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**HOUSE COMMITTEE AMENDMENTS**

2021 Regular Session

Amendments proposed by House Committee on Commerce to Original House Bill No. 648  
by Representative Deshotel

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1 AMENDMENT NO. 1

2 On page page 1, line 3, change "51:2370.15" to "51:2370.18"

3 AMENDMENT NO. 2

4 On page 1, line 15, change "51:2370.15" to "51:2370.18"

5 AMENDMENT NO. 3

6 On page 1, line 7, after "protest;" add "to allow for judicial review of a protest decision;"

7 AMENDMENT NO. 4

8 On page 3, delete lines 3 through 6 in their entirety and insert in lieu thereof the following:

9 "(8) "Household" means any individual or group of individuals who are  
10 living together at the same address as one economic unit. A household may include  
11 related and unrelated persons. An "economic unit" consists of all adult individuals  
12 contributing to and sharing in the income and expenses of a household. An adult is  
13 any person eighteen years or older. If an adult has no or minimal income, and lives  
14 with someone who provides financial support to him/her, both people shall be  
15 considered part of the same household. Children under the age of eighteen living  
16 with their parents or guardians are considered to be part of the same household as  
17 their parents or guardians. any individual or group of individuals who live together  
18 at the same address as one economic unit who contribute to and share in the income  
19 and expenses."

20 AMENDMENT NO. 521 On page 3, line 8, change "entity" to "internet service provider"22 AMENDMENT NO. 6

23 On page 3 delete line 22 through 29 in their entirety

24 AMENDMENT NO. 7

25 On page 4 delete lines 1 through 4 in their entirety

26 AMENDMENT NO. 8

27 On page 4, at the beginning of line 5, change "(13)" to "(12)"

28 AMENDMENT NO. 9

29 On page 4, between lines 8 and 9, insert the following:

30 "(13) "Shapefile" means a file format for storing, depicting, and analyzing  
31 geospatial data depicting broadband coverage, comprised of several component files,  
32 such as a Main file (.shp), an Index file, (.sbx) and a dBASE table (.dbf).

33 (14) "Unserved" means notwithstanding any other provision of law, any  
34 federal funding awarded to or allocated by the state for broadband deployment shall  
35 not be used, directly or indirectly, to deploy broadband infrastructure to provide  
36 broadband internet service in any area of the state where broadband internet service

1 of at least 25 Mbps unload and 3 Mbps download is available from at least one  
 2 Internet service provider."

3 AMENDMENT NO. 10

4 On page 4, at the beginning of line 9, change "14" to "15"

5 AMENDMENT NO. 11

6 On page 4, line 11, after "Areas" insert "included in an application"

7 AMENDMENT NO. 12

8 On page 4, delete line 14 in its entirety and insert in lieu thereof the following:

9 "result in the initiation of activity related to construction of broadband  
 10 infrastructure in the such area within twenty-four months of the expiration of the  
 11 thirty-day period related to such application established under R.S 2370.5(C).

12 (16) "Economically distressed parish" means an unserved area which is in  
 13 need of expansion of business and industry and the creation of jobs, giving  
 14 consideration to unemployment, per capita income, and the number of residents  
 15 receiving public assistance within that unserved area."

16 AMENDMENT NO. 13

17 On page 4, delete lines 15 through 29 in their entirety

18 AMENDMENT NO. 14

19 On page 5, at the beginning of line 1, change "§2370.4" to "§2370.3" and after "block" insert  
 20 a comma "," and "shapefile area, or"

21 AMENDMENT NO. 15

22 On page 5, delete lines 3 through 29 in their entirety and insert in lieu thereof the following:

23 "A private provider receiving Universal Service, Connect America Phase II,  
 24 Rural Digital Opportunity Fund, or nonfederal funds to deploy broadband service  
 25 may qualify the area for protection by submitting, within sixty days of the close of  
 26 the application period, a listing of the census blocks, shapefile areas, individual  
 27 addresses, or portions thereof, comprising the federally funded project areas meeting  
 28 this requirement and nothing more to the office. In future program years, the cutoff  
 29 date for submitting the census block, shapefile area, or address data shall be  
 30 established by the office, but shall be not less than sixty days prior to the beginning  
 31 date of the application period. This will enable the office to update maps and advise  
 32 applicants as to the unserved areas of the state that are eligible for consideration in  
 33 that program year. The office shall only utilize the data to update maps of census  
 34 blocks, shapefile areas, individual addresses, and to reflect these census blocks,  
 35 shapefile areas, individual addresses, or portions thereof, as being served. In no  
 36 instance shall an applicant be required to provide any data beyond that which it is  
 37 required to provide to the Federal Communications Commission pursuant to 47  
 38 U.S.C. § 641 et. seq. (The Broadband Deployment Accuracy and Technological  
 39 Availability Act ). Failure on the part of a provider to submit the listing of census  
 40 blocks, shapefile areas, or addresses by the cutoff date shall result in those areas  
 41 being eligible for inclusion under the GUMBO program during the upcoming  
 42 program year. A private provider who has facilities in the area or who intends to  
 43 deploy broadband service within twenty-four months shall be able to challenge. The  
 44 office shall use the census block, shapefile area, or address data provided only for  
 45 mapping of unserved areas. Upon expiration of the twenty-four month reservation  
 46 period described in this Section, a private provider that has received a reservation of  
 47 census blocks, shapefile areas, or individual addresses shall submit written  
 48 documentation by April thirtieth of the year following the program year that the  
 49 initiation of activity related to broadband infrastructure will or has begun in the  
 50 census blocks, shapefile areas, or individual addresses, or portions thereof, that have  
 51 been deemed ineligible by the office due to the existence of a federally funded

1 project area. Information provided to the office pursuant to this Section is not a  
2 public record, as that term is provided for in R.S. 44:1."

3 AMENDMENT NO. 16

4 On page 6, delete lines 1 and 2 in their entirety

5 AMENDMENT NO. 17

6 On page 6, at the beginning of line 3, change "§2370.5" to "§2370.4"

7 AMENDMENT NO. 18

8 On page 6, line 9, after "The" insert "estimated"

9 AMENDMENT NO. 19

10 On page 6, line 23, after "proposed" insert "estimated"

11 AMENDMENT NO. 20

12 On page 6, delete line 26 in their entirety and insert in lieu thereof a period " . "

13 AMENDMENT NO. 21

14 On page 7, at the beginning of line 2, delete "community education forums,"

15 AMENDMENT NO. 22

16 On page 7, line 11, change "B" to "B(1)"

17 AMENDMENT NO. 23

18 On page 7, line 14, after "information" delete "satisfactory"

19 AMENDMENT NO. 24

20 On page 7, between lines 16 and 17, insert the following:

21 "(2) The Department shall treat any information that is not publicly available,  
22 as confidential and subject to trade secrets protections of state law upon an  
23 applicant's request for confidential treatment, except that the proposed project area  
24 must be publicly disclosed in sufficient detail to enable a challenging provider to  
25 identify the area covered by the application."

26 AMENDMENT NO. 25

27 On page 7, line 17, after "available" insert a comma "," and "subject to the confidentiality  
28 protections in Paragraph (2) of Subsection B of this Section"

29 AMENDMENT NO. 26

30 On page 7, line 19, after "least" change "thirty" to "sixty" and after "during the" change  
31 "thirty" to "sixty"

32 AMENDMENT NO. 27

33 On page 7, line 25, after "evidence" delete "satisfactory"

34 AMENDMENT NO. 28

35 On page 7, at the end of line 26, delete "as"

36 AMENDMENT NO. 29

37 On page 7, at the beginning of line 27, delete "measured by a methodology satisfactory to  
38 the office,"

39 AMENDMENT NO. 30

40 On page 8, line 11, after "tests" insert "that conform to the methodology employed in the  
41 Federal Communications Commission's "Measuring Broadband America" report"

1 AMENDMENT NO. 31

2 On page 8, between lines 16 and 17, insert the following:

3 "(3) The Department shall treat any information submitted with a protest that  
4 is not publicly available, as confidential and subject to the trade secrets protections  
5 of state law upon a challenging provider's request for confidential treatment.6 §2307.6 Judicial Review7 A.(1) The Director or his designee shall have authority, prior to the  
8 commencement of an action in court concerning the controversy, to settle and  
9 resolve a protest of an aggrieved person concerning a grant application. This  
10 authority shall be exercised in accordance with regulations.11 B. If the protest is not resolved by mutual agreement, the director or his  
12 designee shall, within fourteen days, issue a decision in writing. The decision shall:13 (1) State the reasons for the action taken.14 (2) Inform the protestant of its right to administrative and judicial review as  
15 provided in this Chapter.16 C. A copy of the decision under Subsection B of this Section shall be mailed  
17 or otherwise furnished immediately to the protestant and any other party intervening.18 D. A decision under Subsection B of this Section shall be final and  
19 conclusive unless one of the following applies:20 1. The decision is fraudulent.21 2. The person adversely affected by the decision has timely appealed to the  
22 commissioner of administration in accordance with Subsection E.23 E. The aggrieved person shall file an appeal with the commissioner of  
24 administration within seven days of receipt of a decision under Subsection B of this  
25 Section. The commissioner of administration shall have the authority to review and  
26 determine any appeal by an aggrieved person from a determination by the Director  
27 or his designee.28 F. On any appeal under Subsection E of this Section, the commissioner shall  
29 decide within fourteen days whether the decision concerning a grant application was  
30 in accordance with the constitution, statutes, regulations, and the terms and  
31 conditions of the application. Any prior determinations by the director or his  
32 designee shall not be final or conclusive.33 G. A copy of the decision under Subsection F of this Section shall be mailed  
34 or otherwise furnished immediately to the protestant and any other party intervening.35 H. A decision under Subsection F of this Section shall be final and  
36 conclusive unless one of the following applies:37 (1) The decision is fraudulent.38 (2) The person adversely affected by the decision has appealed to the  
39 court as provided for in Subsection E of this Section.40 I. The aggrieved person shall file an appeal in the Nineteenth Judicial  
41 District Court within seven days of receipt of a decision under Subsection C of this  
42 Section. The Nineteenth Judicial District Court shall have exclusive venue over an  
43 action between the state and an applicant, prospective or actual, to determine whether  
44 an award of a grant is in accordance with the constitution, statutes, and regulations.  
45 Such actions shall extend to all kinds of actions, whether for monetary damages or  
46 for declaratory, injunctive, or other equitable relief.47 J. Any party aggrieved by a final judgment or interlocutory order or ruling  
48 of the Nineteenth Judicial District Court may appeal or seek review thereof, as the

1 case may be, to the Court of Appeal, First Circuit or the Supreme Court of Louisiana,  
 2 as otherwise permitted in civil cases by law and the constitution."

3 AMENDMENT NO. 32

4 On page 9, delete line 1 in its entirety and insert in lieu thereof the following:

5 "(1) The office shall give additional points based upon the experience,  
 6 technical ability, and financial wherewithal of the applicant in successfully deploying  
 7 and providing broadband service, as well as the extent to which the size of matching  
 8 funds proposed to be committed by the applicant itself the minimum required  
 9 contribution of twenty percent of its own funds"

10 AMENDMENT NO. 33

11 On page 9, at the beginning of line 2, delete "score"

12 AMENDMENT NO. 34

13 On page 9, delete line 24 in its entirety and insert in lieu thereof the following:

14 "(5) The office shall award additional points based upon the applicant's  
 15 ability to leverage its own or nearby or adjacent broadband service infrastructure in  
 16 the proposed project area. consider the ultimate price to the consumer in awarding  
 17 points.

18 (6) "The format of mapping data provided by a broadband provider shall not  
 19 be a factor considered in evaluating a grant proposal."

20 AMENDMENT NO. 35

21 On page 9, at the end of line 28, insert "A grant recipient shall contribute from its own funds  
 22 a minimum of twenty percent of the total estimated cost of the project."

23 AMENDMENT NO. 36

24 On page 10, delete lines 1 through 6 in their entirety and insert in lieu thereof the following:

25 "B. A municipality shall contribute from its own funds a minimum of ten  
 26 percent of the total estimated cost of the project in cash or in kind."

27 AMENDMENT NO. 37

28 On page 10, line 9, after "speeds" insert "of twenty-five Mbit/s downstream and three Mbit/s  
 29 upstream" and after "projected" insert "connection speed and"

30 AMENDMENT NO. 38

31 On page 10, line 17, after "caps" delete the remainder of the line and insert in lieu thereof a  
 32 period ":"

33 AMENDMENT NO. 39

34 On page 10, delete line 18 in its entirety

35 AMENDMENT NO. 40

36 On page 10, at the beginning of line 20, add "A."

37 AMENDMENT NO. 41

38 On page 10, line 22, after "speed" insert "and cost"

39 AMENDMENT NO. 42

40 On page 10, line 25, after "for" insert "up to" and after "interest" delete the comma "," and  
 41 "at a rate established by the office"

42 AMENDMENT NO. 43

43 On page 10, line 28, change "subsection" to "Subsection"

1 AMENDMENT NO. 44

2 On page 10, between lines 28 and 29, insert the following:

3 "(B) A grant recipient shall not be required to forfeit the amount of the grant  
4 received if it fails to perform due to a natural disaster, an act of God, force majeure,  
5 a catastrophe, pandemic, or such other occurrence over which the grant recipient has  
6 no control."7 AMENDMENT NO. 458 On page 11, at the end of line 1, insert "state and"9 AMENDMENT NO. 46

10 On page 11, delete lines 2 through 4 in their entirety, and insert in lieu thereof the following:

11 "federal funds intended for the state for broadband expansion or allocated  
12 by the state for broadband expansion and shall seek available federal grant funds for  
13 that purpose. All federal grant funds received for the purpose of broadband  
14 expansion shall be disbursed in accordance with this Part."15 AMENDMENT NO. 4716 On page 11, line 7, delete "agreement" and insert in lieu thereof "five-year period"17 AMENDMENT NO. 4818 On page 11, line 8, after "agreement" delete "and level of attainment for each"19 AMENDMENT NO. 49

20 On page 11, delete lines 10 and 11 in their entirety and insert in lieu thereof the following:

21 "The number of residential and commercial locations that have broadband  
22 access as a result of the project."23 AMENDMENT NO. 5024 On page 11, line 13, after "service and" insert "the percentage of those with access who"25 AMENDMENT NO. 51

26 On page 11, delete lines 14 and 15 in their entirety and insert in lieu thereof the following:

27 "(3) The average monthly subscription rate for residential and commercial  
28 broadband service in the project area."29 AMENDMENT NO. 52

30 On page 12, delete lines 25 and 26 in their entirety and insert in lieu thereof the following:

31 "A. The office shall promulgate rules necessary to carry out the provisions  
32 of this Part in accordance with the provisions of the Administrative Procedure Act.33 B. In awarding grants or administering the program, the office shall not  
34 include consideration of any new or additional regulatory obligations beyond those  
35 required under applicable law, including, but not limited to, open access network  
36 requirements or any rate, service, or other obligations beyond the speed requirements  
37 set forth in R.S. 51:2370.2(2). Nor shall the award of grants or the administration  
38 of the program impose requirements or consider factors that would constrain an  
39 awardee from offering or providing broadband service in the same manner as such  
40 service is offered without funding support by the provider in other areas of the state.41 §2370.16 Prohibitions on municipalities42 No municipality shall operate as an internet service provider or participate  
43 in any revenue sharing under the provisions of this Chapter.44 §2370.17 Reimbursement for grantees

1           Initial funding of ten percent shall be distributed upon a grantee  
2 demonstrating that ten percent of the project has been completed. Thereafter,  
3 payments are made as follows: thirty-five percent completion, sixty percent  
4 completion, eighty-five percent completion, and the final fifteen percent payment  
5 will not be paid without an approved completion report. Invoice for final payment  
6 must be submitted within ninety days of completion date. All invoices are subject  
7 to audit for three years from the completion date.

8           §2370.18 Minority-owned business

9           A. There shall be a set aside of the funds under this Chapter for awarding to  
10 minority-owned eligible grant recipient businesses an amount not less than twenty-  
11 five percent of the value of the total fund.

12           B. The office shall give additional points to projects that engage in minority-  
13 owned businesses for the procurement of goods and services including construction  
14 for the project; provided the minority-owned businesses are majority owned and  
15 operated by Louisiana residents.

16           Section 2. This Act shall become effective upon signature by the governor or, if not  
17 signed by the governor, upon expiration of the time for bills to become law without signature  
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
20 effective on the day following such approval."