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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2381

03/08/2016 Authored by Baker, Kresha, Torkelson and Howe

The bill was read for the first time and referred to the Committee on Greater Minnesota Economic and Workforce Development Policy

03/21/2016 Adoption of Report: Amended and re-referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act
1.2 relating to telecommunications; modifying the border-to-border broadband grant
1.3 program; amending state broadband goals; requiring a report; appropriating
1.4 money; amending Minnesota Statutes 2014, sections 116J.391, subdivision 1;
1.5 116J.395, subdivisions 4, 5, by adding subdivisions; 237.012, subdivisions 1, 2;
1.6 Minnesota Statutes 2015 Supplement, section 116J.394.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2014, section 116J.391, subdivision 1, is amended to read:

1.9 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms
1.10 have the meanings given them.

1.11 (b) "Broadband" or "broadband service" has the meaning given in section 116J.39,
1.12 subdivision 1, paragraph (b).

1.13 (c) "Broadband conduit" means a conduit, pipe, innerduct, or microduct ~~for fiber~~
1.14 ~~optic or other cables that support~~ supports broadband and wireless facilities for broadband
1.15 service.

1.16 (d) "Local unit of government" has the meaning given in section 116G.03,
1.17 subdivision 3.

1.18 (e) "Office" means the Office of Broadband Development established in section
1.19 116J.39.

1.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

1.21 Sec. 2. Minnesota Statutes 2015 Supplement, section 116J.394, is amended to read:

1.22 **116J.394 DEFINITIONS.**

2.1 (a) For the purposes of sections 116J.394 to 116J.396, the following terms have
2.2 the meanings given them.

2.3 (b) "Broadband" or "broadband service" has the meaning given in section 116J.39,
2.4 subdivision 1, paragraph (b).

2.5 (c) "Broadband infrastructure" means networks of deployed telecommunications
2.6 equipment and technologies necessary to provide high-speed Internet access and other
2.7 advanced telecommunications services for end users.

2.8 (d) "Commissioner" means the commissioner of employment and economic
2.9 development.

2.10 (e) "Last-mile infrastructure" means broadband infrastructure that serves as the
2.11 final leg connecting the broadband service provider's network to the end-use customer's
2.12 on-premises telecommunications equipment.

2.13 (f) "Middle-mile infrastructure" means broadband infrastructure that links a
2.14 broadband service provider's core network infrastructure to last-mile infrastructure.

2.15 (g) "Political subdivision" means any county, city, town, school district, special
2.16 district or other political subdivision, or public corporation.

2.17 (h) "Underserved areas" means areas of Minnesota in which households or
2.18 businesses lack access to wire-line broadband service at speeds that meet the state
2.19 broadband goals of ~~ten to 20 megabits per second download and five to ten megabits per~~
2.20 ~~second upload~~ contained in section 237.012, subdivision 1.

2.21 (i) "Unserved areas" means areas of Minnesota in which households or businesses
2.22 lack access to wire-line broadband service, ~~as defined in section 116J.39~~ at speeds less
2.23 than ten megabits per second download and one megabit per second upload.

2.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.25 Sec. 3. Minnesota Statutes 2014, section 116J.395, subdivision 4, is amended to read:

2.26 Subd. 4. **Application process.** (a) An eligible applicant must submit an application
2.27 to the commissioner on a form prescribed by the commissioner. The commissioner shall
2.28 develop administrative procedures governing the application and grant award process.

2.29 The commissioner shall act as fiscal agent for the grant program and shall be responsible
2.30 for receiving and reviewing grant applications and awarding grants under this section.

2.31 (b) At least 30 days prior to the first day applications may be submitted each fiscal
2.32 year, the commissioner must publish the specific criteria and any quantitative weighting
2.33 scheme or scoring system the commissioner will use to evaluate or rank applications and
2.34 award grants under subdivision 6 on the department's Web site.

3.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.2 Sec. 4. Minnesota Statutes 2014, section 116J.395, subdivision 5, is amended to read:

3.3 Subd. 5. **Application contents.** An applicant for a grant under this section shall
3.4 provide the following information on the application:

3.5 (1) the location of the project;

3.6 (2) the kind and amount of broadband infrastructure to be purchased for the project;

3.7 (3) evidence regarding the unserved or underserved nature of the community in
3.8 which the project is to be located;

3.9 (4) the number of households passed that will have access to broadband service as a
3.10 result of the project, or whose broadband service will be upgraded as a result of the project;

3.11 (5) significant community institutions that will benefit from the proposed project;

3.12 (6) evidence of community support for the project;

3.13 (7) the total cost of the project;

3.14 (8) sources of funding or in-kind contributions for the project that will supplement
3.15 any grant award; ~~and~~

3.16 (9) the names of each vendor that provided information to the applicant regarding the
3.17 scope, cost, or technical aspects of the project; each vendor's experience in constructing
3.18 broadband projects; and the ways, if any, in which the proposed project was altered based
3.19 on vendor comments; and

3.20 (10) any additional information requested by the commissioner.

3.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.22 Sec. 5. Minnesota Statutes 2014, section 116J.395, is amended by adding a subdivision
3.23 to read:

3.24 Subd. 5a. **Incumbent right of first refusal.** (a) An applicant shall submit a copy of
3.25 its application to all incumbent broadband service providers operating in the geographic
3.26 area in which the proposed project is to be located at the same time the application is
3.27 submitted to the commissioner.

3.28 (b) An applicant shall withdraw its application if it receives notice in writing from an
3.29 incumbent broadband service provider of the service provider's intention and commitment
3.30 to begin construction, within 12 months of the date on which grant awards are to be
3.31 made under this section, and to complete construction within 24 months of that date, of a
3.32 project to extend or upgrade broadband service to speeds equal to or greater than the state
3.33 broadband speed goal contained in section 237.012, subdivision 1, throughout the area in
3.34 which the proposed project that is the subject of the application is to be located.

4.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.2 Sec. 6. Minnesota Statutes 2014, section 116J.395, is amended by adding a subdivision
4.3 to read:

4.4 Subd. 8. **Application evaluation report.** By June 30 of each year, the office
4.5 shall place on the Department of Employment and Economic Development's Web
4.6 site and provide to the chairs and ranking minority members of the senate and house
4.7 of representatives committees with primary jurisdiction over broadband a list of all
4.8 applications for grants under this section received during the previous year and, for each
4.9 application:

4.10 (1) the results of any quantitative weighting scheme or scoring system the
4.11 commissioner used to award grants or rank the applications;

4.12 (2) the grant amount requested; and

4.13 (3) the grant amount awarded, if any.

4.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.15 The initial report submission required under this section is due June 30, 2016.

4.16 Sec. 7. Minnesota Statutes 2014, section 237.012, subdivision 1, is amended to read:

4.17 Subdivision 1. **Universal access and high-speed goal.** It is a state goal that as soon
4.18 as possible, but no later than ~~2015~~ 2022, all state residents and businesses have access to
4.19 high-speed broadband service that provides minimum download speeds of ~~ten to 20~~ 25
4.20 megabits per second and minimum upload speeds of ~~five to ten~~ three megabits per second.

4.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.22 Sec. 8. Minnesota Statutes 2014, section 237.012, subdivision 2, is amended to read:

4.23 Subd. 2. **State broadband leadership position.** It is a goal of the state that by
4.24 ~~2015~~ 2022 and thereafter, the state be in:

4.25 (1) the top five states of the United States for broadband speed universally accessible
4.26 to residents and businesses;

4.27 (2) the top five states for broadband access; and

4.28 (3) the top 15 when compared to countries globally for broadband penetration.

4.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.30 Sec. 9. **APPROPRIATION.**

5.1 (a) \$35,000,000 in fiscal year 2017 is appropriated from the general fund to
5.2 the commissioner of employment and economic development for deposit in the
5.3 border-to-border broadband fund account established in Minnesota Statutes, section
5.4 116J.396, for the purposes described in that section.

5.5 (b) \$500,000 of this appropriation must be awarded by the commissioner to projects
5.6 that propose to expand the availability and adoption of broadband service to areas that
5.7 contain a significant proportion of low-income households. For the purposes of this
5.8 paragraph, "low-income households" means households whose household income is less
5.9 than or equal to 200 percent of the most recent calculation of the United States federal
5.10 poverty guidelines published by the federal Department of Health and Human Services,
5.11 adjusted for family size.

5.12 (c) Of the broadband grant awards made by the commissioner with this
5.13 appropriation, the commissioner must award 60 percent of the funds to applicants in
5.14 unserved areas and 40 percent to applicants in underserved areas, as the terms are defined
5.15 in Minnesota Statutes, section 116J.394. If grant awards are insufficient to fully expend
5.16 funds available in either unserved or undeserved areas, the commissioner may expend
5.17 unused funds on grants to applicants in areas in which grant awards were fully expended.