers, sewage disposal works and 1170  
treatment plants, sewage pumping stations, water treatment 1171  
plants, water pumping stations, reservoirs, and water storage 1172  
tanks or standpipes, together with the facilities and 1173  
appurtenances necessary and proper therefor, drains, storm-water 1174  
retention basins, watercourses, water mains, or laying of water 1175  
pipe, or the lighting, sprinkling, sweeping, or cleaning 1176  
thereof, or removing snow therefrom, any part of the cost and 1177  
expense of planting, maintaining, and removing shade trees 1178  
thereupon; any part of the cost of a voluntary action, as 1179  
defined in section 3746.01 of the Revised Code, undertaken 1180  
pursuant to Chapter 3746. of the Revised Code by a special 1181  
improvement district created under Chapter 1710. of the Revised 1182  
Code, including the cost of acquiring property with respect to 1183  
which the voluntary action is undertaken; any part of the cost 1184  
and expense of constructing, maintaining, repairing, cleaning, 1185  
and enclosing ditches; any part of the cost and expense of 1186  
operating, maintaining, and replacing heating and cooling 1187  
facilities for enclosed pedestrian canopies and malls; any part 1188  
of the cost and expense of acquiring and improving parking 1189  
facilities and structures for off-street parking of motor 1190  
vehicles or of acquiring land and improving it by clearing, 1191

grading, draining, paving, lighting, erecting, constructing, and 1192  
equipping it for parking facilities and structures for off- 1193  
street parking of motor vehicles, to the extent authorized by 1194  
section 717.05 of the Revised Code, but only if no special 1195  
assessment made for the purpose of developing off-street parking 1196  
facilities and structures is levied against any land being used 1197  
solely for off-street parking or against any land used solely 1198  
for single or two-family dwellings; any part of the cost and 1199  
expense of operating and maintaining the off-street parking 1200  
facilities and structures; and any part of the cost connected 1201  
with changing the channel of, or narrowing, widening, dredging, 1202  
deepening, or improving, any stream or watercourse, and for 1203  
constructing or improving any levees or boulevards on any stream 1204  
or watercourse, or along or about any stream or watercourse, 1205  
together with any retaining wall, riprap protection, bulkhead, 1206  
culverts, approaches, flood gates, waterways, or drains 1207  
incidental to any stream or watercourse, or for making any other 1208  
improvement of any river or lake front, whether it is privately 1209  
or publicly owned, which the legislative authority declares 1210  
conducive to the public health, convenience, or welfare. If a 1211  
program grant is awarded for an eligible project under sections 1212  
122.40 to 122.4077 of the Revised Code, a municipal corporation 1213  
may levy, against dwellings that are subject to the project, a 1214  
special assessment for the purpose of providing a contribution 1215  
from the municipal corporation towards the funding gap for the 1216  
project. The assessment shall be at a rate that will produce a 1217  
total assessment that is not more than the municipal 1218  
corporation's contribution towards the funding gap for the 1219  
eligible project as described in the application under section 1220  
122.4020 of the Revised Code. In addition, a municipal 1221  
corporation may levy a special assessment for public improvement 1222  
or public services plans of a district formed under Chapter 1223

1710. of the Revised Code, as provided in that chapter. Except 1224  
as otherwise provided in Chapter 1710. of the Revised Code, 1225  
special assessments may be levied by any of the following 1226  
methods: 1227

(A) By a percentage of the tax value of the property 1228  
assessed; 1229

(B) In proportion to the benefits that may result from the 1230  
improvement; 1231

(C) By the front foot of the property bounding and 1232  
abutting upon the improvement. 1233

Sec. 4926.01. As used in sections 4926.01 to 4926.60 of 1234  
the Revised Code: 1235

"Attachment" means any wire, wireless facility, cable, 1236  
antennae facility, or apparatus for the transmission of text, 1237  
signs, signals, pictures, sounds, or other forms of information 1238  
installed by or on behalf of a provider upon any pole owned or 1239  
controlled, in whole or in part, by one or more electric 1240  
cooperatives. 1241

"Broadband provider" has the same meaning as in section 1242  
122.40 of the Revised Code. 1243

"Electric cooperative" has the same meaning as in section 1244  
4928.01 of the Revised Code. 1245

"Incremental cost" means pole attachment costs incurred by 1246  
an electric cooperative for providing long-run service. 1247

"Make-ready work" means, as determined by the nature of 1248  
the work required, "make-ready," "complex make-ready," or 1249  
"simple make-ready" as those terms are defined in 47 C.F.R. 1250  
1.1402. 1251

"Provider" means a broadband provider, telecommunications service provider, video service provider, or wireless service provider. 1252  
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"Telecommunications service provider" means a provider of "telecommunications service" as defined in section 4927.01 of the Revised Code. 1255  
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"Video service provider" has the same meaning as in section 1332.21 of the Revised Code. 1258  
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"Wireless service provider" has the same meaning as in section 4927.01 of the Revised Code. 1260  
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**Sec. 4926.03.** 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 4926.06 to 4926.36 of the Revised Code. 1262  
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**Sec. 4926.06.** 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. 1267  
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**Sec. 4926.09.** 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 4926.06 to 4926.36 of the Revised Code if the cooperative requires all other attaching parties to execute such an agreement. 1271  
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**Sec. 4926.12.** After receiving a request for access, an electric cooperative shall grant or deny access within the time frame established by the federal communications commission, unless, pursuant to section 4926.57 of the Revised Code, a court 1277  
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of common pleas determines a different time frame for granting 1281  
or denying access. 1282

Sec. 4926.15. An electric cooperative may deny a provider 1283  
access to its poles for either of the following reasons if the 1284  
reasons are applied on a nondiscriminatory basis: 1285

(A) Insufficient capacity; 1286

(B) Safety, reliability, or generally applicable 1287  
engineering standards. 1288

Sec. 4926.18. If an electric cooperative denies an access 1289  
request submitted under section 4926.15 of the Revised Code, the 1290  
cooperative must confirm the denial in writing. The denial shall 1291  
be specific and shall include all relevant evidence and 1292  
information supporting the denial and an explanation of how that 1293  
evidence and information relates to the factors described in 1294  
section 4926.15 of the Revised Code on which the denial is 1295  
based. 1296

Sec. 4926.21. (A) A provider and an electric cooperative 1297  
shall comply with the process for make-ready work under 47 1298  
U.S.C. 224 and the federal communications commission orders and 1299  
regulations implementing that section, unless, pursuant to 1300  
section 4926.57 of the Revised Code, a court of common pleas 1301  
establishes a different process for make-ready work. 1302

(B) The cooperative shall provide a good-faith estimate 1303  
for any make-ready work, which shall include pole replacement if 1304  
necessary. All make-ready costs shall be based on the 1305  
cooperative's actual costs not recovered through the annual 1306  
recurring attachment rate. The cooperative shall provide 1307  
detailed documentation of the actual costs. 1308

(C) A cooperative that charges an annual recurring 1309

attachment fee shall establish the fee in accordance with the 1310  
cable pole attachment rate formula established in 47 U.S.C. 1311  
224(d) and commission orders and regulations implementing that 1312  
formula, unless, pursuant to section 4926.57 of the Revised 1313  
Code, a court of common pleas establishes a different attachment 1314  
fee. 1315

**Sec. 4926.24.** The attachment of facilities on the poles of 1316  
an electric cooperative by a provider shall comply with the 1317  
following: 1318

(A) The most recent, applicable, nondiscriminatory safety 1319  
and reliability standards adopted by the cooperative; 1320

(B) The national electric safety code adopted by the 1321  
institute of electrical and electronics engineers in effect on 1322  
the date of the attachment. 1323

**Sec. 4926.27.** Nothing in sections 4926.01 to 4926.60 of 1324  
the Revised Code affects a provider or other attaching party's 1325  
obligation to obtain any necessary authorization before 1326  
occupying public ways or private rights-of-way with its 1327  
attachment. 1328

**Sec. 4926.30.** If an electric cooperative's pole facility 1329  
is modified, a party with a preexisting attachment to the 1330  
modified facility is considered to directly benefit from a 1331  
modification if, after receiving notification of the 1332  
modification, the party adds to or modifies its attachment. 1333

**Sec. 4926.33.** (A) If an electric cooperative's pole 1334  
facility is modified, all parties that obtain access to the 1335  
facility as a result of the modification and all parties that 1336  
directly benefit from the modification shall share 1337  
proportionately in the cost of the modification. 1338

(B) If a party makes an attachment to the facility after 1339  
the completion of the modification, the party shall share 1340  
proportionately in the costs of the modification if that 1341  
modification rendered the added attachment possible. 1342

Sec. 4926.36. Unless a modification by an electric 1343  
cooperative is necessary for an electric service that uses smart 1344  
grid or other technology, a party with a preexisting attachment 1345  
to a pole is not required to bear any of the costs of 1346  
rearranging or replacing its attachment if the rearrangement or 1347  
replacement is necessary because of another party's request for 1348  
an additional attachment or a modification of an existing 1349  
attachment. 1350

Sec. 4926.39. Subject to the venue requirements of 1351  
section 4926.43 of the Revised Code, an electric cooperative or 1352  
a provider may file a complaint regarding pole attachment 1353  
disputes with respect to sections 4926.01 to 4926.60 of the 1354  
Revised Code with the court of commons pleas of the county in 1355  
which the cooperative's Ohio headquarters is located. 1356

Sec. 4926.42. Subject to the venue requirements of section 1357  
4926.43 of the Revised Code, the court of common pleas of the 1358  
county in which an electric cooperative's Ohio headquarters is 1359  
located has jurisdiction to hear complaints and to grant 1360  
remedies with respect to sections 4926.01 to 4926.60 of the 1361  
Revised Code regarding attachment disputes for which a complaint 1362  
is filed. 1363

Sec. 4926.43. A hearing regarding a complaint filed under 1364  
section 4926.39 of the Revised Code is a special statutory 1365  
proceeding under division (C) of Civil Rule 1 of the Rules of 1366  
Civil Procedure. Any civil proceeding under section 4926.39 of 1367  
the Revised Code shall be conducted in accordance with the Rules 1368



of Civil Procedure, except that a complaint regarding pole attachment disputes with respect to sections 4926.01 to 4926.60 of the Revised Code is not subject to general venue provisions in Civil Rule 3 of the Rules of Civil Procedure. To that extent only, such proceedings shall be deemed a special statutory proceeding under division (C) (8) of Civil Rule 1 of the Rules of Civil Procedure. 1369  
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Venue for such a proceeding shall lie only in the county in which the cooperative's Ohio headquarters is located, provided that at least some portion of the attachment will occur in that county. In the event that the cooperative's Ohio headquarters is not located in a county in which some portion of the attachment will occur, or that more than one cooperative is a party, venue shall lie only in the county in which the largest physical portion of the attachment will occur. 1376  
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Court orders relative to venue are final orders pursuant to division (B) (2) of section 2505.02 of the Revised Code. Orders not specifically relating to venue are reviewable on appeal in the same manner as judgments in any civil action. 1384  
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Land acquisition actions pursuant to Chapter 163. of the Revised Code are not affected by this section and shall be heard in a venue as provided in that chapter or Civil Rule 3 of the Rules of Civil Procedure. 1388  
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**Sec. 4926.45.** Before a court of common pleas may order any remedy under section 4926.57 of the Revised Code regarding a pole attachment complaint filed with respect to sections 4926.01 to 4926.60 of the Revised Code, the court shall determine, and a complainant shall establish, by a preponderance of the evidence, each of the following: 1392  
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(A) That any rate, term, or condition complained of is not 1398  
just and reasonable or a denial of access was unlawful. 1399

(B) If the complaint concerns any rate, term, or 1400  
condition, that such rate, term, or condition is contained in, 1401  
or demanded by either party as a condition to entering into, 1402  
either: 1403

(1) A new pole attachment agreement; or 1404

(2) An amendment, renewal, or replacement of an existing 1405  
agreement that may be terminated, amended, renewed, or replaced 1406  
on or after the effective date of this section; 1407

(C) If the complaint concerns any rate, term, or 1408  
condition, that the provider and the electric cooperative first 1409  
attempted to negotiate regarding the terms of a new, amended, 1410  
renewed, or replaced agreement for a period of at least forty- 1411  
five days prior to filing the complaint. 1412

**Sec. 4926.48.** (A) The complainant under section 4926.39 of 1413  
the Revised Code has the burden of establishing a prima facie 1414  
case that the rate, term, or condition complained of is not just 1415  
and reasonable or that the denial of access was unlawful. 1416

(B) In a case involving a denial of access, the electric 1417  
cooperative has the burden of establishing, by a preponderance 1418  
of the evidence, that the denial was lawful, once a prima facie 1419  
case is established by the complainant. 1420

**Sec. 4926.51.** In a complaint filed under section 4926.39 1421  
of the Revised Code, if an electric cooperative claims that the 1422  
proposed rate is lower than its incremental costs, the 1423  
cooperative has the burden of establishing, by a preponderance 1424  
of the evidence, its incremental costs. 1425

Sec. 4926.54. In a complaint filed under section 4926.39 1426  
of the Revised Code, there is a rebuttable presumption that each 1427  
of the following is just and reasonable: 1428

(A) The time frame to grant or deny access, if it is 1429  
within the time frame established by the federal communications 1430  
commission; 1431

(B) The process for make-ready work, if it is in 1432  
accordance with the process for make-ready work under 47 U.S.C. 1433  
224 and the federal communications commission orders and 1434  
regulations implementing that section; 1435

(C) The charged rate, if the electric cooperative can show 1436  
that its charged rate does not exceed an annual recurring 1437  
attachment rate calculated in accordance with the cable pole 1438  
attachment rate formula in 47 U.S.C. 224(d) and federal 1439  
communications commission orders and regulations implementing 1440  
that formula. 1441

Sec. 4926.57. (A) If, pursuant to a complaint filed under 1442  
section 4926.39 of the Revised Code, a court of common pleas 1443  
determines that any rate, term, or condition described in the 1444  
complaint is not just and reasonable, it may do, but is not 1445  
limited to doing, any of the following: 1446

(1) Terminate the rate, term, or condition and prescribe a 1447  
just and reasonable rate, term, or condition; 1448

(2) Require entry into a pole attachment agreement on just 1449  
and reasonable rates, terms, and conditions; 1450

(3) Require access to poles as provided under sections 1451  
4926.06 to 4926.36 of the Revised Code; 1452

(4) Substitute in the pole attachment agreement the just 1453

and reasonable rate, term, or condition established by the 1454  
court; 1455

(5) Order a refund or payment, as appropriate. 1456

(B) A refund or payment ordered under this section may not 1457  
exceed the difference between the actual amount paid under the 1458  
unjust and unreasonable rate, term, or condition and the amount 1459  
that would have been paid under the rate, term, or condition 1460  
established by the court for the period described in the 1461  
complaint, provided that the period during which refunds or 1462  
payments are made does not exceed two years. 1463

**Sec. 4926.60.** A court of common pleas determination 1464  
resolving a complaint under sections 4926.39 to 4926.57 of the 1465  
Revised Code shall be issued in the form of a final appealable 1466  
order. 1467

**Section 2.** That existing sections 133.13 and 727.01 of the 1468  
Revised Code are hereby repealed. 1469

**Section 3.** All items in Section 4 of this act are hereby 1470  
appropriated as designated out of any moneys in the state 1471  
treasury to the credit of the designated fund. For all operating 1472  
appropriations made in that section, those in the first column 1473  
are for fiscal year 2020 and those in the second column are for 1474  
fiscal year 2021. The operating appropriations made in Section 4 1475  
of this act are in addition to any other operating 1476  
appropriations made for the FY 2020-FY 2021 biennium. 1477

**Section 4.** 1478

1479

|   |   |     |              |
|---|---|-----|--------------|
| A | DEV DEVELOPMENT SERVICES AGENCY               |     |              |
| B | Facilities Establishment Fund Group           |     |              |
| C | 5GT0 195550 Broadband Development Grants      | \$0 | \$20,000,000 |
| D | TOTAL FCE Facilities Establishment Fund Group | \$0 | \$20,000,000 |
| E | TOTAL ALL BUDGET FUND GROUPS                  | \$0 | \$20,000,000 |

BROADBAND DEVELOPMENT GRANTS 1480

Notwithstanding Chapter 166. of the Revised Code, the 1481  
foregoing appropriation item 195550, Broadband Development 1482  
Grants, shall be used for grants under the Ohio Residential 1483  
Broadband Expansion Grant Program established in section 122.401 1484  
of the Revised Code. 1485

On the effective date of this section, or as soon as 1486  
possible thereafter, the Director of Budget and Management shall 1487  
transfer \$20,000,000 cash from the Facilities Establishment Fund 1488  
(Fund 7037) to the Ohio Residential Broadband Expansion Grant 1489  
Program Fund (Fund 5GTO). 1490

Any unexpended and unencumbered portion of the foregoing 1491  
appropriation item 195550, Broadband Development Grants, at the 1492  
end of fiscal year 2021 is hereby reappropriated for the same 1493  
purpose in fiscal year 2022. 1494

**Section 5.** Within the limits set forth in this act, the 1495  
Director of Budget and Management shall establish accounts 1496  
indicating the source and amount of funds for each appropriation 1497  
made in Section 4 of this act, and shall determine the form and 1498

manner in which appropriation accounts shall be maintained. 1499

Expenditures from operating appropriations contained in Section 1500

4 of this act shall be accounted for as though made in H.B. 166 1501

of the 133rd General Assembly. 1502

The operating appropriations made in Section 4 of this act 1503

are subject to all provisions of H.B. 166 of the 133rd General 1504

Assembly that are generally applicable to such appropriations. 1505

**Section 6.** This act is hereby declared to be an emergency 1506

measure necessary for the immediate preservation of the public 1507

peace, health, and safety. The reason for such necessity is that 1508

the lack of broadband access in the state is an ongoing issue 1509

that has become more urgent during the COVID-19 pandemic and 1510

requires additional broadband infrastructure to be deployed at 1511

the earliest possible date. Therefore, this act shall go into 1512

immediate effect. 1513