2024 Regular Session

# **ACT No. 632**

HOUSE BILL NO. 700

1

BY REPRESENTATIVES DESHOTEL, BRYANT, CARRIER, FISHER, HEBERT, TRAVIS JOHNSON, KNOX, LACOMBE, LAFLEUR, LARVADAIN, MARCELLE, MENA, OWEN, SELDERS, ST. BLANC, TAYLOR, AND THOMPSON

AN ACT

2 To amend and reenact R.S. 51:1363.1(E) and 2370.32 and to enact R.S. 51:1363.1(F), 2370.17, 2370.18, 2370.33(E), 2370.34, and 2370.35, Subpart C of Part VI-C of 3 4 Chapter 39 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised 5 of R.S. 51:2370.41, and Subpart D of Part VI-C of Chapter 39 of Title 51 of the 6 Louisiana Revised Statutes of 1950, to be comprised of R.S. 51:2370.51, relative to 7 broadband; to provide for a grant program by the office of broadband to prevent 8 utility damage; to provide for a public records exemption; to provide for liability; to 9 provide for obligations; to provide for reporting requirements; to provide for 10 coordination with parishes and municipalities; to allow a local government to 11 establish a fee; to provide for reimbursement for grantees; to provide for failure to 12 perform protocols; to provide for the "Granting Unserved Municipalities Broadband 13 Opportunities 3.0" program; to provide for the "Granting Unserved Municipalities 14 Broadband Opportunities 4.0" program; and to provide for related matters. 15 Be it enacted by the Legislature of Louisiana: 16 Section 1. R.S. 51:1363.1(E) and 2370.32 are hereby amended and reenacted and 17 R.S. 51:1363.1(F), 2370.17, 2370.18, 2370.33(E), 2370.34, and 2370.35, Subpart C of Part 18 VI-C of Chapter 39 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 19 51:2370.41, and Subpart D of Part VI-C of Chapter 39 of Title 51 of the Louisiana Revised

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1	Statutes of 1950, comprised of R.S. 51:2370.51, are hereby enacted to read as follows:
2	§1363.1. Mapping areas for broadband service
3	* * *
4	E.(1) The office may create a grant program and promulgate rules to prevent
5	damage to existing utilities and ensure proper documentation of utilities associated
6	with the grant program. After review by the House Committee on Commerce and
7	the Senate Committee on Commerce, Consumer Protection and International Affairs,
8	the Joint Legislative Committee on the Budget shall review and approve the rules
9	and regulations before implementation.
10	(2) Data collected or provided in accordance with this Subsection on
11	infrastructure owned, operated, leased, or otherwise used by an internet service
12	provider or telecommunications provider, or its affiliates or subsidiaries, shall be
13	confidential and exempt from the Public Records Law, R.S. 44:4.1 et seq., and
14	exempt from disclosure under any other provision of law.
15	(3) No GUMBO 2.0 applicant or grantee shall be liable for damages or
16	required to pay any penalty to any person or governmental entity for an act or
17	omission of a local government, utility system, or the office related to or arising from
18	the collection of data pursuant to this Subsection.
19	(4) Nothing in this Subsection shall be construed to relieve any person or
20	operator of a public or private underground facility or utility of its obligations under
21	the Louisiana Underground Utilities and Facilities Damage Prevention Law, R.S.
22	40:1749.11 et seq.
23	<u>F.</u> The office shall not hire more than one additional full-time employee to
24	carry out the provisions of the Section.
25	* * *
26	§2370.17. Reporting requirements
27	A. Beginning August 1, 2024, any GUMBO 1.0 grantee shall report all
28	instances of known damage to existing underground utilities that occur during the
29	construction or installation of broadband infrastructure funded by GUMBO 1.0.

1	B. Reports shall be submitted to the office in a monthly report, once
2	construction has begun.
3	C. The report shall include all of the following:
4	(1) The date and location of the incident.
5	(2) A description of the damage caused.
6	(3) Steps taken to address the damage.
7	D. Failure to report such incidents may result in the suspension of GUMBO
8	1.0 funding.
9	§2370.18. Coordination with parishes and municipalities
10	Beginning August 1, 2024, broadband providers receiving funding through
11	the GUMBO 1.0 program shall provide a thirty-day advanced written notice prior to
12	the commencement of GUMBO 1.0 construction activities to the relevant parish or
13	municipality. Nothing in this Section relieves the GUMBO 1.0 grantee of its
14	obligations to comply with local regulations and ordinances.
15	* * *
16	§2370.32. Reimbursement for grantees
17	Reimbursements of eligible costs shall be made by percentage of total project
18	costs expended: ten percent, thirty-five percent, sixty percent, eighty-five percent,
19	and the final fifteen percent payment shall not be paid without an approved
20	completion report. Invoice for final payment shall be submitted within ninety days
21	of a completion date. All invoices are subject to audit for three years from the
22	completion date.
23	A. GUMBO 2.0 awards shall be made on a fixed-amount subaward basis,
24	consistent with NTIA's Tailoring the Application of the Uniform Guidance Policy
25	Notice, and an initial ten percent disbursement shall be made available immediately
26	upon entering into a subgrantee agreement.
27	B. Except as provided in Subsection C of this Section, the next ten percent
28	of the subgrant award shall be provided based on provider certification and the
29	office's verification that ten percent of the eligible locations have been reached. The

disbursement for one hundred percent completion shall be given only after verification of one hundred percent deployment to eligible locations, within the mandatory forty-eight months maximum deadline, which may be extended up to a year by the office or another shorter timeline certified by the applicant. The office shall disburse funds only for completed deployments that comply with the terms included in the successful application and shall withhold funds for failure to do so.

C. Notwithstanding any other provision of law to the contrary, the office may disburse on any basis that may be necessary to effectuate option 2.4, Subgrantee Option for Alternative Initial LOC or Performance Bond Percentage made available in the BEAD Letter of Credit Waiver issued by NTIA on November 1, 2023, and the office may give full effect to that option as a means of enabling a subgrantee to satisfy the GUMBO 2.0 letter of credit requirement.

§2370.33. Failure to perform

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E.(1) Any GUMBO 2.0 subgrantee also subject to deployment obligations elsewhere in this state, including from programs such as the Rural Digital Opportunity Fund, the Enhanced Alternative Connect America Model, the Rural Development Broadband ReConnect Program, or any other similar program included in the BEAD deduplication process, shall make an enforceable commitment as part of its GUMBO 2.0 subgrant agreement not to default or otherwise fail to fulfill any such deployment obligation in this state. The penalty for breach of this commitment shall be, as reimbursement for funding that could have been awarded but for other federal program funding, payment to the state in the amount equal to the total investment cost of all defaulted locations, as measured by the Eligible Entity tool provided to the state by NTIA.

(2)(a) For the purposes of Paragraph (1) of this Subsection, the office shall determine if a broadband provider has defaulted or otherwise failed to fulfill a deployment obligation.

1	(b) The office shall not approve any default that covers more than five
2	percent of the unserved or underserved locations subject to the deployment
3	obligation.
4	§2370.34. Reporting requirements
5	A. Any GUMBO 2.0 grantee shall report all instances of known damage to
6	existing underground utilities that occur during the construction or installation of
7	broadband infrastructure funded by GUMBO 2.0.
8	B. Reports shall be submitted to the office in a monthly report, once
9	construction has begun.
10	C. The report shall include all of the following:
11	(1) The date and location of the incident.
12	(2) A description of the damage caused.
13	(3) Steps taken to address the damage.
14	D. Failure to report such incidents may result in the suspension of GUMBO
15	2.0 funding.
16	§2370.35. Coordination with parishes and municipalities
17	A. Broadband providers receiving funding through the GUMBO 2.0 program
18	shall provide a thirty-day advanced written notice prior to the commencement of
19	GUMBO 2.0 construction activities to the relevant parish or municipality. Nothing
20	in this Section relieves the GUMBO 2.0 grantee of its obligations to comply with
21	local regulations and ordinances.
22	B. The relevant local governmental subdivision may do either of the
23	following:
24	(1) Require a one-time GUMBO 2.0 grant assessment for construction and
25	installation of GUMBO 2.0 grant-funded broadband facilities and may charge a
26	corresponding one-time GUMBO 2.0 grant assessment fee not to exceed one
27	thousand dollars.
28	(2) Require a permit for construction and installation of GUMBO 2.0 grant-
29	funded broadband facilities, and may charge a corresponding one-time permit fee not
30	to exceed one thousand dollars.

C. The office shall not award GUMBO 2.0 funding to an eligible applicant's project covering any areas in which the city or parish with authority over the public right of way imposes any form of franchise fee on broadband services, or which violates Subsection B of this Section.

## SUBPART C. GRANTING UNSERVED MUNICIPALITIES BROADBAND

#### **OPPORTUNITIES 3.0**

#### §2370.41. GUMBO 3.0

In the event there are remaining GUMBO 2.0 funds after the obligation of infrastructure funds, the office shall run a grant program, nondeployment, that will allow eligible parties including but not limited to state agencies, nonprofits, for-profits, academic institutions, and planning commissions to utilize these funds to help address challenges in economic development, workforce development, healthcare, cybersecurity, agriculture, and other sectors and industries of importance to the state of Louisiana, as determined by approval of Volume 2 of Initial Proposal from the office and the Infrastructure Investment and Jobs Act, or IIJA, the Broadband Equity, Access, and Deployment, or BEAD, Program, and the Notice of Funding Opportunity, or NOFO, with an obligation deadline of these funds to be completed no later than December 12, 2024. This program will be designated as "Granting Unserved Municipalities Broadband Opportunities 3.0" and the office shall have the authority to create appropriate rules and scoring criteria.

## SUBPART D. GRANTING UNSERVED MUNICIPALITIES BROADBAND

## OPPORTUNITIES 4.0

### §2370.51. GUMBO 4.0

The office shall have the authority to develop the rules, scoring criteria, and eligibility in the execution of the State's First Digital Opportunity Plan, pending approval from the National Telecommunications and Information Administration, a Sub-Agency of the United States Department of Commerce. Eligible parties shall include but not be limited to state agencies, nonprofits, for-profits, academic institutions, and planning commissions. This program will be designated as "Granting Unserved Municipalities Broadband Opportunities 4.0".

HB NO. 700 **ENROLLED** 1 Section 2. The funds for GUMBO 2.0 outlined in Subsection E of R.S. 51:2370.33 2 as enacted by Section 1 of this Act are to be obligated by and spent within the maximum 3 timelines allowed by NTIA. 4 Section 3. The funds for GUMBO 3.0 outlined in R.S. 51:2370.41 as enacted by 5 Section 1 of this Act are to be obligated by December 12, 2024 and to be spent by December 31, 2028. 6 7 Section 4. The funds for GUMBO 4.0 outlined in R.S. 51:2370.51 as enacted by 8 Section 1 of this Act are to be spent by March 1, 2029. SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_