The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 64 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 61

PENNSYLVANIA BROADBAND DEVELOPMENT AUTHORITY

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

6101. Scope of chapter.

6102. Findings and declaration of policy.
§ 6101. Scope of chapter.

This chapter relates to the development and expansion of broadband services to unserved and underserved areas of this Commonwealth.

§ 6102. Findings and declaration of policy.

The General Assembly finds and declares as follows:

(1) Access to high-speed broadband Internet services is rapidly becoming a necessity for most households and businesses in Pennsylvania.

(2) High-speed broadband has applications for education, health care, agriculture, economic and community development and tourism, especially in terms of telehealth, distance learning, precision agriculture and the economic value inherent in Internet connectivity as well as other endeavors.

(3) Based on the state of technology in the year 2021, mobile and fixed broadband services are not functional substitutes for all uses and customer groups. Mobile broadband service is an alternative, not a substitute, for fixed-wired service. Wireless mobile technology connects the user to a wireless facility that in turn routes the communications via coaxial or fiber cable lines to the Internet and thus is ultimately reliant on wired service as well.

(4) Areas exist within this Commonwealth that are unserved or underserved by wired, high-speed broadband service.

(5) The economic and business incentives to deploy wired high-speed broadband service infrastructure may be insufficient to ensure full access to high-speed broadband services.
services in low-density, rural locations and other locations within this Commonwealth where the unit costs of providing service may not provide an adequate return on investment for commercial companies.

(6) Multiple departments, agencies and entities are engaged in efforts to deploy, expand and support broadband services which can lead to uncoordinated and potentially duplicative actions. A single entity serving as point of contact for all broadband-related activities can help align and leverage otherwise isolated efforts.

(7) Support in the form of financial assistance and grants for the deployment and expansion of wired high-speed broadband service is in the policy interest of this Commonwealth.

§ 6103. Definitions.
The following words and phrase as used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Authority." The Pennsylvania Broadband Development Authority established under section 6111(a) (relating to authority).

"Board." The board of directors of the Pennsylvania Broadband Development Authority established under section 6112 (relating to board).

"Eligible cost." The cost of all labor, materials, machinery and equipment, land, property, rights and easements, plans and specifications, surveys or estimates of costs and revenues, prefeasibility studies, engineering and legal services and all other expenses necessary or incident to the acquisition, construction, improvement, expansion, extension, repair or
rehabilitation of all or part of a project.

"Financial assistance." Loans, grants, guarantees, sales, leases, investments, lines of credit, letters of credit and other financial arrangements which the authority may provide under this chapter.

"Underserved area." A project area, as determined by regulation of the authority, where service is limited by the number of providers offering service in the area or the percentage of the area that has coverage, but that has access to at least one wireline or fixed wireless broadband service provider offering the greater of:

(1) minimum speeds of at least 25 megabits per second downstream and three megabits per second upstream; or

(2) minimum speeds adopted by the Federal Communications Commission.

"Unserved area." A project area without access to wireline or fixed wireless broadband service at the greater of:

(1) minimum speeds of at least 25 megabits per second downstream and three megabits per second upstream; or

(2) minimum speeds adopted by the Federal Communications Commission.

SUBCHAPTER B
STRUCTURE AND GOVERNANCE

Sec.
6111. Authority.
6112. Board.
6113. Audits.
6114. Annual report.
6115. Sources of revenue.
§ 6111. Authority.
(a) Establishment.--The Pennsylvania Broadband Development Authority is established as an independent authority. The authority shall be an instrumentality of the Commonwealth and a body corporate and politic, with corporate succession. The exercise by the authority of the powers conferred on the authority by this chapter shall be deemed and held to be a public and essential government function.

(b) Governance.--The authority shall be governed by a board of directors as provided in section 6112 (relating to board). The powers of the authority shall be exercised by the board.

(c) Expenses.--Expenses of the authority shall be paid from assets or income of the authority. Except as provided in this chapter or by other law, the Commonwealth shall not be responsible for funding the expenses of the authority.

(d) Fiscal year.--The fiscal year of the authority shall be the same as the fiscal year of the Commonwealth.

(e) Existence and dissolution.--

(1) The authority shall terminate 20 years after the effective date of this section, unless re-enacted and re-established by law.

(2) The authority may be dissolved by law, provided that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of all of its debts and obligations. Upon any dissolution of the authority, all property, funds and assets of the authority shall be vested in the Commonwealth.

(f) Procurement.--The authority shall be considered an independent agency for purposes of 62 Pa.C.S. Pt. I (relating to Commonwealth procurement code).

(g) Applicability.--The following acts shall apply to the
authority and the board:

(1) The act of February 14, 2008 (P.L.6, No.3), known as
the Right-to-Know Law.

(2) The act of July 19, 1957 (P.L.1017, No.451), known
as the State Adverse Interest Act.

(3) The provisions of 65 Pa.C.S. Chs. 7 (relating to
open meetings) and 11 (relating to ethics standards and
financial disclosure).

§ 6112. Board.

(a) Composition.--The board of directors of the authority
shall consist of members selected as follows:

(1) The Secretary of Agriculture or a designee.

(2) The Secretary of Community and Economic Development
or a designee.

(3) The Deputy Secretary for Technology and Innovation
in the Department of Community and Economic Development or a
designee.

(4) The Secretary of Education or a designee.

(5) The Secretary of Health or a designee.

(6) The Secretary of Labor and Industry or a designee.

(7) The Secretary of Policy and Planning or a designee.

(8) The executive director of the Pennsylvania Office of
Broadband Initiatives or a designee.

(9) A member of the Senate appointed by the President
pro tempore and a member of the Senate appointed by the
Minority Leader, or their designees.

(10) A member of the House of Representatives appointed
by the Speaker and one member of the House appointed by the
Minority Leader, or their designees.

(11) The executive director of the Governor's Center for
Local Government Services of the Pennsylvania Municipal League or a designee.

(12) The chairperson of the Pennsylvania Public Utility Commission or a designee.

(13) The vice chairperson of the Pennsylvania Public Utility Commission or a designee.

(14) The Small Business Advocate or a designee.

(15) The Consumer Advocate or a designee.

(16) The director of the Center for Rural Pennsylvania or a designee.

(17) Persons appointed by the Governor, as follows:

   (i) Two representative of broadband service providers.

   (ii) Two representatives of counties, boroughs, towns or townships that are located in unserved areas.

   (iii) A representative of a city that is, in whole or in part, located in an unserved area.

(b) Organization.--The Governor shall select a member of the board to serve as chairperson. The members shall select from among themselves such officers as they shall determine to be necessary.

(c) Quorum.--A quorum shall consist of 12 members of the board at a meeting. Action may be taken and motions and resolutions adopted by the authority by the affirmative vote of at least 12 members of the board. No vacancy on the board shall impair the right of a quorum of members or the board to exercise the powers and perform the duties of the authority.

(d) Designees.--A public officer member of the board may designate an officer or employee of the Commonwealth to represent the public officer member at meetings of the board.
Each designee may lawfully vote and otherwise act on behalf of the public officer member. The designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended in writing delivered to the authority.

(e) Services.--Research, investigation and other services necessary for the operation of the board shall be carried out from resources and by employees from the various executive departments represented on the board. All applicable Commonwealth departments and agencies shall cooperate with, and provide assistance to, the board, which may, at its discretion, provide financial reimbursement.

(f) Compensation.--The members of the board shall not be entitled to compensation for service. The members of the board shall be entitled to reimbursement for all necessary and reasonable expenses incurred in connection with the performance of their duties.

(g) Fiduciary relationship.--The members of the board and the professional personnel of the board shall stand in a fiduciary relationship with the Commonwealth and the authority as to the money and investments of the authority.

§ 6113. Audits.

The accounts and books of the authority, including its receipts, disbursements, contracts, mortgages, investments and other matters relating to its finances, operations and affairs, shall be examined and audited by the Auditor General.

§ 6114. Annual report.

The board shall provide the Governor and the General Assembly with an annual report by December 31 of each year detailing all projects funded under section 6131 (relating to financial assistance). The annual report shall be published and maintained.
on the authority's publicly accessible Internet website and may be submitted to the Governor and the General Assembly by electronic mail.

§ 6115. Revenues of the authority.

(a) Sources of revenues.--The authority may receive money from any source of revenue, including, but not limited to, the following:

(1) Federal funds appropriated to or granted to the authority.

(2) State funds appropriated to the authority.

(3) Proceeds from the sale of authority assets.

(4) Repayment of loan principal.

(5) Payment of interest on loans made by the authority.

(6) Interest earned on the investments of authority moneys.

(b) Control of revenues and investment of funds.--The board shall have exclusive control and management of all money of the authority and full power to invest money not required for immediate use in securities or other investments in which funds of the Commonwealth are authorized to be invested and in any other type of security or investment if, prior to the acquisition of the security or investment, the board determines by resolution that the type of security or investment is in the best interests of the authority and the State Treasurer approves of the type of security or investment.

(c) Funds or accounts.--The board shall establish and maintain the following funds or accounts:

(1) A general fund from which the board may authorize expenditures for any purpose authorized under this chapter.

(2) A nonrevolving fund or account as the board deems
necessary or convenient.

(3) A separate fund and account as may be necessary for
the deposit of payments made under authority or requirement
of Federal or State law.

(d) Loan repayment.--Repayments of loan principal, together
with any interest, shall be deposited with the authority.

SUBCHAPTER C
POWERS AND DUTIES

Sec.

6121. Corporate powers and duties in general.

6122. Specific powers and duties.

6123. Financial powers and duties.

6124. Pledges.

§ 6121. Corporate powers and duties in general.

The authority shall have and may exercise all powers
necessary or appropriate to carry out and effectuate the
purposes of this chapter, including the following:

(1) Conduct examinations and investigations and take
testimony, under oath or affirmation, on any matter necessary
to the determination and approval of project applications.

(2) Sue and be sued, implead and be impleaded, complain
and defend in all courts.

(3) Adopt, use and alter at will a corporate seal.

(4) Make bylaws for the management and regulation of the
authority's affairs, and make, adopt, amend and repeal rules
and regulations governing the administrative procedures and
business of the authority.

(5) Notwithstanding paragraph (3), and in order to
facilitate the speedy implementation of programs under this
chapter, the board shall have the power and authority to
promulgate, adopt and use guidelines which shall be published in the Pennsylvania Bulletin. The guidelines shall be subject to review according to section 204(b) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, and shall not be subject to review under the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, and shall be effective for a period not to exceed one year from the effective date of this section. After the expiration of the one-year period, all guidelines shall expire and shall be replaced by regulations which shall have been promulgated, adopted and published as provided by law.

(6) Make contracts of every name and nature and execute all instruments necessary or convenient for the carrying on of authority business.

(7) Procure insurance against any loss in connection with authority property and other assets and operations in any amount and from any insurer as the authority deems desirable.

(8) Contract for the services of attorneys, accountants and financial experts and any other advisor, consultant and agent as may be necessary in the authority's judgment, subject to the requirement that the chairperson shall ensure that diverse and disadvantaged businesses as defined in 62 Pa.C.S. Ch. 22 (relating to diverse and disadvantaged businesses) shall have an opportunity to participate to a significant degree in the provision of any contractual service purchased by the authority.

(9) Perform any act necessary or convenient to the exercise of the powers enumerated in this section or
reasonably implied from those powers.

(10) Prepare plans and reports and provide for public participation as deemed appropriate.

§ 6122. Specific powers and duties.

(a) Single point of contact.--The authority shall serve as a single point of contact for entities wishing to engage in broadband development and deployment in this Commonwealth, including coordination of public and private efforts to avoid overbuilding of capacity in any given geographic area and to efficiently utilize existing infrastructure.

(b) Funding resource base.--In addition to providing the financial assistance authorized by this chapter to support broadband deployment, the authority shall identify and coordinate opportunities to access Federal funding, nongovernmental organization funding and other funding opportunities to eliminate duplicative funding requests and synthesize multiple-provider joint efforts in any given geographic area.

(c) Cooperation of other Commonwealth entities.--All Commonwealth agencies and departments charged with specific aspects of broadband development and deployment shall communicate and cooperate with the authority so that it can maintain a centralized database of all broadband deployment activities occurring within this Commonwealth to avoid duplication of efforts, as well as provide consultation on their respective areas of expertise.

(d) Educational materials.--The authority may develop educational materials and engage in public information campaigns to encourage adoption of broadband where currently available and increase consumer understanding of the need for broadband access.
for all Commonwealth residents.

(e) Municipal guidance.--The authority may develop
guidelines for municipalities to assist in streamlining zoning
processes in order to help expedite broadband deployment.

§ 6123. Financial powers and duties.
The authority shall have and may exercise all powers
necessary or appropriate to effectuate the programs established
under this chapter, including the following:

(1) Accept grants from and enter into contracts or other
transactions with Federal, State or local agencies.

(2) Take title by foreclosure or otherwise to any
project or other property pledged, mortgaged, encumbered or
otherwise available as security for a project financed in
whole or in part by the board, whether by loan, loan
guarantee or otherwise, where the acquisition is necessary to
protect the interests of the board with respect to a project
and pay all costs arising out of the acquisition from money
held by the authority and sell, transfer and convey all or
any portion of the project to any responsible buyer. The
board may require a dedicated source of revenue to be
available for repayment of any loan.

(3) Provide financial assistance, including, but not
limited to, loans, loan guarantees, grants for eligible costs
of projects fulfilling the purposes of this chapter.

(4) Collect fees and charges relating to projects funded
under this chapter, as the board determines to be reasonable,
relating to activities undertaken in furtherance of the
purposes of this chapter.

(5) Borrow money for the purposes of this chapter.

(6) Receive appropriations and apply for and accept
grants, gifts, donations, bequests and settlements from any public or private source.

(7) Acquire, own, hold, construct, improve, rehabilitate, renovate, operate, maintain, sell, assign, exchange, lease, mortgage or otherwise dispose of real and personal property or any interest therein in the exercise of the authority's powers and performance of the authority's duties under this chapter.

(8) Fund prefeasibility studies from any authority source of revenue.

§ 6124. Pledges.

A pledge of revenues, receipts, money, funds or other property or instruments made by the authority shall be valid and binding from the time when the pledge is made. The revenues, receipts, money, funds or other property pledged and received by the authority shall be immediately subject to the lien of the pledge without its physical delivery or further act, and the lien of a pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge under this section is created or evidenced need be filed or recorded except in the records of the authority.

SUBCHAPTER D

FINANCIAL ASSISTANCE AND GRANTS

Sec.

6131. Financial assistance.

6132. Grants.

6133. Loans.

§ 6131. Financial assistance.
(a) Criteria for obtaining assistance.--In reviewing applications for financial assistance, the authority shall consider:

(1) Whether the project will improve the health, safety, welfare or economic well-being of the people of this Commonwealth.

(2) Whether the proposed project will lead to an effective or complete solution to the lack of wired high-speed broadband service in an unserved area.

(3) The cost-effectiveness of the proposed project in comparison with other alternatives, including other institutional, financial and physical alternatives.

(4) The consistency of the proposed project with other broadband deployment projects in the area.

(5) Whether the applicant has demonstrated an ability to operate and maintain the project in a proper manner.

(6) The experience of the applicant in providing high-speed broadband services.

(7) The financial condition of the applicant.

(8) The availability of other sources of funds at reasonable rates to finance all or a portion of the project and the need for authority assistance to finance the project or to attract the other sources of funding.

(b) Potential applicants.--

(1) An applicant may be a commercial entity, a community-based network, a municipality, a rural electric cooperative or other group of investors or entity.

(2) If an applicant, public or private, proposes a broadband development project but has no prior experience in developing or operating high-speed broadband service, a bond
shall be provided in an amount determined by the board necessary to protect the authority's investment in the project, whether as a grant or loan.

(c) Financing priorities.--In addition to any requirement of Federal law imposed on the use of Federal funds, the board shall determine priorities based on factors which include, but are not limited to:

1. The project's ability to deploy high-speed broadband service in an area that is unserved.
2. Improvement in the availability, adequacy or efficiency of wired high-speed broadband service in an underserved area, without creating duplicative services.
3. The contribution to and impact of the project on economic development as well as social and environmental values.
4. Benefits to public safety or welfare.
5. Improvement in the ability of an applicant to come into compliance with Federal and State statutes, regulations and standards.
6. The cost-effectiveness of the project.

(d) Decision of board.--

1. Establishment of priority for financial assistance under subsection (b) shall not be deemed to be a final action under 2 Pa.C.S. (relating to administrative law and procedure), nor shall it confer a right or duty upon the board or any other person.
2. A decision as to an applicant's eligibility under subsection (a) may be appealed pursuant to 2 Pa.C.S., but the priority assigned the project may not be raised in that appeal.
§ 6132. Grants.

The board may issue grants if the board, in its sole discretion, determines that the financial condition of the recipient is such that repayment of a loan is unlikely and that the recipient will not be able to proceed with the project without a grant. If the board determines that a grant is necessary from the authority, the board shall attempt to mix the grant funds with loan funds if financially possible.

§ 6133. Loans.

(a) General terms.--The board shall set terms applicable to loans in any manner it deems appropriate, subject to the provisions of this subsection. The board may consider such factors as it deems relevant, including current market interest rates, the financial and economic distress of the area which the project serves and the necessity to maintain the authority funds in a financially sound manner. Loans may be made based on the ability to repay the loan from future revenue to be derived from the project, by a mortgage or other property lien or on any other fiscal matters which the authority deems appropriate.

(b) Deferral of principal.--The board may defer principal on loans for up to five years. In the event of a default on the repayment of a loan, the board may apply to the court of common pleas of the county where the project is located for the appointment of a receiver to assume operation and supervision of the facility under the supervision of the court.

(c) Interest rate.--The minimum rate of interest to be paid on any loan made under this chapter shall be 1%. The maximum rate of interest shall not exceed the following:

(1) For a project in a county where the unemployment rate exceeds the Statewide unemployment rate by at least 40%,
1% for the first five years and 25% of the bond issue rate
for the remainder of the loan.

(2) For a project in a county where the unemployment
rate exceeds the Statewide unemployment rate, but exceeds it
by less than 40%, 30% of the bond issue rate for the first
five years and 60% of the bond issue rate for the remainder
of the loan.

(3) For a project in a county not described in paragraph
(1) or (2), 60% of the bond issue rate for the first five
years and 75% of the bond issue rate for the remainder of the
loan.

(4) For a project located within a city, township or
borough where the unemployment rates exist which would
qualify the project for lower interest rates than if the
relevant county unemployment rate were used, the unemployment
rate of the city, township or borough may be used in
determining the interest rate on the loan.

(d) Limitation on annual assistance.--The amount of
assistance approved by the board under section 6132 (relating to
grants) shall not in any fiscal year exceed the amount of
interest earnings, State appropriations and any money received
specifically for grants which are deposited by the authority.

(e) Inspection of project and records.--

(1) The applicant shall allow the authority and its
successors, agents and representatives the right, at all
reasonable times during construction and after completion of
the project, to enter upon and inspect the project and to
examine and make copies of the applicant's books, records,
accounting data and other documents pertaining to the project
and the financial condition of the applicant.
(2) The applicant may be required by the board or its agent to prepare independent audits of the applicant's financial documents and financial condition and submit a certified copy of the audits to the board.

(f) Financial analysis.--The financial analysis used by the board to determine the need of all applicants for financial assistance shall include, but not be limited to, the following:

(1) Fair and reasonable costs of wired high-speed broadband service in comparable areas.

(2) The incomes of affected subscribers and their ability to pay increased charges necessary to complete the proposed projects.

(3) Other sources of financing available to individuals or entities seeking assistance under this chapter.

(4) A determination that financial assistance provided under this chapter will not be used to supplant financial resources already available to the applicant.

(g) Steel procurement.--An application must contain a certification that the applicant shall comply, in every contract for the acquisition, repair, construction, reconstruction, rehabilitation, extension, expansion, improvement, alteration or maintenance of a water supply or sewage treatment system, with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

(h) Definition.--As used in subsection (c), the term "unemployment rate of the county" shall mean the average unemployment rate for the county in the most recent calendar year for which data has been finalized. For a project that serves multiple counties, the highest unemployment rate from among the counties involved shall be used. The unemployment data
utilized shall be data reported by the Department of Labor and Industry.

Section 2. This act shall take effect in 60 days.