

**SENATE, No. 1982**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED MARCH 3, 2022

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**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.



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 many schools engaged in remote learning, it is especially  
13 important for students and educators to have Internet access suitable  
14 for their needs;

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

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

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

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

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

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

1 providers are required to submit advertised broadband speed and not  
2 the actual speed that customers receive;

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

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

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

14 (11) Disadvantaged households in New Jersey do not have the  
15 means to pay for broadband service because of the high costs  
16 associated with maintaining the service;

17 (12) A significant amount of residents and small businesses  
18 located in rural areas of this State do not have access to broadband  
19 service;

20 (13) COVID-19 has exposed the "digital divide" in this State,  
21 making it difficult for rural and low-income areas to access medical  
22 care, continue education, and maintain employment; and

23 (14) This lack of access exacerbates social, economic, income,  
24 and health inequities in this State that can be addressed by taking  
25 measures that secure broadband access for areas in need.

26 b. The Legislature therefore determines that:

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

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

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

44 (4) It shall be a goal for the State's residents and businesses to  
45 have universal access to a fiber optic or other wireline-based  
46 broadband service provider, offering data transfer speeds of at least 25  
47 megabits per second (Mbps) download and at least three Mbps upload  
48 by 2025 and at least 100 Mbps download and 100 Mbps upload by

1 2029. This goal shall allow for the Broadband Assistance Office to  
2 increase these minimum data transfer speeds as broadband service  
3 technology or capability advances.

4

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

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

10 “Board” means the Board of Public Utilities or any successor  
11 agency.

12 “Broadband adoption” means residential subscribership to  
13 broadband Internet service that is already available to the customer  
14 premises.

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

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

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

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

1 “Broadband project” means a project developed, in whole or in  
2 part, for a new or existing broadband Internet service infrastructure or  
3 broadband Internet service, or both.

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

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

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

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

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

35 “Private entity” means a person, a combination of persons, a  
36 business entity, a combination of business entities, or a combination of  
37 persons and business entities with experience in the construction and  
38 operation of broadband networks.

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

44  
45 3. a. There is hereby established in the New Jersey Economic  
46 Development Authority a “Broadband Assistance Office.” The  
47 broadband office shall be responsible for the formulation and  
48 execution of a comprehensive Statewide policy that fosters the

1 provision of wired broadband service by government or private  
2 entities, developing a broadband project, or both, if these entities  
3 develop a broadband project under a public-private partnership  
4 agreement, and shall be responsible for the development, promotion,  
5 coordination, oversight, and approval of a broadband project  
6 developed pursuant to P.L. , c. (C. ) (pending before the  
7 Legislature as this bill).

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

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

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

31

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

35 a. in conjunction with the Office of Information Technology,  
36 mapping Internet connectivity within the State and publicly publishing  
37 this information;

38 b. engaging with stakeholders, such as broadband infrastructure  
39 developers, broadband service providers, and local government and  
40 school officials representing critical areas;

41 c. in conjunction with the authority, coordinating financial and  
42 technical assistance to municipalities wherein critical areas  
43 communities are located, which include households and small  
44 businesses that cannot afford to receive broadband service or areas  
45 within municipalities that lack adequate broadband service;

46 d. establishing policies and procedures that encourage  
47 government and private entity participation and investment in  
48 broadband projects as necessary and appropriate to implement the

- 1 provisions of P.L. , c. (C. ) (pending before the Legislature as  
2 this bill);
- 3 e. providing technical advice, guidance, and assistance to  
4 government and private entities to ensure the availability of the  
5 necessary expertise and capacity to develop and evaluate the merits of  
6 proposed broadband projects;
- 7 f. promoting informed and timely decision-making with regard to  
8 the development of broadband projects;
- 9 g. establishing appropriate qualification criteria for government  
10 and private entities, including the qualification of private entities  
11 undertaking a broadband project under a P3 agreement;
- 12 h. monitoring and enforcing the broadband project policies and  
13 procedures established pursuant to P.L. , c. (C. ) (pending  
14 before the Legislature as this bill), which may include a provision for  
15 potential revenue sharing opportunities between a government entity  
16 and a private entity in certain defined or agreed circumstances,  
17 including broadband projects that achieve profits that exceed a  
18 negotiated rate of return established for a private entity in a P3  
19 agreement;
- 20 i. coordinating with service providers that offer programs to  
21 members of disadvantaged households to raise awareness of these  
22 programs so that the households have a better understanding of  
23 these programs and how to access them;
- 24 j. cooperating with the Department of Children and Families,  
25 Department of Human Services, Department of Health, Department  
26 of Labor and Workforce Development, Department of Military and  
27 Veterans Affairs, and service providers to complete a field study of  
28 barriers to broadband adoption by disadvantaged households, such  
29 as housing insecurity, language barriers, and population mobility.  
30 The authority shall provide, pursuant to section 2 of P.L.1991, c.164  
31 (C.52:14-19.1), a report on the results of the field study to the  
32 Legislature with recommendations for solutions to remove these  
33 barriers within 18 months of the enactment of P.L. , c. (C. )  
34 (pending before the Legislature as this bill);
- 35 k. cooperating with the Department of Children and Families,  
36 Department of Human Services, Department of Health, Department  
37 of Labor and Workforce Development, and Department of Military  
38 and Veterans Affairs, to identify and secure funding from either the  
39 State's General Fund or federal funding to underwrite the cost of  
40 monthly broadband service and household broadband service  
41 devices for disadvantaged households;
- 42 l. cooperating with the Department of Children and Families,  
43 Department of Human Services, Department of Health, Department  
44 of Labor and Workforce Development, and Department of Military  
45 and Veterans Affairs, to identify and secure funding sources from  
46 either the State's General Fund or federal funding to support  
47 development, installation, and financing of community-based  
48 broadband services that provide broadband access in safe spaces,

1 including but not limited to libraries, homeless shelters, community  
2 centers, and school campuses;

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

9 n. identifying and providing financial and technical support to  
10 community-based programs that provide digital literacy training in  
11 relevant community languages to members of disadvantaged  
12 households; and

13 o. developing and funding community-based programs that  
14 provide digital literacy training in relevant community languages to  
15 members of disadvantaged households.

16

17 5. In evaluating a proposed broadband project, the broadband  
18 office shall:

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

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

25 c. evaluate the different methods, including P3 agreements  
26 with private entities, that other communities in this country have  
27 used to provide broadband infrastructure or broadband service to an  
28 underserved community;

29 d. determine the most cost effective method in which to  
30 establish broadband infrastructure and broadband service, with a  
31 cost estimate for a community and a price estimate for paying  
32 customers; and

33 e. explore all possible federal, State, and private sources of  
34 funding and technical assistance for the establishment of broadband  
35 infrastructure and broadband service in critical area communities  
36 and populations of this State.

37

38 6. a. There is established in the New Jersey Economic  
39 Development Authority a separate non-lapsing fund to be known as  
40 the "State Broadband Fund" for use by the broadband office to  
41 adequately and properly perform its duties and responsibilities in  
42 carrying out the requirements of P.L. , c. (C. ) (pending before  
43 the Legislature as this bill). The authority, in consultation with the  
44 board, shall determine the level of funding and the appropriate  
45 administration of the fund. The fund may seek and accept any  
46 available funding from federal, State, and private entity sources. The  
47 authority shall provide sufficient funding to the broadband office to  
48 enable the broadband office to provide funding for critical areas in the



1 State to pay for broadband service and for the installation or expanded  
2 use of broadband infrastructure for communities that lack broadband  
3 access, specifically the portion of a communications infrastructure  
4 network that physically reaches the residents' or small business's  
5 premises within those communities.

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

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

- 22 a. a description of the broadband project and its location;  
23 b. the costs incurred for the broadband project;  
24 c. the number of jobs created and other economic and societal  
25 benefits of the broadband project;  
26 d. the increase in the use and demand for broadband service as a  
27 result of the broadband project;  
28 e. if applicable, the enhancements to the resiliency and reliability  
29 of the broadband service within the State; and  
30 f. other relevant information as determined by the authority.

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

41 8. The authority shall promulgate rules and regulations,  
42 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
43 (C.52:14B-1 et seq.), as are necessary to implement the provisions  
44 of P.L. , c. (C. ) (pending before the Legislature as this bill).  
45 The authority may be assisted, as appropriate, by other participating  
46 agencies, departments, boards, and authorities, including the  
47 authority and the Office of Information Technology, in the  
48 promulgation of necessary rules and regulations.

1       9. This act shall take effect immediately.

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3

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STATEMENT

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

27       To accomplish the broadband office’s duties and responsibilities, it  
28 is to be responsible for certain obligations enumerated in the bill  
29 concerning the facilitation of the establishment of broadband projects.  
30 In evaluating a proposed broadband project, the broadband office is to  
31 consider certain criteria provided in the bill.

32       The bill establishes in EDA a separate non-lapsing fund to be  
33 known as the “State Broadband Fund” (broadband fund) for use by the  
34 broadband office to adequately and properly perform the duties and  
35 responsibilities in carrying out the requirements of the bill. EDA, in  
36 consultation with BPU, is to determine the level of funding and the  
37 appropriate administration of the broadband fund. With financial  
38 assistance from BPU and any available funding from federal, State and  
39 private entity sources, EDA is to provide sufficient funding to the  
40 broadband office to enable the broadband office to provide funding for  
41 underserved communities to pay for broadband service and for the  
42 installation or expanded use of broadband infrastructure for  
43 communities that lack broadband access, specifically the portion of a  
44 communications infrastructure network that physically reaches the  
45 residents' or small business’s premises within those communities. The  
46 bill allows EDA, in consultation with BPU, to seek and accept gifts,  
47 donations, grants, or loans from public or private sources, including,  
48 but not limited to, any funding provided by the Federal

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1 Communications Commission or any funding from a non-profit  
2 foundation, specifically for the provision of broadband infrastructure  
3 or broadband service, except that EDA and BPU are not to accept a  
4 gift, donation, grant, or loan that is subject to conditions that are  
5 inconsistent with any other law of this State.

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