

**H. B. 2411**

(By Delegates Boggs and D. Campbell)

[Introduced February 13, 2013; referred to the  
Committee on Finance.]

**FISCAL  
NOTE**

10 A BILL to amend and reenact §31-15A-2 of the Code of West Virginia,  
11 1931, as amended; and to amend said code by adding thereto  
12 sixteen new sections, designated §31-15A-9a, §31-15A-9b,  
13 §31-15A-10a, §31-15A-11a, §31-15A-12a, §31-15A-13a,  
14 §31-15A-14a, §31-15A-15a, §31-15A-17c, §31-15A-18a,  
15 §31-15A-19a, §31-15A-20a, §31-15A-21a, §31-15A-22a,  
16 §31-15A-23a and §31-15A-24a, all relating generally to  
17 development of broadband middle mile infrastructure in the  
18 state; defining new terms; creating a separate infrastructure  
19 fund for broadband middle mile infrastructure projects;  
20 providing for deposits and expenditures; setting forth  
21 additional powers to Infrastructure and Jobs Development  
22 Council and Water Development Authority; creating a committee  
23 to advise Infrastructure and Jobs Development Council on  
24 disposition of applications for grants and loans; providing a

1 process for review of applications by Development Office;  
2 requiring notice of public hearing on applications for grants  
3 and loans; providing for hearings and public comment period;  
4 creating the Infrastructure Fund for Broadband Middle Mile  
5 Infrastructure Revenue Debt Service Fund; providing for the  
6 disposition of funds on termination or dissolution of the  
7 authority; providing that broadband middle mile projects  
8 funded by authority are public improvements; authorizing the  
9 issuance of broadband middle mile revenue bonds; creating the  
10 Broadband Middle Mile Infrastructure Debt Service Fund;  
11 providing for funding of debt service fund; specifying the  
12 requirements for the issuance of bonds; providing for contents  
13 of trust agreement and trustee for bonds; specifying the  
14 remedies available to bondholders, noteholders and trustee;  
15 making broadband middle mile infrastructure revenue bonds  
16 lawful investments; providing for purchase, cancellation and  
17 refunding of bonds; and declares that bonds are not state  
18 debts and are exempt from taxation.

19 *Be it enacted by the Legislature of West Virginia:*

20 That §31-15A-2 of the Code of West Virginia, 1931, as amended,  
21 be amended and reenacted; and that said code be amended by adding  
22 thereto sixteen new sections, designated §31-15A-9a, §31-15A-9b,  
23 §31-15A-10a, §31-15A-11a, §31-15A-12a, §31-15A-13a, §31-15A-14a,  
24 §31-15A-15a, §31-15A-17c, §31-15A-18a, §31-15A-19a, §31-15A-20a,

1 §31-15A-21a, §31-15A-22a, §31-15A-23a and §31-15A-24a, all to read  
2 as follows:

3 **ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT**  
4 **COUNCIL.**

5 **§31-15A-2. Definitions.**

6 ~~For purposes of this article:~~

7 (a) General. -- When used in this article, words defined in  
8 subsection (b) of this section have the meaning ascribed to them in  
9 this section, except in those instances where a different meaning  
10 is distinctly expressed or the context in which the word is used  
11 clearly that a different meaning is intended.

12 (b) Definitions. --

13 (1) "Bond" or "infrastructure revenue bond" means a revenue  
14 bond, note, or other obligation issued by the water development  
15 authority pursuant to this article, including bonds to refund such  
16 bonds and notes to renew such notes, and notes in anticipation of  
17 and payable from the proceeds of such bonds;

18 (2) "Broadband infrastructure" means all facilities, hardware  
19 and software and other intellectual property necessary to provide  
20 broadband services in this state, including, but not limited to,  
21 voice, video and data services;

22 (3) "Broadband infrastructure project" means any middle mile  
23 project that deploys equipment, fiber optic cables, facilities, or

1 other technologies necessary to provide broadband transport  
2 services: *Provided*, That nothing in this article may be construed  
3 to provide the Infrastructure and Jobs Development Council  
4 jurisdiction or oversight over broadband infrastructure projects  
5 for the sole use of homeland security agencies in this state.

6 (4) "Broadband infrastructure revenue bond" means a revenue  
7 bond, note, or other obligation issued by the West Virginia  
8 Infrastructure and Jobs Development Council pursuant to this  
9 article to fund one or more broadband middle mile infrastructure  
10 projects, including bonds to refund such bonds and notes to renew  
11 such notes, and notes in anticipation of and payable from the  
12 proceeds of such bonds;

13 (5) "Broadband revenue" means all amounts deposited into the  
14 Infrastructure Fund for Broadband Middle Mile Development; any  
15 amounts received directly or indirectly from any source for the use  
16 of all or any part of any broadband project completed pursuant to  
17 this article and any other amounts received by the Water  
18 Development Authority for the purpose of broadband middle mile  
19 development, including the repayments of any loans made for  
20 broadband projects.

21 ~~(b)~~ (6) "Code" means the Code of West Virginia, 1931, as  
22 amended;

23 ~~(c)~~ (7) "Cost" means, as applied to any project to be  
24 financed, in whole or in part, with infrastructure revenues or

1 funds otherwise provided pursuant to this article, the cost of  
2 planning, acquisition, improvement and construction of the project;  
3 the cost of preliminary design and analysis, surveys, borings; the  
4 cost of environmental, financial, market and engineering  
5 feasibility studies, assessments, applications, approvals,  
6 submissions or clearances; the cost of preparation of plans and  
7 specifications and other engineering services; the cost of  
8 acquisition of all land, rights-of-way, property rights, easements,  
9 franchise rights and any other interests required for the  
10 acquisition, repair, improvement or construction of the project;  
11 the cost of demolishing or removing any buildings or structures on  
12 land so acquired, including the cost of acquiring any lands to  
13 which buildings or structures may be moved; the cost of excavation,  
14 grading, shaping or treatment of earth, demolishing or removing any  
15 buildings or structures; the cost of constructing any buildings or  
16 other improvements; the cost of all pumps, tanks, vehicles,  
17 apparatus and other machinery, furnishings and equipment; loan or  
18 origination fees and all finance charges and interest incurred  
19 prior to and during the construction and for no more than six  
20 months after completion of construction; the cost of all legal  
21 services and expenses; the cost of all plans, specifications,  
22 surveys and estimates of cost; all working capital and other  
23 expenses necessary or incident to determining the feasibility or  
24 practicability of acquiring, repairing, improving or constructing

1 any project; the cost of placing any project in operation; and all  
2 other costs and expenses of any kind or nature incurred or to be  
3 incurred by the project sponsor developing the project that are  
4 reasonable and necessary for carrying out all works and  
5 undertakings necessary or incident to the accomplishment of any  
6 project: *Provided*, That costs ~~shall~~ may not include any amounts  
7 related to the ongoing operations of the owner or operator,  
8 depreciation thereof or any other cost which the council, ~~or~~ the  
9 Water Development Authority has not determined to be consistent  
10 with the purposes and objectives of this article;

11 ~~(d)~~ (8) "Council" means the West Virginia infrastructure and  
12 jobs development council created in section three of this article;

13 (9) "Department of Administration" means the Department of  
14 Administration established under article one, chapter five-a of  
15 this code, or any successor to all or any substantial part of its  
16 powers and duties;

17 ~~(e)~~ (10) "Division Department of Environmental Protection"  
18 means the ~~Division~~ Department of Environmental Protection  
19 established under article one, chapter twenty-two of this code, or  
20 any successor to all or any substantial part of its powers and  
21 duties;

22 ~~(f)~~ (11) "Division of Health" means the Division of Health  
23 created in article one, chapter sixteen of this code, or any  
24 successor to all or any substantial part of its powers and duties;

1       ~~(g)~~ (12) "Economic development authority" means the economic  
2 development authority established under article fifteen, chapter  
3 thirty-one of the code, or any successor to all or any substantial  
4 part of its powers and duties;

5       ~~(h)~~ (13) "Emergency project" means a project which the council  
6 has determined: (1) Is essential to the immediate economic  
7 development of an area of the state; and (2) will not likely be  
8 developed in that area if construction of the project is not  
9 commenced immediately;

10       ~~(i)~~ (14) "Governmental agency" means any county; municipality;  
11 watershed improvement district; assessment district; soil  
12 conservation district; sanitary district; public service district;  
13 drainage district; regional governmental authority and any other  
14 state governmental agency, entity, political subdivision or public  
15 corporation or agency authorized to acquire, construct or operate  
16 water or wastewater facilities or broadband middle mile  
17 infrastructure projects;

18       ~~(j)~~ (15) "Housing Development Fund" means the West Virginia  
19 Housing Development Fund established under article eighteen of this  
20 chapter, or any successor to all or any substantial part of its  
21 powers and duties;

22       (16) "Includes" and "including", when used in this article, do  
23 not exclude other things otherwise within the definition or the  
24 sentence in which the term is used;

1       ~~(k)~~ (17) "Infrastructure Fund" means the West Virginia  
2 Infrastructure Fund created and established in section nine of this  
3 article;

4       ~~(l)~~ (18) "Infrastructure project" means a project in the state  
5 which the council determines is likely to foster and enhance  
6 economic growth and development in the area of the state in which  
7 the project is developed, for commercial, industrial, community  
8 improvement or preservation or other proper purposes, including,  
9 without limitation, tourism and recreational housing, land, air or  
10 water transportation facilities and bridges, industrial or  
11 commercial projects and facilities, mail order, warehouses,  
12 wholesale and retail sales facilities, and other real and personal  
13 properties, including facilities owned or leased by this state or  
14 any other project sponsor, and includes, without limitation: (1)  
15 The process of acquiring, holding, operating, planning, financing,  
16 demolition, construction, improving, expanding, renovation, leasing  
17 or otherwise disposing of the project or any part thereof or  
18 interest therein; and (2) preparing land for construction and  
19 making, installing or constructing improvements on the land,  
20 including water or wastewater facilities or any part thereof,  
21 steam, gas, telephone and telecommunications and electric lines and  
22 installations, roads, bridges, railroad spurs, buildings, docking  
23 and shipping facilities, curbs, gutters, sidewalks, and drainage  
24 and flood control facilities, whether on or off the site;

1       ~~(m)~~ (19) "Infrastructure revenue" means all amounts  
2 appropriated by the Legislature; all amounts deposited into the  
3 infrastructure fund; any amounts received, directly or indirectly,  
4 from any source for the use of all or any part of any project  
5 completed pursuant to this article; and any other amounts received  
6 by the State Treasurer, council, or the Water Development Authority  
7 for the purposes of this article: Provided, That funds for water  
8 and sewer infrastructure projects and funds for broadband middle  
9 mile infrastructure projects shall be kept separate;

10       (20) "Middle mile" when used in the context of broadband means  
11 any wired or wireless facilities, or portions thereof, which  
12 facilitate transport service for service providers or carriers, and  
13 provides connectivity between communities, community access points,  
14 network access points and carrier access points, but does not  
15 include any last mile facilities (or portions thereof) that provide  
16 connectivity to end-users;

17       (21) "Middle mile fiber threshold" means a fiber optic cable  
18 containing no less than seventy-two individual strands of fiber  
19 with minimum performance characteristics consistent with nonzero  
20 dispersion shifted single mode optical fiber cable as defined by  
21 the International Telecommunication Union standard ITU-T G.655;

22       ~~(n)~~ (22) "Need of the project sponsors" means there is a  
23 public need for a project. The council shall, for water and sewer  
24 projects, construe a population increase evidenced by the last two

1 decennial censuses in a county in which a project is proposed, as  
2 a factor supporting the conclusion that a need exists for projects  
3 in that county;

4 (23) "Network access point" when used in the context of  
5 broadband means a direct connection to carriers that provide core  
6 interstate TCPIP backbone networks that comprise or make up primary  
7 portions of the national Internet backbone system and which provide  
8 direct connectivity on a national scale throughout the United  
9 States in addition to direct or indirect connectivity to  
10 international networks throughout the world;

11 (24) "Open access" when used in the context of broadband means  
12 the equitable and nondiscriminatory use of the new lines by all  
13 broadband service providers including the grant of infeasible  
14 rights to use particular strands if such rights can be granted on  
15 an equitable and nondiscriminatory manner, subject to such  
16 appropriate limitations and restrictions as the council may  
17 determine.

18 ~~(o)~~ (25) "Project" means any wastewater facility, water  
19 facility project or any combination thereof, constructed or  
20 operated or to be constructed or operated by a project sponsor;

21 ~~(p)~~ (26) "Project sponsor" means any governmental agency or  
22 person, or any combination thereof, including, but not limited to,  
23 any public utility which intends to plan, acquire, construct,  
24 improve or otherwise develop a project;

1       ~~(q)~~ (27) "Public Service Commission" means the Public Service  
2 Commission of West Virginia created and established under section  
3 three, article one, chapter twenty-four of this code, or any  
4 successor to all or any substantial part of its powers and duties;

5       ~~(r)~~ (28) "Person" means any individual, corporation,  
6 partnership, association, limited liability company or any other  
7 form of business organization;

8       ~~(s)~~ (29) "Public utility" means any person or persons, or  
9 association of persons, however associated, whether incorporated or  
10 not, including, without limitation, any governmental agency,  
11 operating a wastewater facility or water facility as a public  
12 service, which is regulated by the Public Service Commission as a  
13 public utility under chapter twenty-four of this code or which is  
14 required to file its tariff with the Public Service Commission;

15       (30) "Service provider" when used in the context of broadband  
16 means any service provider that provides broadband service and is  
17 certified to provide services in accordance with state and federal  
18 regulations;

19       ~~(t)~~ (31) "State Development Office" means the West Virginia  
20 Development Office established under article two, chapter five-b of  
21 this code, or any successor to all or any substantial part of its  
22 powers and duties;

23       ~~(u)~~ (32) "State infrastructure agency" means the division of  
24 health, ~~Division~~ Department of Environmental Protection, Housing

1 Development Fund, Public Service Commission, State Development  
2 Office, Water Development Authority, Economic Development  
3 Authority, and any other state agency, division, body, authority,  
4 commission, instrumentality or entity which now or in the future  
5 receives applications for the funding of, and provides funding or  
6 technical assistance to, the planning, acquisition, construction or  
7 improvement of a project;

8 (33) "Transport service" when used in the context of broadband  
9 means any service that provides a service provider or carrier with  
10 the ability to transport high-capacity voice, data, graphics or  
11 video between communities, community access points, network access  
12 points and carrier access points. Transport services do not  
13 include any last mile broadband services or other services provided  
14 directly to end-users;

15 ~~(v)~~ (34) "Wastewater facility" means all facilities, land and  
16 equipment used for or in connection with treating, neutralizing,  
17 disposing of, stabilizing, cooling, segregating or holding  
18 wastewater, including, without limitation, facilities for the  
19 treatment and disposal of sewage, industrial wastes or other  
20 wastes, wastewater, and the residue thereof; facilities for the  
21 temporary or permanent impoundment of wastewater, both surface and  
22 underground; and sanitary sewers or other collection systems,  
23 whether on the surface or underground, designed to transport  
24 wastewater together with the equipment and furnishings therefor or

1 thereof and their appurtenances and systems, whether on the surface  
 2 or underground including force mains and pumping facilities  
 3 therefor;

4 ~~(w)~~ (35) "Water Development Authority" means the West Virginia  
 5 Water Development Authority continued pursuant to ~~the provisions of~~  
 6 article one, chapter twenty-two-c of this code, or any successor to  
 7 all or any substantial part of its powers and duties; ~~and~~

8 ~~(x)~~ (36) "Water facility" means all facilities, land and  
 9 equipment used for or in connection with the collection and/or  
 10 storage of water, both surface and underground, transportation of  
 11 water, storage of water, treatment of water and distribution of  
 12 water all for the purpose of providing potable, sanitary water  
 13 suitable for human consumption and use; and

14 (37) "West Virginia Network for Educational Telecomputing"  
 15 means the network managed by the vice chancellor for administration  
 16 of the Higher Education Policy Commission as provided in section  
 17 two, article four, chapter eighteen-b of this code.

18 **§31-15A-9a. Infrastructure Fund for broadband middle mile**  
 19 **infrastructure projects; deposits in fund;**  
 20 **disbursements to provide loans, loan guarantees,**  
 21 **grants and other assistance; loans, loan**  
 22 **guarantees, grants and other assistance are**  
 23 **subject to assistance agreements; use of funds**

1                   **for projects.**

2           (a) The Water Development Authority shall create and establish  
3 a special revolving fund of moneys made available by appropriation,  
4 grant, contribution or loan to be known as the "West Virginia  
5 Infrastructure Fund for Broadband Middle Mile Development". This  
6 fund shall be governed, administered and accounted for by the Water  
7 Development Authority as a special purpose account separate and  
8 distinct from any other moneys, funds or funds owned and managed by  
9 the authority for broadband middle mile development. The  
10 Infrastructure Fund for Broadband Middle Mile Development shall  
11 consist of subaccounts, as deemed necessary by the authority, for  
12 the deposit of:

13           (1) Infrastructure revenues for broadband middle mile  
14 deployment;

15           (2) Any appropriations, grants, gifts, contributions, loan  
16 proceeds or other revenues received by the Infrastructure Fund for  
17 Broadband Middle Mile Development from any source, public or  
18 private;

19           (3) Amounts received as payments on any loans made by the  
20 Water Development Authority to pay for the cost of a broadband  
21 middle mile infrastructure project;

22           (4) Insurance proceeds payable to Infrastructure and Jobs  
23 Development Council or the Infrastructure Fund For Broadband Middle  
24 Mile Development in connection with any broadband middle mile

1 infrastructure project;

2 (5) All income earned on moneys held in the Infrastructure  
3 Fund for Broadband Middle Mile Development; and

4 (6) All proceeds derived from the sale of bonds issued  
5 pursuant to this article for broadband middle mile infrastructure  
6 development.

7 (b) Any money collected pursuant to this section shall be paid  
8 into the West Virginia Infrastructure Fund for Broadband Middle  
9 Mile Development by the state agent or entity charged with the  
10 collection of the same, credited to that fund, and used only for  
11 purposes set forth in this article for broadband middle mile  
12 development.

13 (c) Amounts in the Infrastructure Fund for Broadband Middle  
14 Mile Development shall be segregated and administered by the Water  
15 Development Authority separate and apart from its other assets and  
16 programs. Amounts in the Infrastructure Fund for Broadband Middle  
17 Mile Development may not be transferred to any other fund or  
18 account or used, other than indirectly, for the purposes of any  
19 other program of the Water Development Authority, except that the  
20 council may use funds in the Infrastructure Fund for Broadband  
21 Middle Mile Development to reimburse itself for any administrative  
22 costs incurred by it and approved by the Infrastructure and Jobs  
23 Development Council in connection with any loan, loan guarantee,  
24 grant or other funding assistance made by the Water Development

1 Authority pursuant to this article.

2 (d) Notwithstanding any provision of this code to the  
3 contrary, amounts in the Infrastructure Fund for Broadband Middle  
4 Mile Development shall be deposited by the Water Development  
5 Authority in one or more banking institutions: *Provided, That any*  
6 moneys so deposited shall be deposited in a banking institution  
7 located in this state. The banking institution shall be selected  
8 by the Water Development Authority by competitive bid. Pending the  
9 disbursement of any money from the Infrastructure Fund for  
10 Broadband Middle Mile Development as authorized under this section,  
11 the Water Development Authority shall invest and reinvest the  
12 moneys subject to the limitations set forth in section twelve,  
13 article six, chapter twelve of this code.

14 (e) To further accomplish the purposes and intent of this  
15 article, the Water Development Authority may pledge infrastructure  
16 revenues and from time-to-time establish one or more restricted  
17 accounts within the Infrastructure Fund For Broadband Middle Mile  
18 Development for the purpose of providing funds to guarantee loans  
19 for broadband middle mile infrastructure projects: *Provided, That*  
20 for any fiscal year the Water Development Authority may not deposit  
21 into the restricted accounts more than twenty percent of the  
22 aggregate amount of revenues for broadband middle mile development  
23 deposited into the Infrastructure Fund for Broadband Middle Mile  
24 Development during the fiscal year. No loan guarantee may be made

1 pursuant to this article unless recourse under the loan guarantee  
2 is limited solely to amounts in the restricted account or accounts.  
3 No person has any recourse to any restricted accounts established  
4 pursuant to this subsection other than those persons to whom the  
5 loan guarantee or guarantees have been made.

6 (f) Each loan, loan guarantee, grant or other assistance made  
7 or provided by the Water Development Authority at the direction of  
8 the Infrastructure and Jobs Development Council shall be evidenced  
9 by a loan, loan guarantee, grant or assistance agreement between  
10 the Water Development Authority and the project sponsor to which  
11 the loan, loan guarantee, grant or assistance shall be made or  
12 provided, which agreement shall include, without limitation and to  
13 the extent applicable, the following:

14 (1) The estimated cost of the broadband middle mile  
15 infrastructure project, the amount of the loan, loan guarantee or  
16 grant or the nature of the assistance, and in the case of a loan or  
17 loan guarantee, the terms of repayment and the security therefor,  
18 if any;

19 (2) The specific purposes for which the loan or grant proceed  
20 shall be expended or the benefits to accrue from the loan guarantee  
21 or other assistance, and the conditions and procedure for  
22 disbursing loan or grant proceeds;

23 (3) The duties and obligations imposed regarding the  
24 acquisition, construction, improvement or operation of the

1 broadband middle mile infrastructure project; and

2 (4) The agreement of the governmental agency to comply with  
3 all applicable federal and state laws, and all rules and  
4 regulations issued or imposed by the Infrastructure and Jobs  
5 Development Council or other state, federal or local bodies  
6 regarding the acquisition, construction, improvement or operation  
7 of the broadband middle mile infrastructure project and granting  
8 the Water Development Authority the right to appoint a receiver for  
9 the broadband middle mile infrastructure project if the project  
10 sponsor should default on any terms of the agreement.

11 (g) Any resolution of the Infrastructure and Jobs Development  
12 Council approving loan, loan guarantee, grant or other assistance  
13 shall include a finding and determination that the requirements of  
14 this section have been met.

15 (h) The Water Development Authority shall cause an annual  
16 audit to be made by an independent certified public accountant of  
17 its books, accounts and records, with respect to the receipts,  
18 disbursements, contracts, leases, assignments, loans, grants and  
19 all other matters relating to the financial operation of the  
20 Infrastructure Fund for Broadband Middle Mile Development,  
21 including the operating of any sub-account within that  
22 infrastructure fund. The person performing such audit shall furnish  
23 copies of the audit report to the Secretary of the Department of  
24 Administration, where they shall be placed on file and made

1 available for inspection by the general public. The person  
2 performing such audit shall also furnish copies of the audit report  
3 to the Legislature's Joint Committee on Government and Finance.

4 **§31-15A-9b. Advisory committee on broadband middle mile matters.**

5 (a) There is hereby created a five member advisory committee  
6 to make recommendations to the Infrastructure and Jobs Development  
7 Council on whether to approve or disapprove an application for a  
8 grant or loan for a broadband middle mile infrastructure project.

9 (b) This committee consists of:

10 (1) The Secretary of the Department of Administration, or his  
11 or her designee;

12 (2) The Secretary of the Department of Commerce, or his or her  
13 designee;

14 (3) The Director of the West Virginia Network for Educational  
15 Telecomputing, or his or her designee;

16 (4) The member of the Broadband Deployment Council who  
17 represents rural communities; and

18 (5) The chairman of the Infrastructure and Jobs Development  
19 Council, or his or her designee, who also serves as chairman of the  
20 committee.

21 (c) Applications for a grant or loan for a broadband middle  
22 mile infrastructure project pursuant to section nine-a of this  
23 article shall be submitted to the Director of the Development  
24 Office, Department of Commerce, for review and to determine whether

1 any additional information is needed from the applicant. If the  
2 application is complete, the Director of the Development Office  
3 shall forward the application to the chairman of the Infrastructure  
4 and Jobs Development Council along with the recommendation of that  
5 office regarding disposition of the application.

6 (d) After receipt of the application from the Development  
7 Office, the advisory committee shall publish in the State Register  
8 notice to the public that the application has been filed by a  
9 project sponsor. This notice shall identify the project sponsor,  
10 provide a meaningful description and the specific location of the  
11 project, the amount of the loan or grant requested, where the  
12 application may be viewed in person and on the Internet by the  
13 public, and shall also include the date, time and place where the  
14 committee will hold a public hearing, and any other information the  
15 committee believes necessary or desirable to advise the public of  
16 the application. The advisory committee shall also respond to  
17 requests for additional information from the public concerning the  
18 application or the project sponsor in a timely manner within the  
19 public comment period.

20 (e) This notice shall be published in the State Register at  
21 least sixty days prior to the date of the public hearing. The  
22 purpose of the public hearing is to receive comments on the  
23 application and on whether the application should be approved or  
24 denied. The public may submit written comments to the committee

1 either prior to the hearing, during the hearing, or within thirty  
2 days after the day of the hearing.

3 (f) Anytime after the thirty day public comment period  
4 expires, the advisor committee may submit its recommendation to the  
5 Infrastructure and Jobs Development who shall make the final  
6 decision on whether to approve or reject an application.

7 (g) The Infrastructure and Jobs Development Council shall  
8 propose legislative rules for legislative approval in accordance  
9 with article three, chapter twenty-nine-a of this code, it deems  
10 necessary to implement the requirements of this section.

11 **§31-15A-10a. Recommendations for expenditures of funds by loan,**  
12 **grant or for engineering assistance.**

13 (a) To further accomplish the purpose and intent of this  
14 article, the Water Development Authority may use the moneys in the  
15 Infrastructure Fund for Broadband Middle Mile Development created  
16 by section nine-a of this article, at the direction of the  
17 Infrastructure and Jobs Development Council, to make loans, with or  
18 without interest, loan guarantees or grants and to provide other  
19 assistance, financial, technical or otherwise, to finance all or  
20 part of the costs of broadband middle mile infrastructure projects  
21 to be undertaken by a project sponsor: *Provided*, That any moneys  
22 disbursed from the Infrastructure Fund for Broadband Middle Mile  
23 Development in the form of grants may not exceed twenty percent of  
24 the total funds available for the funding of projects. No loan,

1 loan guarantee, grant or other assistance may be made or provided  
2 except upon a determination by the Infrastructure and Jobs  
3 Development Council that the loan, loan guarantee, grant or other  
4 assistance and the manner in which it will be provided are  
5 necessary or appropriate to accomplish the purposes and intent of  
6 this article, based upon an application submitted as provided in  
7 section ten-b of this article.

8       (b) Applications for loans, loan guarantees, grants or other  
9 assistance may be submitted by a project sponsor for one or more  
10 broadband middle mile infrastructure projects on preliminary  
11 application forms prepared by the Infrastructure and Jobs  
12 Development Council pursuant to section four of this article. Any  
13 recommendation of that council approving a loan, loan guarantee,  
14 grant or other assistance shall include a finding and determination  
15 by that council that the requirements of this section have been  
16 met. The Infrastructure and Jobs Development Council shall base  
17 any decisions to loan money for projects to project sponsors  
18 pursuant to this article based on criteria established by the  
19 council.

20       (c) The Infrastructure and Jobs Development Council shall, in  
21 its sole discretion, decide whether to accept or reject an  
22 application for a grant or loan to a project sponsor if it finds  
23 that the broadband middle mile infrastructure project is essential  
24 for economic development, the realization of educational

1 opportunities, modernization of government, or facilitation of the  
2 ability of businesses and residents to use the Internet employing  
3 state-of-the art technologies. No project sponsor may receive  
4 infrastructure grant money in an amount in excess of fifty percent  
5 of the total cost of the project. Therefore, the Infrastructure and  
6 Jobs Development Council may consider the economic or financial  
7 conditions of the area to be served.

8 (d) As a condition for receipt of a grant or loan under this  
9 section:

10 (1) The network provided or enhanced by the broadband middle  
11 mile infrastructure project shall be open access, subject to rules  
12 of the council;

13 (2) The council shall require the project sponsor to reserve  
14 at least twelve strands of fiber for use by the state, its  
15 instrumentalities and political subdivisions; and

16 (3) The council may require, in addition to any other  
17 conditions, that the applicant pursue other state or federal grant  
18 or loan programs.

19 (e) The Infrastructure and Jobs Development Council shall  
20 develop criteria to be considered in making grants or loans to  
21 project sponsors which shall require consideration of the economic  
22 or financial conditions of the area to be served and the  
23 availability of other funding sources. The Infrastructure and Jobs  
24 Development Council shall adopt procedural rules regarding the

1 manner in which grants and loans will be awarded in conformity with  
2 this section. The procedural rules shall be adopted pursuant to  
3 article three, chapter twenty-nine-a of this code.

4 (f) Notwithstanding any other provision of this article to the  
5 contrary, engineering studies and requirements imposed by the  
6 Infrastructure and Jobs Development Council for preliminary  
7 applications may not exceed those engineering studies and  
8 requirements which are necessary for the council to determine the  
9 economic feasibility of the project. If the Infrastructure and Jobs  
10 Development Council determines that the engineering studies and  
11 requirements for the preapplication would impose an undue hardship  
12 on any project sponsor, the council may provide funding assistance  
13 to project sponsors to defray the expenses of the preapplication  
14 process from moneys available in the Broadband Middle Mile  
15 Infrastructure Fund for making loans: *Provided, That the*  
16 Infrastructure and Jobs Development Council may only provide  
17 funding assistance in an amount equal to \$5,000 or fifty percent of  
18 the total preapplication cost of the project, whichever amount is  
19 greater. If the project is ultimately approved for a loan by the  
20 Infrastructure and Jobs Development Council, the amount of funding  
21 assistance provided to the project sponsor for the preapplication  
22 process shall be included in the total amount of the loan to be  
23 repaid by the project sponsor. If the project is not ultimately  
24 approved by the Infrastructure and Jobs Development Council, then

1 the amount of funding assistance provided to the project sponsor  
2 will be considered a grant by the Infrastructure and Jobs  
3 Development Council and the total amount of the assistance shall be  
4 forgiven. In no event may the amount of funding assistance provided  
5 to all project sponsors exceed, in the aggregate, \$100,000  
6 annually.

7 (g) The Infrastructure and Jobs Development Council shall  
8 report to the Governor, the Speaker of the House of Delegates and  
9 the President of the Senate during each regular and interim session  
10 of the Legislature, on its activities and decisions relating to  
11 distribution or planned distribution of grants and loans under the  
12 criteria to be developed pursuant to this article. To the extent  
13 known, the economic activity and jobs created as a result of the  
14 council funding a broadband middle mile infrastructure project  
15 shall be include in the report required by this subsection.

16 **§31-15A-11a. Reservation of funds for broadband middle mile**  
17 **infrastructure projects.**

18 (a) Funds deposited in the West Virginia Infrastructure Fund  
19 for Broadband Middle Mile Development shall be dedicated for the  
20 purpose of providing funding for the cost of broadband middle mile  
21 infrastructure projects as defined in section two of this article.

22 (b) No bonds or grants may be issued under this article for  
23 broadband infrastructure projects until such time as the  
24 Legislature has appropriated sufficient funds to meet debt service

1 on the bonds, unless the Infrastructure and Jobs Development  
2 Council is able to identify a repayment source for the bonds or a  
3 source to provide grant funding.

4 **§31-15A-12a. Additional powers of Infrastructure and Jobs**  
5 **Development Council - Broadband middle mile**  
6 **infrastructure projects.**

7 To accomplish the purpose and intent of this article, the  
8 Water Development Authority, upon approval of the Infrastructure  
9 and Jobs Development Council, is hereby empowered, in addition to  
10 all other powers granted to it under this code to:

11 (1) Enter into agreements or other transactions with any  
12 federal or state agency in connection with any broadband middle  
13 mile infrastructure project;

14 (2) Receive or administer on behalf of any federal or state  
15 agency grants, subsidies or other payments to be applied to the  
16 costs of any broadband middle mile infrastructure project financed,  
17 in whole or in part, or otherwise assisted by the Infrastructure  
18 and Jobs Development Council, including, but not limited to,  
19 payments to be applied to operating costs and debt service or  
20 obligations of any project sponsor;

21 (3) Receive and accept aid or contributions from any source of  
22 money, property, labor or other things of value, to be held, used  
23 and applied only for the purposes for which such grants and  
24 contributions are made;

1       (4) Establish and amend the criteria and qualifications for  
2 making loans, loan guarantees or grants, or providing any other  
3 assistance, for any broadband middle mile infrastructure project,  
4 and the terms of any loans, loan guarantee, grant or assistance  
5 agreement for any broadband middle mile infrastructure project; and

6       (5) Do all things which are necessary to further the purposes  
7 and intent of this article.

8 **§31-15A-13a. Prohibition on funds inuring to the benefit of or**  
9                   **being distributable to Water Development Board;**  
10                   **transactions between the Water Development Board**  
11                   **and officers having certain interests in such**  
12                   **transactions.**

13       No part of the West Virginia Infrastructure Fund for Broadband  
14 Middle Mile Development or the West Virginia Broadband Middle Mile  
15 Infrastructure Revenue Debt Service Fund inures to the benefit of  
16 or is distributable to the Water Development Board directors or  
17 officers of the Water Development Authority except that the Water  
18 Development Authority is authorized and empowered to pay reasonable  
19 compensation, other than to members of the Water Development Board,  
20 including the chairman, vice chairman, secretary-treasurer for  
21 services rendered and to make loans and exercise its other powers  
22 as previously specified in furtherance of its corporate purpose:  
23 Provided, That no loans may be made, and no property may be

1 purchased or leased from, or sold, leased or otherwise disposed of,  
2 to any Water Development Board member or officer of the Water  
3 Development Authority.

4 **§31-15A-14a. Disposition of Infrastructure Fund for Broadband**  
5 **Development upon termination or dissolution of**  
6 **council.**

7 Upon the termination or dissolution of the Water Development  
8 Authority, all rights and properties of the authority with respect  
9 to the Infrastructure Fund for Broadband Middle Mile Development  
10 shall pass to and be vested in the state, subject to the rights of  
11 lienholders and other creditors.

12 **§31-15A-15a. Broadband middle mile projects not to be considered**  
13 **public improvements; competitive bid requirements.**

14 (a) No broadband middle mile infrastructure project acquired,  
15 constructed or maintained or financed, in whole or in part, by the  
16 Water Development Authority is a "public improvement" within the  
17 meaning of article five-a, chapter twenty-one of this code for  
18 purposes of the financing of the project.

19 (b) The state and its subdivisions shall, except as provided  
20 in subsection (c) of this section, solicit competitive bids and  
21 require the payment of prevailing wage rates as provided in article  
22 five-a, chapter twenty-one of this code for the construction of  
23 every broadband middle mile infrastructure project funded pursuant

1 to this article exceeding \$25,000 in total cost.

2 Following the solicitation of the bids, the construction  
3 contract shall be awarded to the lowest qualified responsible  
4 bidder, who shall furnish a sufficient performance and payment  
5 bond: *Provided*, That the state and its subdivisions may reject all  
6 bids and solicit new bids on the project.

7 (c) This section does not:

8 (1) Apply to work performed on construction or repair projects  
9 not exceeding a total cost of \$50,000 by regular full-time  
10 employees of the state or its subdivisions: *Provided*, That no more  
11 than \$50,000 shall be expended on an individual project in a single  
12 location in a twelve-month period;

13 (2) Prevent students enrolled in vocational educational  
14 schools from being used in the construction or repair projects when  
15 such use is a part of the students' training program;

16 (3) Apply to emergency repairs to building components and  
17 systems: *Provided*, That the term "emergency repairs" means repairs  
18 that, if not made immediately, will seriously impair the use of the  
19 building components and systems or cause danger to those persons  
20 using the building components and systems; or

21 (4) Apply to any situation where the state or a subdivision of  
22 the state comes to an agreement with volunteers, or a volunteer  
23 group, by which the governmental body will provide construction or  
24 repair materials, architectural, engineering, technical or any

1 other professional services and the volunteers will provide the  
2 necessary labor without charge to, or liability upon, the  
3 governmental body: *Provided*, That the total cost of the  
4 construction or repair projects does not exceed \$50,000.

5 (d) Subsection (b) of this section does not apply to privately  
6 owned broadband middle mile infrastructure projects.

7 **§31-15A-17c. Water Development Authority empowered to issue**  
8 **broadband middle mile infrastructure revenue bonds**  
9 **and refunding bonds; creation of Broadband Middle**  
10 **Mile Infrastructure Revenue Debt Service Fund;**  
11 **funding of Broadband Middle Mile Infrastructure**  
12 **Revenue Debt Service Fund; requirements and manner**  
13 **of such issuance.**

14 (a) To accomplish the purpose and intent of this article, the  
15 Water Development Authority upon direction of the Infrastructure  
16 and Jobs Development Council is hereby empowered to issue from time  
17 to time broadband middle mile infrastructure revenue bonds of the  
18 state in such principal amounts as the council deems necessary to  
19 make loans and loan guarantees and other forms of financial  
20 assistance to project sponsors for one or more broadband middle  
21 mile infrastructure projects: *Provided*, That the Water Development  
22 Authority may not issue any such bonds, other than refunding bonds,  
23 unless the council by resolution determines that the aggregate cost

1 of the broadband middle mile infrastructure projects expected to be  
2 constructed during any annual period exceeds: (1) The projected  
3 annual broadband infrastructure revenues for the same period; and  
4 (2) the principal and interest payments not otherwise pledged to  
5 the Broadband Middle Mile Infrastructure Revenue Debt Service Fund  
6 that are due the Water Development Authority on all outstanding  
7 loans previously made by the authority pursuant to this article.

8 (b) The proceeds of broadband middle mile infrastructure  
9 revenue bonds may only be used for the purpose of making loans and  
10 loan guarantees and other forms of financial assistance to sponsors  
11 of one or more broadband middle mile infrastructure projects, and  
12 shall be deposited in one or more special accounts with the trustee  
13 under the trust agreement securing such bonds and disbursed from  
14 time to time for broadband middle mile infrastructure projects in  
15 accordance with this article.

16 (c) The Water Development Authority may not authorize the  
17 disbursement of any proceeds of broadband middle mile  
18 infrastructure revenue bonds unless it has received from the  
19 Infrastructure Jobs Development Council the documentation required  
20 by section ten-a of this article.

21 (d) There is hereby created in the Water Development Authority  
22 a special fund which shall be designated and known as the "West  
23 Virginia Broadband Middle Mile Infrastructure Revenue Debt Service  
24 Fund," into which shall be transferred solely from the loan

1 repayments deposited in the Infrastructure Fund for Broadband  
2 Middle Mile Development the amounts certified by the authority as  
3 necessary to pay the principal, premium, if any, and interest on  
4 broadband middle mile infrastructure revenue bonds and any reserve  
5 requirements, subject to the terms of any agreement with the  
6 holders of the broadband middle mile infrastructure revenue bonds.  
7 All amounts deposited in the West Virginia Broadband Middle Mile  
8 Infrastructure Revenue Debt Service Fund shall be pledged to the  
9 repayment of the principal, interest and redemption premium, if  
10 any, on any broadband middle mile infrastructure revenue bonds  
11 authorized by this article: *Provided*, That amounts on deposit in  
12 the fund may be used to establish or maintain reserves created for  
13 the purposes of securing the broadband middle mile infrastructure  
14 revenue bonds. The pledge is valid and binding from the time the  
15 pledge is made, and the West Virginia Broadband Middle Mile  
16 Infrastructure Revenue Debt Service Fund so pledged is immediately  
17 subject to the lien of the pledge without any physical delivery  
18 thereof or further act, and the lien of any such pledge is valid  
19 and binding as against all parties having claims of any kind in  
20 tort, contract or otherwise against the Water Development Authority  
21 irrespective of whether the parties have notice thereof.

22 (e) Except as may otherwise be expressly provided in this  
23 article or by resolution of the Water Development Authority, every  
24 issue of broadband middle mile infrastructure revenue bonds are

1 special obligations of the Water Development Authority payable  
2 solely from amounts in the West Virginia Broadband Middle Mile  
3 Infrastructure Revenue Debt Service Fund, and the reserves created  
4 for this purpose by the Water Development Authority, without  
5 preference or priority among the bonds regardless of when issued,  
6 subject only to any agreements with the holders of any bonds to the  
7 contrary. All such bonds are hereby declared to be negotiable  
8 instruments.

9 (f) Broadband middle mile infrastructure revenue bonds shall  
10 be authorized by resolution of the Water Development Authority.  
11 These bonds shall bear such dates and shall mature at such times,  
12 in case of any note or renewal thereof not exceeding five years  
13 from the date of issue of the original note, and in the case of any  
14 bond not exceeding fifty years from the date of issue, as the  
15 resolution may provide. Broadband middle mile infrastructure  
16 revenue bonds shall bear interest at a rate or rates, including  
17 variable rates, shall be taxable or tax-exempt, shall be in the  
18 denominations, shall be in registered form, shall carry the  
19 registration privileges, shall be payable in the medium and place  
20 of payment, and shall be subject to the terms of redemption as the  
21 Water Development Authority may authorize. Broadband middle mile  
22 infrastructure revenue bonds may be sold by Water Development  
23 Authority at public or private sale at the price the authority  
24 determines in consultation with the council. Broadband middle mile

1 infrastructure revenue bonds shall be executed by the chairman and  
2 the vice chairman of the Water Development Authority, either or  
3 both of whom may use a facsimile signature. The official seal of  
4 the Water Development Authority or a facsimile thereof shall be  
5 affixed thereto or printed thereon and attested by manual or  
6 facsimile signature by the secretary-treasurer of the Water  
7 Development Authority. If any officer whose signature, or a  
8 facsimile of whose signature appears on any broadband  
9 infrastructure revenue bond ceases to be such officer before  
10 delivery of such bond, such signature or facsimile is nevertheless  
11 sufficient for all purposes to the same extent as if he or she had  
12 remained in office until such delivery, and if the seal of the  
13 Water Development Authority has been changed after a facsimile has  
14 been imprinted on such bond, the facsimile will continue to be  
15 sufficient for all purposes.

16 (g) Any resolution authorizing any broadband infrastructure  
17 revenue bonds may contain provisions, subject to any agreement with  
18 bondholders or noteholders which may then exist, which agreements  
19 shall be part of the contract with the holder thereof, with respect  
20 to the pledge of or other use and disposition of amounts in the  
21 Broadband Middle Mile Infrastructure Revenue Debt Service Fund; the  
22 setting aside of reserve funds; the disposition of any assets of  
23 the Water Development Authority; limitations on the purpose to  
24 which the proceeds of sale of bonds may be applied; the

1 authorization of notes issued in anticipation of the issuance of  
2 bonds; an agreement of the Water Development Authority to do all  
3 things necessary for the authorization, issuance and sale of such  
4 bonds in such amounts as may be necessary for the timely retirement  
5 of such notes; limitations on the issuance of additional bonds; the  
6 terms upon which additional bonds may be issued and secured; the  
7 refunding of outstanding bonds and the renewal of outstanding  
8 notes; the procedures, if any, by which the terms of any contract  
9 with bondholders or noteholders may be amended or abrogated; the  
10 amount of bonds the holders of which must consent thereto and the  
11 manner in which such consent may be given; and any other matter  
12 which in any way affects the security for or protection of the  
13 bonds.

14 (h) In the event that the sum of all reserves pledged to the  
15 payment of the bonds is less than the minimum reserve requirements  
16 established in any resolution or resolutions authorizing the  
17 issuance of the bonds, the chairman of the Water Development  
18 Authority shall certify, on or before December 1 of each year, the  
19 amount of such deficiency to the Governor of the state for  
20 inclusion, if the Governor shall so elect, of the amount of such  
21 deficiency in the budget to be submitted to the next session of the  
22 Legislature for appropriation to the Infrastructure and Jobs  
23 Development Council to be pledged for payment of such bonds:  
24 Provided, That the Legislature shall not be required to make any

1 appropriations so requested, and the amount of such deficiencies  
2 does not constitute a debt or liability of the state.

3 (I) Neither the officers or board members of the Water  
4 Development Authority or the Infrastructure and Jobs Development  
5 Council, nor any person executing the broadband middle mile  
6 infrastructure revenue bonds, are liable personally on the bonds or  
7 be subject to any personal liability or accountability by reason of  
8 the issuance thereof.

9 **§31-15A-18a. Trustee for holders of broadband middle mile**  
10 **infrastructure revenue bonds; contents of trust**  
11 **agreement.**

12 (a) Any broadband middle mile infrastructure revenue bonds  
13 issued by the Water Development Authority under this article shall  
14 be secured by a trust agreement between the Water Development  
15 Authority and a corporate trustee, which trustee may be any trust  
16 company or banking institution having the powers of a trust company  
17 within this state.

18 (b) Any trust agreement may pledge or assign the Broadband  
19 Middle Mile Infrastructure Revenue Debt Service Fund. Any trust  
20 agreement or any resolution providing for the issuance of such  
21 bonds may contain such provisions for protecting and enforcing the  
22 rights and remedies of the bondholders or noteholders as are  
23 reasonable and proper and not in violation of law, including  
24 section seventeen-a of this article, and covenants setting forth

1 the duties of the Water Development Authority in respect to the  
2 payment of the principal of and interest, charges and fees on loans  
3 made to, or bond purchases from, governmental agencies from the  
4 proceeds of the bonds, and the custody, safeguarding and  
5 application of all moneys. Any banking institution or trust company  
6 incorporated under the laws of this state which may act as  
7 depository of the proceeds of bonds or of the Broadband Middle Mile  
8 Infrastructure Revenue Debt Service Fund shall furnish such  
9 indemnifying bonds or pledge securities as are required by the  
10 Water Development Authority. The trust agreement may set forth the  
11 rights and remedies of the bondholders and noteholders and of the  
12 trustee and may restrict individual rights of action by bondholders  
13 and noteholders as customarily provided in trust agreements or  
14 trust indentures securing similar bonds and notes. The trust  
15 agreement may contain such other provisions as the Water  
16 Development Authority deems reasonable and proper for the security  
17 of the bondholders or noteholders. All expenses incurred in  
18 carrying out the provisions of any such trust agreement may be  
19 treated as part of the cost of the construction, renovation,  
20 repair, improvement or acquisition of a project or infrastructure  
21 project.

22 **§31-15A-19a. Legal remedies of broadband middle mile**  
23 **infrastructure revenue bondholders or**  
24 **noteholders and trustees.**

1 Any holder of broadband middle mile infrastructure revenue  
2 bonds issued pursuant to this article and the trustee under any  
3 trust agreement, except to the extent the rights given by this  
4 article may be restricted by the applicable resolution or trust  
5 agreement, may by civil action, mandamus or other proceedings  
6 protect and enforce any rights granted under the laws of this state  
7 or granted under this article, by the trust agreement or by the  
8 resolution in the issuance of the bonds, and may enforce and compel  
9 the performance of all duties required by this article, pursuant to  
10 the trust agreement or resolution, to be performed by the Water  
11 Development Authority or any officer thereof.

12 **§31-15A-20a. Broadband middle mile infrastructure revenue bonds**  
13 **lawful investments.**

14 All broadband middle mile infrastructure revenue bonds issued  
15 pursuant to this article are lawful investments for banking  
16 institutions, societies for savings, building and loan  
17 associations, savings and loan associations, deposit guarantee  
18 associations, trust companies, and insurance companies, including  
19 domestic for life and domestic not for life insurance companies.

20 **§31-15A-21a. Purchase and cancellation of broadband middle mile**  
21 **infrastructure revenue bonds.**

22 (a) The Water Development Authority, subject to such  
23 agreements with noteholders or bondholders as may then exist, shall

1 have the power, from any funds available therefor, to purchase or  
2 redeem broadband middle mile infrastructure revenue bonds of the  
3 council.

4 (b) If the broadband middle mile infrastructure revenue bonds  
5 are then redeemable, the price of the purchase may not exceed the  
6 redemption price then applicable, plus accrued interest to the next  
7 interest payment date thereon. If the broadband middle mile  
8 infrastructure revenue bonds are not then redeemable, the price of  
9 the purchase may not exceed the redemption price applicable on the  
10 first date after the purchase upon which the bonds become subject  
11 to redemption, plus accrued interest to such date. Upon purchase or  
12 redemption, the bonds shall be canceled.

13 **§31-15A-22a. Refunding broadband middle mile revenue bonds.**

14 Any broadband middle mile infrastructure revenue bonds issued  
15 pursuant to this article and at any time outstanding may at any  
16 time and from time to time be refunded by the Water Development  
17 Authority by the issuance of its refunding revenue bonds in an  
18 amount it deems necessary to refund the principal of the bonds to  
19 be refunded, together with any unpaid interest thereon, to provide  
20 additional funds for the Water Development Authority to, in its  
21 discretion, issue additional revenue bonds, and to pay any premiums  
22 and commissions necessary to be paid in connection therewith. Any  
23 refunding may be effected whether the broadband middle mile  
24 infrastructure revenue bonds to be refunded shall have then matured

1 or shall thereafter mature: *Provided*, That the holders of any  
2 broadband middle mile infrastructure revenue bonds so to be  
3 refunded may not be compelled without their consent to surrender  
4 their broadband middle mile infrastructure revenue bonds for  
5 payment or exchange prior to the date on which they are payable or,  
6 if they are called for redemption, prior to the date on which they  
7 are by their terms subject to redemption. Any refunding revenue  
8 bonds issued pursuant to this article are payable from the West  
9 Virginia Broadband Middle Mile Infrastructure Revenue Debt Service  
10 Fund, and are subject to section seventeen-c of this article, and  
11 shall be secured in accordance with sections seventeen-c and  
12 eighteen-a of this article.

13 **§31-15A-23a. Broadband middle mile infrastructure revenue bonds**  
14 **not debt of state, county, municipality or any**  
15 **political subdivision.**

16 Broadband middle mile infrastructure revenue bonds issued  
17 pursuant to this article do not constitute a debt or a pledge of  
18 the faith and credit or taxing power of this state or of any  
19 county, municipality or any other political subdivision of this  
20 state. The holders or owners thereof have no right to have taxes  
21 levied by the Legislature or the taxing authority of any county,  
22 municipality or any other political subdivision of this state for  
23 the payment of the principal thereof or interest thereon. The

1 broadband middle mile revenue bonds are payable solely from the  
2 revenues and funds pledged for their payment as authorized by this  
3 article. All such bonds shall contain on the face thereof a  
4 statement to the effect that the bonds, as to both principal and  
5 interest, are not debts of the state or any county, municipality or  
6 political subdivision thereof, but are payable solely from revenues  
7 and funds pledged for their payment.

8 **§31-15A-24a. Broadband middle mile infrastructure revenue bonds**  
9 **exempt from taxation.**

10 The exercise of the powers granted to the Water Development  
11 Authority by this article will be in all respects for the benefit  
12 of the people of the state, for the improvement of their health,  
13 safety, convenience and welfare and for the enhancement of their  
14 residential, agricultural, recreational, economic, commercial and  
15 industrial opportunities and is for a public purpose. As the  
16 construction, acquisition, repair or renovation of broadband middle  
17 mile infrastructure projects will constitute the performance of  
18 essential governmental functions, the Water Development Authority  
19 may not be required to pay any taxes or assessments upon any  
20 project or upon any property acquired or used by the Water  
21 Development Authority or upon the income therefrom. The broadband  
22 middle mile infrastructure revenue bonds and all interest and  
23 income thereon are exempt from all taxation by this state, or any  
24 county, municipality, political subdivision or agency thereof,

1 except estate taxes.

NOTE: The purpose of this bill concerns the development of broadband middle mile infrastructure in the state. The bill adds and defines new terms. The bill creates a separate infrastructure fund for broadband middle mile infrastructure projects. The bill provides for deposits and expenditures. The bill sets forth additional powers to Infrastructure and Jobs Development Council and Water Development Authority regarding broadband middle mile infrastructure projects. The bill creates advisory committee to advise Infrastructure and Jobs Development Council on disposition of applications for grants and loans. The bill provides a process for review of applications by Development Office. The bill requires notice of public hearing on applications for grants and loans. The bill provides for hearings and public comment period. The bill creates the Infrastructure Fund for Broadband Middle Mile Infrastructure Revenue Debt Service Fund. The bill provides for the disposition of funds on termination or dissolution of the authority. The bill provides that broadband middle mile projects funded by authority are public improvements. The bill authorizes the issuance of broadband middle mile revenue bonds. The bill creates Broadband Middle Mile Infrastructure Debt Service Fund. The bill provides for funding of debt service fund. The bill specifies requirements for and manner of issuance of bonds. The bill provides for contents of trust agreement and trustee for bonds. The bill specifies remedies available to bondholders, noteholders and trustees. The bill makes broadband middle mile infrastructure revenue bonds lawful investments. The bill provides for purchase, cancellation and refunding of bonds. The bill declares that bonds are not state debts and are exempt from taxation.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§31-15A-9a, §31-15A-9b, §31-15A-10a, §31-15A-11a, §31-15A-12a, §31-15A-13a, §31-15A-14a, §31-15A-15a, §31-15A-17c, §31-15A-18a, §31-15A-19a, §31-15A-20a, §31-15A-21a, §31-15A-22a, §31-15A-23a and §31-15A-24a, are new; therefore, they have been completely underscored.