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MEMORANDUM

To: Chairman Seiwert and Committee on Energy, Utilities and Telecommunications
From: Office of Revisor of Statutes
Date: February 13, 2020
RE: House Bill 2618

HB 2618 would establish the state broadband deployment grant program to be administered by the office of broadband development of the department of commerce. The purpose of the grant program would be to establish a competitive grant program to award grants to applicants that seek to expand access to broadband internet service in the state. Funding for the grant program would be subject to appropriation acts.

The office of broadband development would serve as the central office to lead a statewide effort to expand broadband coverage and capacity within the state. The office would work with cities and counties to promote the state broadband deployment grant program and serve as the central point of contact for the program.

Applicants would apply for grant funding to the office of broadband development. An application for grant funding would include a description of the project area and the broadband internet infrastructure to be deployed, the number of locations that would obtain access to broadband internet service or have broadband internet service upgraded, and the total cost of the project and the time frame in which the proposed project would be completed.

The office of broadband development would be required to publish, at least 30 days prior to the first day that applications may be submitted each year, the specific criteria and the quantitative weighting scheme or scoring system the office would use to evaluate or rank applications and award grants pursuant to this section. Within 45 days of publication of such information, a broadband internet service provider that provides existing service in or adjacent to the proposed project area could submit a written challenge to an application to the office of broadband development.

Any challenge would be required to contain information demonstrating that the provider:

- Currently provides broadband internet service to retail customers within the proposed area;

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- has begun construction to provide broadband internet service to customers within the proposed area; or
- has committed to providing broadband internet service to retail customers within the proposed area within the timeframe proposed by the applicant.

Within three business days of the submission of a written challenge, the office of broadband development would be required to notify the applicant of such challenge. The office would evaluate each challenge submitted and if the office determined that the provider currently provided, had begun construction to provide or committed to provide broadband internet service in the proposed project area, the office could deny a grant for the challenged project. If the office denies a grant to an applicant as a result of a challenge and such provider does not fulfill its deployment commitment, the office would not consider another challenge from such provider for the next two grant cycles, unless the office determines the failure to fulfill the commitment was due to circumstances beyond the provider's control.

Within 15 business days of the close of the grant application process, the office of broadband development shall publish on the department of commerce's website the proposed areas and the proposed broadband internet speeds for each application submitted. The office would be required to provide a copy of any application to an interested party upon request. In evaluating grant applications, the office of broadband development would use a scoring system that included:

- An analysis of the financial, technical and legal capability of the applicant to deploy and operate broadband internet service
- the number of locations served in the most cost-efficient manner possible considering the project area density
- available minimum broadband speeds
- ability of the infrastructure to be scalable to higher broadband internet speeds
- commitment of the applicant to fund at least 50% of the project from sources other than the broadband grant funds
- the length of time the provider has been operating broadband internet services and where the provider has been operating
- the offering of new or substantially upgraded broadband internet service that is important to communities
- the offering of service to economically distressed areas of the state
- the ability to provide technical support and training to residents, businesses and institutions in the community of the proposed project to utilize broadband internet service
- plans to actively promote the adoption of the newly available broadband internet service in the community
- support for the proposed project from citizens, businesses, and institutions in the community
- the provider's cooperation with cities or counties in the proposed deployment area
- The likelihood of cities or counties within the proposed deployment area to provide access to the public right-of-way pursuant to the exercise of home rule authority by such city or county to regulate the public right-of-way.

Grants provided pursuant to this section could not fund more than 50% of the total cost of a project. As a condition of an award of a grant, the office of broadband development would require a provider to meet reasonable deployment deadlines and other benchmark measures throughout the deployment process. If a provider failed to meet the deployment deadlines or other benchmark measures established for the deployment to receive a grant, the provider could not be considered for grant funding for the next two grant cycles.

The department of commerce would be authorized to develop any necessary rules and regulations to administer the provisions of the bill.