

# ASSEMBLY, No. 3280

## STATE OF NEW JERSEY 220th LEGISLATURE

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**Sponsored by:**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblywoman SHAMA A. HAIDER**

**District 37 (Bergen)**

**SYNOPSIS**

Establishes office in EDA to assist in provision and expansion of broadband Internet service in State to address inequities in accessing broadband service.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/2/2022)

1 AN ACT concerning broadband Internet service and supplementing  
2 Title 48 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. The Legislature finds and declares that:

8 (1) The efforts taken to contain the spread of coronavirus disease  
9 2019 (COVID-19) have resulted in residents, especially students, and  
10 certain businesses in this State being required to perform their day-to-  
11 day activities from home or otherwise from a remote location, and  
12 with the start of the school year, it is especially important for students  
13 and educators engaged in remote learning to have Internet access  
14 suitable for their needs;

15 (2) Telehealth services, which are accessed through the Internet,  
16 have been offered to the public prior to and during the pandemic due  
17 to COVID-19, will continue to help to improve equitable access to  
18 healthcare;

19 (3) To properly perform telehealth services, remote student  
20 learning, and other activities during the pandemic, students, workers,  
21 and employers are required to have access to Internet service at  
22 broadband speeds to transmit data, graphics, video, and voice  
23 communications quickly and efficiently;

24 (4) To document and quantify the extent of the provision of  
25 broadband Internet (broadband) service deployment in the United  
26 States, twice a year, the Federal Communications Commission (FCC)  
27 requires all broadband service providers (providers) to file Form 477  
28 with the FCC, on which providers indicate where they offer service at  
29 speeds exceeding 200 kilobits per second in at least one direction, the  
30 minimum speed to be deemed as offering broadband service;

31 (5) Presently, the FCC's method in determining broadband  
32 availability, as determined by the information offered on Form 477,  
33 requires a provider to measure coverage by census block, which means  
34 that some of the people within that area may not have access to  
35 broadband service;

36 (6) The FCC's website confirms the potential for inaccuracy in this  
37 methodology by stating that, "[p]roviders may not offer service to  
38 every home in every [census] block in which they report service. The  
39 calculations...treat every location as having service, and may therefore  
40 over-estimate broadband coverage, particularly in areas with large  
41 census blocks;

42 (7) In March 2020, Congress passed the "Broadband DATA Act,"  
43 Pub.L.116-130, which requires the FCC to collect granular service  
44 availability data from wired, fixed wireless, and satellite broadband  
45 providers, and to create maps based on this information. The FCC has  
46 already implemented many of the Broadband DATA Act's  
47 requirements, and, on July 16, 2020, it released a report and order to  
48 implement collection and verification requirements for fixed and

1 mobile broadband service availability and quality of service data.  
2 Even under the FCC's implementation of the "Broadband DATA Act,"  
3 providers are required to submit advertised broadband speed and not  
4 the actual speed that customers receive;

5 (8) In 2018, a study by the Microsoft Corporation found that 162.8  
6 million people in this country are not using the Internet at broadband  
7 speeds, which far exceeds the FCC's estimated number of people  
8 without broadband service access at 25 million, a number determined  
9 by the data reported from Form 477;

10 (9) A 2019 Pew Research Center survey found that only 73 percent  
11 of American adults had high-speed Internet access at home and this  
12 figure was even lower in rural areas and low-income areas;

13 (10) Having accurate information concerning broadband service  
14 connectivity in this State is necessary to determine how to better focus  
15 resources on providing broadband access to all areas in New Jersey;

16 (11) Disadvantaged households in New Jersey do not have the  
17 means to pay for broadband service, especially during this time of high  
18 unemployment due to COVID-19, because of the high cost of this  
19 service;

20 (12) A significant amount of residents and small businesses  
21 located in rural areas of this State still do not have access to broadband  
22 service;

23 (13) This public health emergency has exposed the so-called  
24 "digital divide" in this State, making it difficult for rural and low-  
25 income areas to access medical care, continue education, and maintain  
26 employment; and

27 (14) This lack of access exacerbates social, economic, income,  
28 and health inequalities in this State that can be addressed by taking  
29 measures that secure broadband access for areas in need.

30 b. The Legislature therefore determines that:

31 (1) It shall be the public policy of this State to foster the provision  
32 of wired broadband service to disadvantaged households and to  
33 residents and small businesses located within rural areas of this State  
34 as a measure to lessen the negative economic effects of COVID-19  
35 and the overall economy of this State;

36 (2) In order to foster the provision of wired broadband service to  
37 these residents and businesses, the State of New Jersey should have a  
38 role in meeting this need, and to serve as a source of funding for fiber  
39 optic or other wireline-based broadband service provided by State,  
40 federal, or local government entities and by private entities;

41 (3) The establishment of a Broadband Assistance Office within the  
42 New Jersey Economic Development Authority, having duties and  
43 responsibilities that include, but not limited to, the review and  
44 approval of proposed projects providing for the deployment of fiber  
45 optic or other wireline-based broadband service to disadvantaged  
46 households and in critical areas, and the provision of financing for  
47 these projects, would meet this important need; and

1 (4) It shall be a goal for the State’s residents and businesses to  
2 have universal access to a fiber optic or other wireline-based  
3 broadband service provider, offering data transfer speeds of at least 25  
4 megabits per second (Mbps) download and at least three Mbps upload  
5 by 2023 and at least 100 Mbps download and 100 Mbps upload by  
6 2027. This goal shall allow for the Broadband Assistance Office to  
7 increase these minimum data transfer speeds as broadband service  
8 technology or capability advances.

9  
10 2. As used in P.L. , c. (C. ) (pending before the  
11 Legislature as this bill):

12 “Authority” means the New Jersey Economic Development  
13 Authority established pursuant to section 4 of P.L.1974, c.80  
14 (C.34:1B-4).

15 “Board” means the Board of Public Utilities or any successor  
16 agency.

17 “Broadband adoption” means residential subscribership to  
18 broadband Internet service that is already available to the customer  
19 premises.

20 “Broadband Internet service” or “broadband service” means any  
21 fiber optic or other wireline-based Internet or other information service  
22 used for the purpose of offering high speed, switched, broadband  
23 wireline communications capability that enables users to send and  
24 receive high-quality voice, data, graphics, or video communications  
25 through the Internet and using any technology and with data transfer  
26 speeds of at least 25 megabits per second download and at least three  
27 megabits per second upload. These minimum data transfer speeds  
28 may be increased by an amount determined by the Broadband  
29 Assistance Office as broadband service technology or capability  
30 advances. “Broadband Internet service” shall not mean or include any  
31 Internet or information service that, in part, uses wireless  
32 communications equipment or facilities.

33 “Broadband Internet service infrastructure” or “broadband  
34 infrastructure” means fiber optic or other wireline-based information  
35 equipment and facilities, including point-to-point communication  
36 connections between two communication endpoints or nodes,  
37 information systems, and information technology used for the purpose  
38 of providing fiber optic or other wireline-based broadband Internet  
39 service. “Broadband Internet service infrastructure” shall not mean or  
40 include any Internet or information service equipment or facilities that,  
41 in part, use point-to-multipoint wireless communications facilities or  
42 other wireless communications equipment or facilities.

43 “Broadband Internet service provider” or “service provider” means  
44 a person, company, corporation, unincorporated association,  
45 partnership, or professional corporation which offers fiber optic or  
46 other wireline-based broadband Internet service directly to the public,  
47 or to classes of users as to be effectively available directly to the  
48 public, regardless of the facilities used.

1 “Broadband office” means the “Broadband Assistance Office”  
2 established within the New Jersey Economic Development Authority  
3 pursuant to section 3 of P.L. , c. (C. ) (pending before the  
4 Legislature as this bill).

5 “Broadband project” means a project developed, in whole or in  
6 part, for a new or existing broadband Internet service infrastructure or  
7 broadband Internet service, or both.

8 “Critical area” means a census tract in which less than 100 percent  
9 of households have access to broadband service, or a census tract that  
10 meets the following requirements: a. at least 35 percent of the  
11 households qualify as low-income households; or b. at least 40 percent  
12 of the residents identify as a minority or as members of a State  
13 recognized tribal community.

14 “Disadvantaged household” means any household which receives  
15 benefits from or participates in the State Medicaid program, any form  
16 of public housing assistance, the New Jersey Supplemental Nutrition  
17 Assistance Program (SNAP), Temporary Assistance for Needy  
18 Families (TANF), federal Supplemental Security Income (SSI), a  
19 program resulting in a Charity Care subsidy to a hospital, the National  
20 School Lunch Program (NSLP), the Head Start Program, the federal  
21 Low Income Home Energy Assistance Program, the federal Special  
22 Supplemental Nutrition Program for Women, Infants, and Children  
23 (WIC), any veterans’ pension program, and any federal tribal  
24 assistance program. “Disadvantaged household” shall include any  
25 household that makes less than 200 percent of the federal poverty  
26 level.

27 “Fund” means the “State Broadband Fund” established pursuant to  
28 section 6 of P.L. , c. (C. ) (pending before the Legislature as  
29 this bill).

30 “Government entity” means the State, its subdivisions, and any  
31 department, agency, commission, authority, board, or instrumentality  
32 thereof, a county, a municipality, a regional or municipal authority, a  
33 quasi-State agency, a State-created corporation, a municipal  
34 corporation. “Governmental entity” may include a combination of  
35 governmental entities as defined herein.

36 “Office of Information Technology” means the Office of  
37 Information Technology established pursuant to section 9 of P.L.2007,  
38 c.56 (C.52:18A-227).

39 “Private entity” means a person, a combination of persons, a  
40 business entity, a combination of business entities, or a combination of  
41 persons and business entities with experience in the construction and  
42 operation of broadband networks.

43 “Public-private partnership agreement” or “P3 agreement” means  
44 an agreement entered into by a governmental entity and a private  
45 entity for the purposes of undertaking a broadband project approved by  
46 the broadband office pursuant to section 3 of  
47 P.L. , c. (C. ) (pending before the Legislature as this bill).

1           3. a. There is hereby established in the New Jersey Economic  
2 Development Authority a “Broadband Assistance Office.” The  
3 broadband office shall be responsible for the formulation and  
4 execution of a comprehensive Statewide policy that fosters the  
5 provision of wired broadband service by government or private  
6 entities, developing a broadband project, or both, if these entities  
7 develop a broadband project under a public-private partnership  
8 agreement, and shall be responsible for the development, promotion,  
9 coordination, oversight, and approval of a broadband project  
10 developed pursuant to P.L. , c. (C. ) (pending before the  
11 Legislature as this bill).

12           b. The broadband office, in cooperation with the authority, shall  
13 establish guidelines for the broadband office’s approval, designation,  
14 operation, and reporting of a proposed broadband project, including  
15 any proposed broadband project developed under a P3 agreement, in a  
16 manner determined by the broadband office. The broadband office, in  
17 cooperation with the authority, shall oversee, coordinate, and provide  
18 assistance to a broadband project approved by the broadband office  
19 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
20 this bill).

21           c. The broadband office shall consult and coordinate with  
22 representatives of other State departments, agencies, boards, and  
23 authorities, including the authority and the Office of Information  
24 Technology, as the broadband office, authority, and Office of  
25 Information Technology shall deem necessary and appropriate, to  
26 accomplish the goals of P.L. , c. (C. ) (pending before the  
27 Legislature as this bill).

28           d. The broadband office shall identify the resources and personnel  
29 of the board, the authority, and other participating agencies,  
30 departments, boards, and authorities of the State that are deemed  
31 necessary and appropriate to support the broadband office. The  
32 authority may retain one or more qualified private consultants with  
33 relevant expertise to provide the technical assistance and resources  
34 deemed necessary and appropriate to assist the broadband office.

35  
36           4. To accomplish the duties and responsibilities described in  
37 section 3 of P.L. , c. (C. ) (pending before the Legislature as  
38 this bill), the broadband office shall be responsible for:

39           a. in conjunction with the Office of Information Technology,  
40 mapping Internet connectivity within the State and publicly publishing  
41 this information;

42           b. engaging with stakeholders, such as broadband infrastructure  
43 developers, broadband service providers, and local government and  
44 school officials representing critical areas;

45           c. in conjunction with the authority, coordinating financial and  
46 technical assistance to municipalities wherein critical areas  
47 communities are located, which include households and small

- 1 businesses that cannot afford to receive broadband service or areas  
2 within municipalities that lack adequate broadband service;
- 3 d. establishing policies and procedures that encourage  
4 government and private entity participation and investment in  
5 broadband projects as necessary and appropriate to implement the  
6 provisions P.L. , c. (C. ) (pending before the Legislature as this  
7 bill);
- 8 e. providing technical advice, guidance, and assistance to  
9 government and private entities to ensure the availability of the  
10 necessary expertise and capacity to develop and evaluate the merits of  
11 proposed broadband projects;
- 12 f. promoting informed and timely decision-making with regard to  
13 the development of broadband projects;
- 14 g. establishing appropriate qualification criteria for government  
15 and private entities, including the qualification of private entities  
16 undertaking a broadband project under a P3 agreement;
- 17 h. monitoring and enforcing the broadband project policies and  
18 procedures established pursuant P.L. , c. (C. ) (pending before  
19 the Legislature as this bill), which may include a provision for  
20 potential revenue sharing opportunities between a government entity  
21 and a private entity in certain defined or agreed circumstances,  
22 including broadband projects that achieve profits that exceed a  
23 negotiated rate of return established for a private entity in a P3  
24 agreement;
- 25 i. coordinating with service providers that offer programs to  
26 members of disadvantaged households to raise awareness of these  
27 programs so that the households have a better understanding of  
28 these programs and how to access them;
- 29 j. cooperating with the Department of Children and Families,  
30 Department of Human Services, Department of Health, Department  
31 of Labor and Workforce Development, Department of Military and  
32 Veterans Affairs, and service providers to complete a field study of  
33 barriers to broadband adoption by disadvantaged households, such  
34 as housing insecurity, language barriers, and population mobility.  
35 The authority shall provide, pursuant to section 2 of P.L.1991, c.164  
36 (C.52:14-19.1), a report on the results of the field study to the  
37 Legislature with recommendations for solutions to remove these  
38 barriers within 18 months of the enactment of P.L. , c. (C. )  
39 (pending before the Legislature as this bill);
- 40 k. cooperating with the Department of Children and Families,  
41 Department of Human Services, Department of Health, Department  
42 of Labor and Workforce Development, and Department of Military  
43 and Veterans Affairs, to identify and secure funding from either the  
44 State's General Fund or federal funding to underwrite the cost of  
45 monthly broadband service and household broadband service  
46 devices for disadvantaged households;
- 47 l. cooperating with the Department of Children and Families,  
48 Department of Human Services, Department of Health, Department

1 of Labor and Workforce Development, and Department of Military  
2 and Veterans Affairs, to identify and secure funding sources from  
3 either the State's General Fund or federal funding to support  
4 development, installation, and financing of community-based  
5 broadband services that provide broadband access in safe spaces,  
6 including but not limited to libraries, homeless shelters, community  
7 centers, and school campuses;

8 m. cooperating with the Department of Education to identify  
9 and secure funding from either the State's General Fund or federal  
10 funding to underwrite the cost of monthly broadband service and  
11 broadband service devices purchased by public schools on behalf of  
12 students in grades from kindergarten to twelfth grade from  
13 disadvantaged households;

14 n. identifying and providing financial and technical support to  
15 community-based programs that provide digital literacy training in  
16 relevant community languages to members of disadvantaged  
17 households; and

18 o. developing and funding community-based programs that  
19 provide digital literacy training in relevant community languages to  
20 members of disadvantaged households.

21

22 5. In evaluating a proposed broadband project, the broadband  
23 office shall:

24 a. consider whether leasing or purchasing established  
25 broadband infrastructure, such as unused fiber optic cable, is more  
26 advantageous in providing faster broadband service;

27 b. consider whether establishing a government entity or a non-  
28 profit corporation is appropriate to provide broadband infrastructure  
29 or broadband service to a critical area community;

30 c. evaluate the different methods, including P3 agreements  
31 with private entities, that other communities in this country have  
32 used to provide broadband infrastructure or broadband service to an  
33 underserved community;

34 d. determine the most cost effective method in which to  
35 establish broadband infrastructure and broadband service, with a  
36 cost estimate for a community and a price estimate for paying  
37 customers; and

38 e. explore all possible federal, State, and private sources of  
39 funding and technical assistance for the establishment of broadband  
40 infrastructure and broadband service in critical area communities  
41 and populations of this State.

42

43 6. a. There is established in the New Jersey Economic  
44 Development Authority a separate non-lapsing fund to be known as  
45 the "State Broadband Fund" for use by the broadband office to  
46 adequately and properly perform its duties and responsibilities in  
47 carrying out the requirements of P.L. , c. (C. ) (pending before  
48 the Legislature as this bill). The authority, in consultation with the



1 board, shall determine the level of funding and the appropriate  
2 administration of the fund. The fund may seek and accept any  
3 available funding from federal, State, and private entity sources. The  
4 authority shall provide sufficient funding to the broadband office to  
5 enable the broadband office to provide funding for critical areas in the  
6 State to pay for broadband service and for the installation or expanded  
7 use of broadband infrastructure for communities that lack broadband  
8 access, specifically the portion of a communications infrastructure  
9 network that physically reaches the residents' or small business's  
10 premises within those communities.

11 b. The authority, in consultation with the board, is authorized to  
12 seek and accept gifts, donations, grants, or loans from public or private  
13 sources, including, but not limited to, any funding provided by the  
14 Federal Communications Commission or any funding from a non-  
15 profit foundation, specifically for the provision of broadband  
16 infrastructure or broadband service, except that the board and authority  
17 shall not accept a gift, donation, grant, or loan that is subject to  
18 conditions that are inconsistent with any other law of this State.

19

20 7. a. The authority, in consultation with the board, shall annually  
21 prepare a report to the Governor and, pursuant to section 2 of  
22 P.L.1991, c.164 (C.52:14-19.1), to the Legislature regarding the  
23 number, nature, structure, and scope of each broadband project  
24 developed pursuant to P.L. , c. (C. ) (pending before the  
25 Legislature as this bill) and whether the broadband project is  
26 developed under a P3 agreement. The report shall include:

27 (1) a description of the broadband project and its location;

28 (2) the costs incurred for the broadband project;

29 (3) the number of jobs created and other economic and societal  
30 benefits of the broadband project;

31 (4) the increase in the use and demand for broadband service as a  
32 result of the broadband project;

33 (5) if applicable, the enhancements to the resiliency and reliability  
34 of the broadband service within the State; and

35 (6) other relevant information as determined by the authority.

36 b. The report shall address any issues related to the  
37 implementation P.L. , c. (C. ) (pending before the Legislature  
38 as this bill), including staffing and resource requirements of the  
39 broadband office. The report shall set forth recommendations,  
40 including recommendations for legislation, concerning how the  
41 processes and methods adopted to foster the development of  
42 broadband projects and any related P3 agreements under  
43 P.L. , c. (C. ) (pending before the Legislature as this bill) may  
44 be improved, expanded, or made more efficient.

45

46 8. The authority shall promulgate rules and regulations,  
47 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
48 (C.52:14B-1 et seq.), as are necessary to implement the provisions

1 of P.L. , c. (C. ) (pending before the Legislature as this bill).  
2 The authority may be assisted, as appropriate, by other participating  
3 agencies, departments, boards, and authorities, including the  
4 authority and the Office of Information Technology, in the  
5 promulgation of necessary rules and regulations.

6  
7 9. This act shall take effect immediately.  
8  
9

#### 10 STATEMENT

11  
12 This bill establishes in the New Jersey Economic Development  
13 Authority (EDA) a “Broadband Assistance Office” (broadband office).  
14 The broadband office is to be responsible for formulating and  
15 executing a comprehensive Statewide policy that fosters the provision  
16 of wired broadband service by government or private entities  
17 developing a broadband project, or both, if these entities develop a  
18 broadband project under a public-private partnership (P3) agreement,  
19 and for the development, promotion, coordination, oversight, and  
20 approval of a broadband project developed pursuant to the bill. The  
21 broadband office, in cooperation with the New Jersey Board of Public  
22 Utilities (BPU), is to establish guidelines for the broadband office’s  
23 approval, designation, operation, and reporting of a proposed  
24 broadband project, including any proposed broadband project  
25 developed under a P3 agreement, in a manner determined by the  
26 broadband office. The broadband office, in cooperation with the BPU,  
27 is to oversee, coordinate, and provide assistance to a broadband project  
28 approved by the broadband office. The broadband office is to consult  
29 and coordinate with representatives of other State departments,  
30 agencies, boards, and authorities, including the BPU and the Office of  
31 Information Technology (OIT), as these entities deem necessary and  
32 appropriate to accomplish the goals of the bill.

33 To accomplish the broadband office’s duties and responsibilities, it  
34 is to be responsible for certain obligations enumerated in the bill  
35 concerning the facilitation of the establishment of broadband projects.  
36 In evaluating a proposed broadband project, the broadband office is to  
37 consider certain criteria provided in the bill.

38 The bill establishes in the EDA a separate non-lapsing fund to be  
39 known as the “State Broadband Fund” (broadband fund) for use by the  
40 broadband office to adequately and properly perform the duties and  
41 responsibilities in carrying out the requirements of the bill. The EDA,  
42 in consultation with the BPU, is to determine the level of funding and  
43 the appropriate administration of the broadband fund. With financial  
44 assistance from the BPU and any available funding from federal, State  
45 and private entity sources, the EDA is to provide sufficient funding to  
46 the broadband office to enable the broadband office to provide funding  
47 for underserved communities to pay for broadband service and for the  
48 installation or expanded use of broadband infrastructure for

1 communities that lack broadband access, specifically the portion of a  
2 communications infrastructure network that physically reaches the  
3 residents' or small business's premises within those communities. The  
4 bill allows the EDA, in consultation with the BPU, to seek and accept  
5 gifts, donations, grants, or loans from public or private sources,  
6 including, but not limited to, any funding provided by the Federal  
7 Communications Commission or any funding from a non-profit  
8 foundation, specifically for the provision of broadband infrastructure  
9 or broadband service, except that the EDA and BPU are not to accept a  
10 gift, donation, grant, or loan that is subject to conditions that are  
11 inconsistent with any other law of this State.

12 The bill requires the EDA, in consultation with the BPU, to  
13 annually prepare a report to the Governor and the Legislature  
14 concerning the number, nature, structure, and scope of each broadband  
15 project developed, and whether the broadband project is developed  
16 under a P3 agreement. The report is to include certain information  
17 provided in the bill. The report is to address any issues related to the  
18 implementation the bill, including staffing and resource requirements  
19 of the broadband office. The report is to set forth recommendations  
20 regarding how the processes and methods adopted to foster the  
21 development of broadband projects and any related P3 agreements  
22 under the bill may be improved, expanded, or made more efficient.