

- (5) Capital improvement. – A term that includes real property acquisition, new construction or rehabilitation of existing facilities, and repairs and ~~renovations~~ renovations over one hundred thousand dollars (\$100,000) in value."

STATE CAPITAL AND INFRASTRUCTURE FUND CHANGES

SECTION 36.8.(a) G.S. 143C-4-3.1(d) reads as rewritten:

"(d) Transfer of Funds to the Fund. – Each fiscal year, the Office of State Controller shall transfer to the Fund the estimated amounts required pursuant to subsection (c) of this section. ~~Upon calculation of the actual net State tax revenue collections that are deposited in the General Fund, the Office of State Controller shall adjust the amount of the transfer to the Fund to achieve an amount equivalent to four percent (4%) of collections.~~ Each fiscal year, the Office of State Controller shall transfer to the Fund one-fourth of the General Fund unreserved fund balance, as determined on a cash basis, at the end of the fiscal year."

SECTION 36.8.(b) This section becomes effective July 1, 2019.

RICHMOND COMMUNITY COLLEGE BOND USE

SECTION 36.9.(a) Notwithstanding any other provision of law to the contrary, the Board of Trustees of Richmond Community College (College) may expend State funds appropriated for capital improvements, including Connect NC bond proceeds to be used for projects at the College, for the construction and renovation of educational facilities owned by and located on property owned by the City of Rockingham, including for construction of a facility to house the College's Business and Information Technology departments, the Small Business Center, and the Customized Training department. Any facility constructed or renovated with funds used pursuant to this section shall be leased to the Board of Trustees of the College for the College's sole use. Upon payment by the City of Rockingham on all loan agreements, including construction agreements and United States Department of Agriculture agreements, the City of Rockingham shall transfer title to the property to the Board of Trustees of the College. If the lease is terminated through no fault of the College, a prorated amount of the building cost supported by State funds, amortized over the lease period, shall be returned to the College.

SECTION 36.9.(b) If the funds described in subsection (a) of this section are derived from Connect NC bond proceeds, then the proceeds shall be expended on the cost of capital facilities that are to be used by the College to carry out its community college purposes. The lease shall contain adequate provision to assure that the capital facilities so provided will be used for community college purposes.

SECTION 36.9.(c) The Board of Trustees of the College may contract for the construction and renovation of educational facilities owned by and located on property owned by the City of Rockingham, including for construction of a facility to house the College's Business and Information Technology departments, the Small Business Center, and the Customized Training department, without being subject to the provisions of G.S. 143-341.

SECTION 36.9.(d) This section is effective the date this act becomes law and applies only to capital improvement projects with construction contracts executed prior to July 1, 2022.

PART XXXVII. DEPARTMENT OF INFORMATION TECHNOLOGY

GROWING RURAL ECONOMIES WITH ACCESS TO TECHNOLOGY (GREAT) PROGRAM

SECTION 37.1.(a) The General Assembly finds that broadband service is an essential element to ensure economic opportunity in a twenty-first century global economy. Recognizing that the availability of terrestrially deployed broadband at connection speeds exceeding 10 megabits per second (Mbps) download and one Mbps upload (10:1) is vital for

enabling economic opportunity in our State, particularly in rural areas, the General Assembly hereby establishes the Growing Rural Economies with Access to Technology (GREAT) program to facilitate the deployment of broadband to unserved areas of the State. The purpose of this program is to encourage the deployment of broadband at the highest possible speeds throughout as much of the inhabitable geographic area of the State that is practical and feasible by the year 2030. The General Assembly believes that expanding access to currently unserved areas will have multiple benefits, including recruitment of new businesses and industries, strengthening e-commerce, growth of the home-based workforce, expanding educational opportunity, greater utilization of telehealth, increased energy efficiency by enabling the use of energy-saving smart devices, among many others.

The GREAT program is designed to significantly expedite the terrestrial deployment of broadband by encouraging partnerships and competition between private broadband providers and cooperatives to provide citizens with improved choices and greater value for broadband service and by reducing costs via allowing for the lease of State- or local government-owned properties or facilities for the purpose of locating or collocating broadband infrastructure.

The Federal Communications Commission current minimum level of broadband service speed for its Connect America Fund is 10:1 Mbps, and the Commission utilizes a benchmark of 25:3 to assess progress in broadband deployment for advanced telecommunications capability over time. It is the position of the General Assembly to not only have broadband service extended to areas where it presently does not exist but also to foster speeds exceeding 10:1 to help assure that as much of the inhabitable area of the State as possible is well-positioned with broadband service for the future. Therefore, the General Assembly encourages the deployment of speeds of 25:3 Mbps or greater.

SECTION 37.1.(b) Part 6 of Article 15 of Chapter 143B of the General Statutes is amended by adding a new section to read:

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

- (a) As used in this section, the following definitions apply:
- (1) Agriculture. – Activities defined in G.S. 106-581.1.
 - (2) Broadband service. – For the purposes of this section, terrestrially deployed Internet access service with transmission speeds of at least 10 megabits per second (Mbps) download and at least one megabit per second upload (10:1).
 - (3) Coastal Plain Region. – The portion of the State lying east of the eastern boundaries of Franklin, Lee, Moore, Wake, and Warren Counties.
 - (4) Cooperative. – An electric membership corporation, organized pursuant to Article 2 of Chapter 117 of the General Statutes, or a telephone membership corporation, organized pursuant to Article 4 of Chapter 117 of the General Statutes.
 - (5) Eligible economically distressed county. – A county designated as a development tier one area, as defined in G.S. 143B-473.08.
 - (6) Eligible project. – An eligible project is a discrete and specific project located in an unserved area of an economically distressed county seeking to provide broadband service to homes, businesses, and community anchor points not currently served. Eligible projects do not include middle mile, backhaul, and other similar projects not directed at broadband service to end users.
 - (7) Eligible recipient. – Eligible grant recipients are private providers of broadband services, including cooperatively organized entities, or any partnerships formed between cooperatively organized entities, private providers, or any combination thereof, on or after January 1, 2018.
 - (8) Household. – A house, apartment, single room, or other group of rooms, if occupied or intended for occupancy as separate living quarters, and where the

occupants do not live with any other persons in the structure and there is direct access from the outside or through a common hall.

- (9) Infrastructure costs. – Costs directly related to the construction of broadband infrastructure for the extension of broadband service for an eligible project, including installation, acquiring or updating easements, equipment, fiber, construction, backhaul infrastructure, and testing costs. The term does not include overhead or administrative costs.
- (10) Mountain Region. – The portion of the State lying west of and including Alleghany, Burke, Caldwell, Rutherford, and Wilkes Counties.
- (11) Office. – The Broadband Infrastructure Office in the Department of Information Technology.
- (12) Piedmont Region. – The portion of the State lying west of and including Franklin, Lee, Moore, Richmond, Wake, and Warren Counties, to the eastern boundaries of Alleghany, Burke, Caldwell, Rutherford, and Wilkes Counties.
- (13) Secretary. – The Secretary of the Department of Information Technology.
- (14) Unserved area. – A designated geographic area that is presently without access to broadband service, as defined in this section, offered by a wireline or fixed wireless provider. Areas where a private provider has been designated to receive funds through other State or federally funded programs designed specifically for broadband deployment shall be considered served if such funding is intended to result in construction of broadband in the area within 18 months.

(b) The Growing Rural Economies with Access to Technology Fund is established as a special revenue fund in the Department of Information Technology. The Secretary may award grants from the Growing Rural Economies with Access to Technology Fund to eligible recipients for eligible projects. The funds shall be used by the recipient to pay for infrastructure costs associated with an eligible project. State funds appropriated to this Fund shall be considered an information technology project within the meaning of G.S. 143C-1-2.

(c) Project areas comprised of census blocks, or portions thereof, within which a broadband provider is receiving State or federal matching funds to deploy technologically neutral scalable broadband service within the next 18 months are ineligible for the GREAT program. It is essential for the Office to know the location of census blocks, or portions thereof, comprising these areas so it can determine project eligibility. A private provider receiving State or federal matching funds to deploy broadband service within such an area shall, within 60 days of the effective date of this section, submit only a listing of the census blocks, or portions thereof, comprising each of its federally funded project areas meeting this requirement and nothing more to the Office. In future program years, the cutoff date for submitting this census block data shall be May 15. This will enable the office to update maps and advise applicants as to the unserved areas of the State that are eligible for consideration in that program year. The Office shall only utilize this data to update maps of census blocks to reflect these census blocks, or portions thereof, as being served. Failure on the part of a provider to submit the listing of census blocks by the cutoff date shall result in those areas being eligible for inclusion under this program during the upcoming program year. The Office shall use the census block data provided only for mapping of unserved areas. Information provided to the Office pursuant to this subsection is not a public record, as that term is defined in G.S. 132-1.

(d) Applications for grants will be submitted at times designated by the Secretary and will include, at a minimum, the following information:

- (1) An attestation to the Office that the proposed project area is eligible.
- (2) The identity of the applicant and its qualifications and experience with deployment of broadband.
- (3) The total cost and duration of the project.

- (4) The amount to be funded by the applicant.
- (5) An illustration or description of the area to be served and the number of homes, businesses, community anchor points, agricultural operations, or agricultural processing facilities that will have access to broadband as a result of the project.
- (6) An assessment of the current level of broadband access in the proposed deployment area and the current level of service provided at the point from which broadband deployment will be made.
- (7) The proposed construction time line.
- (8) A description of the services to be provided, including the proposed upstream and downstream broadband speeds to be delivered and any applicable data caps, provided that any applicant proposing a data cap below 150 Gigabytes of usage per month shall provide justification to the satisfaction of the Office that the proposed cap is in the public interest and consistent with industry standards.
- (9) Any other information or supplementary documentation requested by the Office.
- (10) A plan to encourage users to connect that incorporates, at a minimum, community education forums, multimedia advertising, and marketing programs.
- (11) For the proposed area to be served, the infrastructure cost per household for the project.
- (12) Evidence of support for the project from citizens, local government, businesses, and institutions in the community.
- (13) The proposed advertised speed to be marketed to end users.
- (14) An explanation of the scalability of the broadband infrastructure to be deployed for higher broadband speeds in the future.

(e) Applications shall be made publicly available by posting on the Web site of the Department of Information Technology for a period of at least 30 days prior to award. During the 30-day period, any interested party may submit comments to the Secretary concerning any pending application. A provider of broadband services may submit a protest of any application on the grounds the proposed project covers an area that is not an eligible area under this section. Protests shall be submitted in writing, accompanied by all relevant supporting documentation, and shall be considered by the Office in connection with the review of the application. Protests based upon actual current connection speed in a proposed project area shall not be considered. For applications with filed protests, the Secretary shall issue a written decision to the protesting party at least 15 days prior to the approval of that application.

(f) The Office may consult with the Department of Commerce to determine if a broadband project proposed under this section will benefit a potential economic development project relevant to the proposed area outlined in the broadband project.

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

- (1) Partnership. – Projects involving partnership or affiliation by a private provider with a nonprofit or not-for-profit, or a for-profit subsidiary of either that is required to enable certain partnership activities, or any combination thereof, shall be given five points in their application score where it is documented to the satisfaction of the Office that the partnership or affiliation will facilitate deployment and reduce cost per housing unit by utilizing the

resources, facilities, and infrastructure of the partner or where the nonprofit or not-for-profit partner provides only financial support.

- (2) Unserved households. – The Office shall give additional points to projects based upon the estimated number of unserved households within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the Office. Points shall be given to projects that will be located in counties with estimated unserved households as follows:

<u>Unserved Households</u>	<u>Points Given</u>
<u>700 or less</u>	<u>1</u>
<u>700-1999</u>	<u>2</u>
<u>2000 and over</u>	<u>3</u>

- (3) Households to be served. – The Office shall give additional points to projects that will provide broadband service to unserved households within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the Office. Points shall be given to projects that will serve unserved households within the project area as follows:

<u>Households To Be Served</u>	<u>Points Given</u>
<u>Under 150</u>	<u>1</u>
<u>150-249</u>	<u>2</u>
<u>250 and up</u>	<u>3</u>

- (4) Unserved businesses. – The Office shall give additional points to projects that will provide broadband service to unserved businesses located within the eligible economically distressed county, as determined by the most recent data published by the Federal Communications Commission or any other information available to the Office. Points shall be given to projects that serve unserved businesses within the project area as follows:

- a. Projects proposing to serve between 1 and 4 businesses shall receive 1 point.
- b. Projects proposing to serve between 5 and 10 businesses shall receive 2 points.
- c. Projects proposing to serve either (i) more than 10 businesses or (ii) an agricultural operation, agricultural processing facility, or a business with 31 or more full-time employees shall receive 3 points.

- (5) Cost per household. – The Office shall give additional points to projects that minimize the infrastructure cost of the proposed project per household, based upon information available to the Office. Points shall be given to projects based upon the estimated cost per household as follows:

- a. For projects proposed in the Piedmont or Coastal Plain Regions:

<u>Est. Cost per Household</u>	<u>Partnership Using Infrastructure</u>	<u>Private Provider Only</u>
<u>Up to \$1,700</u>	<u>4</u>	<u>9</u>
<u>\$1,701-2,200</u>	<u>3</u>	<u>8</u>

- b. For projects located in the Mountain Region:

<u>Est. Cost per Household</u>	<u>Partnership Using Infrastructure</u>	<u>Private Provider Only</u>
<u>Up to \$2,500</u>	<u>4</u>	<u>9</u>
<u>\$2,501-3,300</u>	<u>3</u>	<u>8</u>

- (6) Base speed multiplier. – Projects that will provide minimum download and minimum upload speeds shall have the aggregate points given under

subdivisions (1) through (5) of this subsection multiplied by a factor at the level indicated in the table below:

<u>Minimum Download:</u>	<u>Score Multiplier</u>
<u>10:1 Mbps.</u>	<u>0.95</u>
<u>25:3 Mbps. or greater</u>	<u>1.35</u>

(h) The Office shall score applications based upon the metrics provided in subsection (g) of this section. In awarding grants based upon the scoring metrics, the Office shall also award an additional point to projects where a county has a Community Broadband Planning Playbook that meets the guidelines established by the Office.

(i) Applications receiving the highest score shall receive priority status for the awarding of grants pursuant this section. Applicants awarded grants pursuant to this section shall enter into an agreement with the Office. The agreement shall contain all of the elements outlined in subsection (d) of this section and any other provisions the Office may require. The agreement shall contain a provision governing the time line and minimum requirements and thresholds for disbursement of grant funds measured by the progress of the project. Grant funds shall be disbursed only upon verification by the Office that the terms of the agreement have been fulfilled according to the progress milestones contained in the agreement. At project completion, the grant recipient shall certify and provide to the Office evidence consistent with Federal Communications Commission attestation that the proposed minimum upstream and minimum downstream broadband speeds identified in the application guidelines, and for which a base speed multiplier was awarded pursuant to subdivision (6) of subsection (g) of this section, are available throughout the project area prior to any end user connections. A single grant award shall not exceed two million dollars (\$2,000,000). No more than one grant may be awarded per fiscal year for a project in any one eligible economically distressed county.

(j) Grant recipients are required to provide matching funds based upon the application scoring pursuant to this section in the following minimum amounts:

<u>Score</u>	<u>Matching Requirement</u>
<u>7.0 points or less</u>	<u>55%</u>
<u>Greater than 7.0, but less than 14.0 points</u>	<u>50%</u>
<u>Greater than 14.0, but less than 21.0 points</u>	<u>45%</u>
<u>21.0 points or greater</u>	<u>35%</u>

Up to fifty percent (50%) of matching funds paid by the grant recipient may be comprised of third-party funding and other grant programs. Universal Service Fund, Connect America Fund, or other grants awarded for broadband expansion through a separate State or federal program shall not be used for the required matching funds.

(k) The Office shall require that grant recipients offer the proposed advertised minimum download and minimum upload speeds identified in the project application for the duration of the five-year service agreement. At least annually, a grant recipient shall provide to the Office evidence consistent with Federal Communications Commission attestation that the grant recipient is making available the proposed advertised speed, or a faster speed, as contained in the grant agreement. For the duration of the agreement, grant recipients shall disclose any changes to data caps for the project area that differ from the data caps listed in the grant application to the Office.

(l) A grant recipient shall forfeit the amount of the grant received if it fails to perform, in material respect, the obligations established in the agreement. Grant recipients that fail to provide the minimum advertised connection speed for which a reduction in matching funds was applied shall forfeit that amount. A grant recipient that forfeits amounts disbursed under this section is liable for the amount disbursed plus interest at the rate established under G.S. 105-241.21, computed from the date of the disbursement. The number of subscribers that

subscribe to broadband services offered by the provider in the project area shall not be a measure of performance under the agreement for the purposes of this subsection.

(m) The Office of Broadband Infrastructure in the Department of Information Technology shall be the designated agency for receipt and disbursement of federal grant funds intended for the State for broadband expansion and shall seek available federal grant funds for that purpose. All federal grant funds received for the purpose of broadband expansion shall be disbursed in accordance with this section.

(n) Grant recipients shall submit to the Office an annual report for each funded project for the duration of the agreement. The report shall include a summary of the items contained in the grant agreement and level of attainment for each and shall also include (i) the number of households, businesses, agriculture operations, and community anchor points that have broadband access as a result of the project; (ii) the percentage of end users in the project area who have access to broadband service and actually subscribe to the broadband service; and (iii) the average monthly subscription cost for broadband service in the project area.

(o) The Department of Information Technology shall submit an annual report to the Joint Legislative Oversight Committee for Information Technology and the Fiscal Research Division on or before September 1. The report shall contain at least all of the following:

- (1) The number of grant projects applied for and the number of grant agreements entered into.
- (2) A time line for each grant agreement and the number of households, businesses, agriculture operations, and community anchor points expected to benefit from each agreement.
- (3) The amount of matching funds required for each agreement and the total amount of investment.
- (4) A summary of areas receiving grants that are now being provided broadband service and the advertised broadband speeds for those areas.
- (5) Any breaches of agreements, grant fund forfeitures, or subsequent reductions or refunds of matching funds.
- (6) Any recommendations for the grant program, including better sources and methods for improving outcomes and accountability."

SECTION 37.1.(c) G.S. 160A-272 reads as rewritten:

"§ 160A-272. Lease or rental of property.

(a) Any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than 10 years (except as otherwise provided in subsection (b1) of this section) and only if the council determines that the property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included.

(a1) Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon 30 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting.

(b) No public notice as required by subsection (a1) of this section need be given for resolutions authorizing leases or rentals for terms of one year or less, and the council may delegate to the city manager or some other city administrative officer authority to lease or rent city property for terms of one year or less.

(b1) Leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

(c) Notwithstanding subsection (b1) of this section, the council may approve a lease without treating that lease as a sale of property for any of the following reasons: