

96.1

**ARTICLE 7**

96.2

**BROADBAND**

96.3 Section 1. Minnesota Statutes 2020, section 116J.395, subdivision 7, is amended to read:

96.4 Subd. 7. **Limitation.** (a) No grant awarded under this section may fund more than ~~50~~  
96.5 75 percent of the total cost of a project.

96.6 (b) Grants awarded to a single project under this section must not exceed ~~\$5,000,000~~  
96.7 \$10,000,000.

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

96.9 Sec. 2. **REPORT; GRANT AWARD CHANGES.**

96.10 No later than December 31, 2022, the Office of Broadband Development must submit  
96.11 a report to the chairs and ranking minority members of the senate and house of representatives  
96.12 committees with primary jurisdiction over broadband policy and finance analyzing the  
96.13 impacts of the statutory changes made in section 1 of this act on the number and amounts  
96.14 of grants awarded under Minnesota Statutes, section 116J.395.

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

96.16 Sec. 3. **TRANSFER.**

96.17 \$25,000,000 in fiscal year 2023 is transferred from the general fund to the  
96.18 border-to-border broadband fund account established in Minnesota Statutes, section 116J.396.  
96.19 This is a onetime transfer and remains available until expended.

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

25.24

**ARTICLE 2**

25.25

**BROADBAND APPROPRIATIONS**

25.26 Section 1. Laws 2021, First Special Session chapter 10, article 1, section 7, is amended  
25.27 to read:

25.28 **Sec. 7. BROADBAND DEVELOPMENT; APPLICATION FOR FEDERAL**  
25.29 **FUNDING; APPROPRIATION.**

25.30 (a) The commissioner of employment and economic development must prepare and  
25.31 submit an application to the United States Department of the Treasury requesting that  
25.32 \$70,000,000 of Minnesota's capital projects fund allocation under Public Law 117-2 be  
25.33 awarded to the state. The commissioner must submit the application required under this  
26.1 paragraph by the later of September 30, 2021, or 90 days after the date on which the United  
26.2 States Department of the Treasury begins accepting capital projects fund applications. The

- 26.3 commissioner must specify in the application that the award will be used for grants ~~and that~~  
 26.4 satisfy the purposes specified under Minnesota Statutes, section 116J.395.
- 26.5 (b) Of the amount awarded to the state of Minnesota pursuant to the application required  
 26.6 in paragraph (a), notwithstanding Minnesota Statutes, sections 3.3005 and 4.07, 50 percent  
 26.7 in fiscal year 2022 and 50 percent in fiscal year 2023 are appropriated to the commissioner  
 26.8 of employment and economic development. This is a onetime appropriation and must be  
 26.9 used for grants ~~and that satisfy~~ the purposes specified under Minnesota Statutes, section  
 26.10 116J.395. All money awarded under this section must be spent by December 31, 2026.
- 26.11 (c) The commissioner of employment and economic development may temporarily  
 26.12 modify program standards under Minnesota Statutes, section 116J.395, to the degree  
 26.13 necessary to comply with federal standards for funding received under this section.
- 26.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 26.15 **Sec. 2. LOWER POPULATION DENSITY PILOT PROGRAM.**
- 26.16 (a) The commissioner of employment and economic development must establish a pilot  
 26.17 program to provide broadband service to unserved and underserved areas, as defined in  
 26.18 Minnesota Statutes, section 116J.394, of the state where a 50 percent match formula is not  
 26.19 adequate to make a business case for the extension of broadband facilities. Grants awarded  
 26.20 under this section shall adhere to all other requirements of Minnesota Statutes, section  
 26.21 116J.395, subdivisions 1 to 6, and may fund up to 75 percent of the total cost of a project,  
 26.22 notwithstanding Minnesota Statutes section 116J.395, subdivision 7. Grants awarded to a  
 26.23 single project under this section may not exceed \$5,000,000.
- 26.24 (b) The commissioner of employment and economic development may use up to  
 26.25 \$15,000,000 from the appropriations in sections 3 and 4 for the lower population density  
 26.26 pilot program under paragraph (a).
- 26.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 26.28 **Sec. 3. BROADBAND DEVELOPMENT; APPLICATION FOR FEDERAL**  
 26.29 **FUNDING; APPROPRIATION.**
- 26.30 (a) The commissioner of employment and economic development must prepare and  
 26.31 submit a grant plan application to the United States Department of the Treasury requesting  
 26.32 that \$110,703,000 of Minnesota's capital projects fund allocation under Public Law 117-2  
 27.1 be used for grants that satisfy the purposes specified under Minnesota Statutes, section  
 27.2 116J.395, and sections 2, 5, and 6 of this article. The commissioner must submit the  
 27.3 application required under this paragraph by September 24, 2022.
- 27.4 (b) Notwithstanding Minnesota Statutes, sections 3.3005 and 4.07, the amount awarded  
 27.5 to Minnesota pursuant to the application required in paragraph (a) is appropriated to the  
 27.6 commissioner of employment and economic development. This appropriation (1) must be  
 27.7 used only for grants that satisfy the purposes specified under Minnesota Statutes, section

- 27.8 116J.395, and sections 2, 5, and 6 of this article, and (2) is available until December 31,  
 27.9 2026.
- 27.10 (c) The commissioner of employment and economic development may temporarily  
 27.11 modify program standards under Minnesota Statutes, section 116J.395, and sections 2, 5,  
 27.12 and 6 of this article to the extent necessary to comply with federal standards that apply to  
 27.13 funding received under this section.
- 27.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 27.15 **Sec. 4. BROADBAND DEVELOPMENT; APPROPRIATION.**
- 27.16 (a) Notwithstanding Minnesota Statutes, sections 3.3005 and 4.07, if Minnesota receives  
 27.17 federal money for broadband development under Public Law 117-58, the Infrastructure  
 27.18 Investment and Jobs Act, the money is appropriated to the commissioner of economic  
 27.19 development for grants that satisfy the purposes specified under Minnesota Statutes, section  
 27.20 116J.395, and sections 2, 5, and 6 of this article.
- 27.21 (b) The commissioner of employment and economic development may temporarily  
 27.22 modify program standards under Minnesota Statutes, section 116J.395, and sections 2, 5,  
 27.23 and 6 of this article to the extent necessary to comply with federal standards that apply to  
 27.24 funding received under this section.
- 27.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 27.26 **Sec. 5. BROADBAND LINE EXTENSION PROGRAM; APPROPRIATION.**
- 27.27 The commissioner of employment and economic development may use up to \$15,000,000  
 27.28 from the appropriations in sections 3 and 4 for the broadband line extension program in  
 27.29 Minnesota Statutes, section 116J.3951.
- 27.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 28.1 **Sec. 6. BROADBAND; MAPPING.**
- 28.2 The commissioner of employment and economic development may use up to \$15,000,000  
 28.3 from the appropriations in sections 3 and 4 for comprehensive statewide mapping if the  
 28.4 commissioner determines that comprehensive statewide mapping is an eligible expense  
 28.5 under federal law.
- 28.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 40.20 **ARTICLE 4**
- 40.21 **BROADBAND POLICY**
- 40.22 **Section 1. [116J.3951] BROADBAND LINE EXTENSION PROGRAM.**
- 40.23 Subdivision 1. **Program established.** A broadband line extension grant program is  
 40.24 established in the Department of Employment and Economic Development. The purpose

- 40.25 of the broadband line extension grant program is to award grants to eligible applicants in  
 40.26 order to extend existing broadband infrastructure to unserved locations.
- 40.27 Subd. 2. **Portal.** No later than November 1, 2022, the department must develop and  
 40.28 implement a portal on the department's website that allows a person to report (1) that  
 40.29 broadband service is unavailable at the physical address of the person's residence or business,  
 40.30 and (2) any additional information that the department deems necessary to ensure that the  
 41.1 broadband line extension grant program functions effectively. The department must develop  
 41.2 a form that allows the information identified in this subdivision to be submitted on paper.
- 41.3 Subd. 3. **Data sharing.** (a) Beginning no later than six months after the date that the  
 41.4 portal is implemented and every six months thereafter, the department must send to each  
 41.5 broadband service provider serving Minnesota customers: (1) a list of addresses submitted  
 41.6 to the portal under subdivision 2 during the previous six months; and (2) any additional  
 41.7 information that the department deems necessary to ensure that the broadband line extension  
 41.8 grant program functions effectively. The department must send the information required  
 41.9 under this section via e-mail.
- 41.10 (b) No later than ten days after the date that the list in paragraph (a) is provided, a  
 41.11 broadband service provider may notify the department of any posted address at which the  
 41.12 broadband service provider's broadband service is available. The department must provide  
 41.13 persons residing or doing business at those addresses with contact information for:
- 41.14 (1) the broadband service provider with broadband service available at that address; and  
 41.15 (2) programs administered by government agencies, nonprofit organizations, or the  
 41.16 applicable broadband service provider that reduce the cost of broadband service and for  
 41.17 which the persons may be eligible.
- 41.18 Subd. 4. **Reverse auction process.** (a) No later than ten days after the date that the notice  
 41.19 requirement in subdivision 3, paragraph (b), expires, the department must notify each  
 41.20 broadband service provider that the broadband service provider may participate in the reverse  
 41.21 auction process under this subdivision. Within 60 days of the date that the notification is  
 41.22 received, a broadband service provider may submit a bid to the department to extend the  
 41.23 broadband service provider's existing broadband infrastructure to a location where broadband  
 41.24 service is currently unavailable.
- 41.25 (b) A bid submitted under this subdivision must include:
- 41.26 (1) a proposal to extend broadband infrastructure to one or more of the addresses on the  
 41.27 list sent by the department to the broadband service provider under subdivision 3, paragraph  
 41.28 (a), at which broadband service is unavailable;
- 41.29 (2) the amount of the broadband infrastructure extension's total cost that the broadband  
 41.30 service provider proposes to pay;

- 41.31 (3) the amount of the broadband infrastructure extension's total cost that the broadband  
 41.32 service provider proposes that the department is responsible for paying; and
- 41.33 (4) any additional information required by the department.
- 42.1 (c) Financial assistance that the department provides under this section must be in the  
 42.2 form of a grant issued to the broadband service provider. A grant issued under this section  
 42.3 must not exceed \$25,000 per line extension.
- 42.4 (d) Within 60 days of the date that the bidding period closes, the department must review  
 42.5 the bids submitted and select the broadband service provider bids that request the least  
 42.6 amount of financial support from the state, provided that the department determines that  
 42.7 the selected bids represent a cost-effective expenditure of state resources.
- 42.8 Subd. 5. **Line extension agreement.** The department must enter into a line extension  
 42.9 agreement with each winning bidder identified under subdivision 4, except that the  
 42.10 department may not enter into a line extension agreement to serve any customer located  
 42.11 within an area that will be served by a grant already awarded by the department under section  
 42.12 116J.395.
- 42.13 Subd. 6. **Contents of agreement.** A line extension agreement under subdivision 5 must  
 42.14 contain the following terms:
- 42.15 (1) the broadband service provider agrees to extend broadband infrastructure to support  
 42.16 broadband service scalable to speeds of at least 100 megabits per second download and 100  
 42.17 megabits per second upload to each address included in the broadband service provider's  
 42.18 winning bid;
- 42.19 (2) the department agrees to pay the state's portion of the line extension cost in a grant  
 42.20 issued to the broadband service provider upon the completion of the broadband infrastructure  
 42.21 extension to each address in the broadband service provider's winning bid; and
- 42.22 (3) the winning bidder has an exclusive right to apply the grant to the cost of the  
 42.23 broadband infrastructure extension for a period of one year after the date that the agreement  
 42.24 is executed.
- 42.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 42.26 Sec. 2. Minnesota Statutes 2020, section 116J.396, subdivision 2, is amended to read:
- 42.27 Subd. 2. **Expenditures.** Money in the account may be used only:
- 42.28 (1) for grant awards made under ~~section~~ sections 116J.395 and 116J.3951, including  
 42.29 costs incurred by the Department of Employment and Economic Development to administer  
 42.30 that section;
- 42.31 (2) to supplement revenues raised by bonds sold by local units of government for  
 42.32 broadband infrastructure development; or

- 43.1 (3) to contract for the collection of broadband deployment data from providers and the  
43.2 creation of maps showing the availability of broadband service.
- 43.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 43.4 **Sec. 3. [116J.399] BROADBAND EASEMENTS.**
- 43.5 **Subdivision 1. Definitions.** For the purposes of this section, the following terms have  
43.6 the meanings given:
- 43.7 (1) "broadband infrastructure" has the meaning given in section 116J.394, paragraph  
43.8 (c);
- 43.9 (2) "broadband service" has the meaning given in section 116J.394, paragraph (b); and
- 43.10 (3) "provider" means a broadband service provider, but does not include an electric  
43.11 cooperative association organized under chapter 308A that provides broadband service.
- 43.12 **Subd. 2. Use of existing easements for broadband services.** (a) A provider, provider's  
43.13 affiliate, or another entity that has entered into an agreement with a provider, may use the  
43.14 provider, affiliate, or entity's existing or subsequently acquired easements to install broadband  
43.15 infrastructure and provide broadband service, which may include an agreement to lease  
43.16 fiber capacity.
- 43.17 (b) Before exercising rights granted under this subdivision, a provider must provide  
43.18 notice to the property owner on which the easement is located, as described in subdivision  
43.19 3.
- 43.20 (c) Use of an easement to install broadband infrastructure and provide broadband service  
43.21 vests and runs with the land beginning six months after the first notice is provided under  
43.22 subdivision 3, unless a court action challenging the use of the easement has been filed before  
43.23 that time by the property owner as provided under subdivision 4. The provider must also  
43.24 file copies of the notices with the county recorder.
- 43.25 **Subd. 3. Notice to property owner.** (a) A provider must send two written notices to  
43.26 impacted property owners declaring that the provider intends to use the easements to install  
43.27 broadband infrastructure and provide broadband service. The notices must be sent at least  
43.28 two months apart and must be sent by first class mail to the last known address of the owner  
43.29 of the property on which the easement is located or, if the property owner is an existing  
43.30 customer of the provider, by separate printed insertion in the property owner's monthly  
43.31 invoice or included as a separate page on a property owner's electronic invoice.
- 43.32 (b) The notice must include:
- 44.1 (1) the provider's name and mailing address;
- 44.2 (2) a narrative describing the nature and purpose of the intended easement use;

- 44.3 (3) a description of any trenching or other underground work expected to result from  
 44.4 the intended use, and the anticipated time frame for the work;
- 44.5 (4) a phone number for an employee of the provider that the property owner may contact  
 44.6 regarding the easement; and
- 44.7 (5) the following statement, in bold red lettering: "It is important to make any challenge  
 44.8 by the deadline to preserve any legal rights you may have."
- 44.9 (c) The provider must file copies of the notices with the county recorder.
- 44.10 Subd. 4. **Action for damages.** (a) Notwithstanding any other law to the contrary, this  
 44.11 subdivision governs an action under this section and is the exclusive means to bring a claim  
 44.12 for compensation with respect to a notice of intent to use a provider's existing easement to  
 44.13 install broadband infrastructure and provide broadband service.
- 44.14 (b) Within six months after the date notice is received under subdivision 3, a property  
 44.15 owner may file an action seeking to recover damages for a provider's use of an existing  
 44.16 easement to install broadband infrastructure and provide broadband service. Claims for  
 44.17 damages under \$15,000 may be brought in conciliation court.
- 44.18 (c) To initiate an action under this subdivision, a property owner must serve a complaint  
 44.19 upon the provider in the same manner as in a civil action and must file the complaint with  
 44.20 the district court for the county in which the easement is located. The complaint must state  
 44.21 whether the property owner:
- 44.22 (1) challenges the provider's right to use the easement for broadband services or  
 44.23 infrastructure as provided under subdivision 5, paragraph (a);
- 44.24 (2) seeks damages as provided under subdivision 5, paragraph (b); or
- 44.25 (3) seeks to proceed under both clauses (1) and (2).
- 44.26 Subd. 5. **Deposit and hearing required.** (a) If a property owner files a complaint  
 44.27 challenging a provider's right to use an easement to install broadband infrastructure and  
 44.28 provide broadband service, after the provider answers the complaint, the district court must  
 44.29 promptly hold a hearing on the complaint. If the district court denies the property owner's  
 44.30 complaint, the provider may proceed to use the easement to install broadband infrastructure  
 44.31 and provide broadband service, unless the complaint also seeks damages. If the complaint  
 44.32 seeks damages, the provider may proceed under paragraph (b).
- 45.1 (b) If a property owner files a claim for damages, a provider may, after answering the  
 45.2 complaint, deposit with the court administrator an amount equal to the provider's estimate  
 45.3 of damages. A provider's estimate of damages must be no less than \$1. After the estimated  
 45.4 damages are deposited, the provider may use the existing easement to install broadband  
 45.5 infrastructure and provide broadband service, conditioned on an obligation, filed with the  
 45.6 court administrator, to pay the amount of damages determined by the court.

- 45.7            Subd. 6. **Calculation of damages; burden of proof.** (a) In an action under this section  
45.8 involving a property owner's claim for damages:
- 45.9            (1) the property owner has the burden to prove the existence and amount of any net  
45.10 reduction in the fair market value of the property, considering the existence, installation,  
45.11 construction, maintenance, modification, operation, repair, replacement, or removal of  
45.12 broadband infrastructure in the easement, adjusted to reflect any increase in the property's  
45.13 fair market value resulting from access to broadband service;
- 45.14            (2) a court is prohibited from awarding consequential or special damages; and
- 45.15            (3) evidence of estimated revenue, profits, fees, income, or similar benefits accruing to  
45.16 the provider, the provider's affiliate, or a third party as a result of use of the easement is  
45.17 inadmissible.
- 45.18            (b) Any fees or costs incurred as a result of an action under this subdivision must be  
45.19 paid by the party that incurred the fees or costs, except that a provider is responsible for a  
45.20 property owner's attorney fees if the final judgment or award of damages by the court exceeds  
45.21 140 percent of the provider's damage deposit made under subdivision 5, if applicable.
- 45.22            Subd. 7. **No limits on existing easement.** Nothing in this section limits in any way a  
45.23 provider's existing easement rights.
- 45.24            Subd. 8. **Local governmental right-of-way management preserved.** The placement  
45.25 of broadband infrastructure to provide broadband service under subdivisions 2 to 7 is subject  
45.26 to local government permitting and right-of-way management authority under section  
45.27 237.163, and must be coordinated with the relevant local government unit in order to  
45.28 minimize potential future relocations. The provider must notify a local government unit  
45.29 prior to placing infrastructure for broadband service in an easement that is in or adjacent to  
45.30 the local government unit's public right-of-way.
- 45.31            Subd. 9. **Railroad rights-of-way crossing.** The placement of broadband infrastructure  
45.32 for use to provide broadband service under subdivisions 1 to 7 or section 308A.201,  
46.1 subdivision 12, in any portion of an existing easement located in a railroad right-of-way is  
46.2 subject to sections 237.04 and 237.045.
- 46.3            **EFFECTIVE DATE.** This section is effective the day following final enactment.