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HOUSE BILL NO. 2214

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Communications, Technology and Innovation
on February 1, 2021)

(Patron Prior to Substitute—Delegate O'Quinn)

A BILL to amend and reenact § 2.2-205.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 36-139.9, relating to Commonwealth Broadband Chief Advisor; statewide broadband availability map.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-205.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 36-139.9 as follows:

§ 2.2-205.2. Commonwealth Broadband Chief Advisor.

A. The position of Commonwealth Broadband Chief Advisor (Chief Advisor) is hereby established within the office of the Secretary of Commerce and Trade.

1. The purpose of the Chief Advisor is to serve as Virginia's single point of contact and integration for broadband issues, efforts, and initiatives and to increase the availability and affordability of broadband throughout all regions of the Commonwealth.

2. The Chief Advisor shall be selected for his knowledge of, background in, and experience with information technology, broadband telecommunications, and economic development in a private, for-profit, or not-for-profit organization.

B. The Chief Advisor shall be designated by the Secretary of Commerce and Trade. Staff for the Chief Advisor shall be provided by the Center for Innovative Technology (CIT) and the Department of Housing and Community Development (DHCD). All agencies of the Commonwealth shall provide assistance to the Chief Advisor, upon request.

C. The Chief Advisor shall:

1. Integrate activities among different federal and state agencies and departments, and localities, and coordinate with Internet service providers in the Commonwealth;

2. Provide continual research into public grants and loans, in addition to private and nonprofit funding opportunities, available to provide incentives and help defray the costs of broadband infrastructure buildouts and upgrades;

3. Maintain broadband maps, *as provided in § 36-139.9*, the Integrated Broadband Planning and Analysis Toolbox, and other data to help decision makers understand where broadband needs exist and help develop strategies to address these needs;

4. Continually monitor and analyze broadband legislative and policy activities, as well as investments, in other nations, states, and localities to ensure that the Commonwealth remains competitive and up to date on best practices to address the Commonwealth's unique broadband needs, create efficiencies, target funding, and streamline operations;

5. Monitor the trends in the availability and deployment of and access to broadband communications services, which include, but are not limited to, high-speed data services and Internet access services of general application, throughout the Commonwealth and advancements in communications technology for deployment potential;

6. Research and evaluate emerging technologies to determine the most effective applications for these technologies and their benefits to the Commonwealth;

7. Monitor federal legislation and policy, in order to maximize the Commonwealth's effective use of and access to federal funding available for broadband development programs, including but not limited to the Connect America Fund program;

8. Coordinate with Virginia agencies and departments to target funding activities for the purpose of ensuring that Commonwealth funds are spent effectively to increase economic and social opportunities through widespread and affordable broadband deployment;

9. Coordinate with Virginia agencies and departments, including, but not limited to, DHCD, the Virginia Tobacco Region Revitalization Commission, and the Virginia Resources Authority, to review funding proposals and provide recommendations for Virginia grants and loans for the purpose of ensuring that Commonwealth funds are spent effectively on projects most likely to result in a solid return on investment for broadband deployment throughout the Commonwealth;

10. Serve as a central coordinating position and repository for any broadband-related projects and grants related to the mission herein, including, but not limited to, information from DHCD, the Virginia Tobacco Region Revitalization Commission, the CIT, the Virginia Growth and Opportunity Board, and the Virginia Resources Authority;

11. Support the efforts of both public and private entities within the Commonwealth to enhance or

60 facilitate the deployment of and access to competitively priced advanced electronic communications
61 services and Internet access services of general application throughout the Commonwealth;

62 12. Specifically work toward establishing affordable, accessible broadband services to unserved areas
63 of the Commonwealth and monitor advancements in communication that will facilitate this goal;

64 13. Advocate for and facilitate the development and deployment of applications, programs, and
65 services, including but not limited to telework, telemedicine, and e-learning, that will bolster the usage
66 of and demand for broadband level telecommunications;

67 14. Serve as a broadband information and applications clearinghouse for the Commonwealth and a
68 coordination point for broadband-related services and programs in the Commonwealth;

69 15. After consultation with the Virginia Growth and Opportunity Board, the Broadband Advisory
70 Council, and the Joint Commission on Technology and Science, (i) develop a strategic plan that includes
71 specific objectives, metrics, and benchmarks for developing and deploying broadband communications,
72 including in rural areas, which minimize the risk to the Commonwealth's assets and encourage
73 public-private partnerships, across the Commonwealth; such strategic plan and any changes thereto shall
74 be submitted to the Governor, the Chairman of the House Appropriations Committee, the Chairman of
75 the Senate Finance Committee, the Chairman of the Joint Commission on Technology and Science, the
76 Chairman of the Broadband Advisory Council, and the Chairman of the Virginia Growth and
77 Opportunity Board and (ii) present to these organizations annually on updates, changes, and progress
78 made relative to this strategic plan, other relevant broadband activities in the Commonwealth, and
79 suggestions to further the objectives of increased broadband development and deployment, including
80 areas such as, but not limited to, the following: education, telehealth, economic development, and
81 workforce development, as well as policies that may facilitate broadband deployment at the state and
82 local level; and

83 16. Submit to the Governor and the General Assembly an annual report for publication as a report
84 document as provided in the procedures of the Division of Legislative Automated Systems for the
85 processing of legislative documents and reports on broadband development and deployment activities
86 that shall include, but not be limited to, the following areas: education, telehealth, workforce
87 development, and economic development in regard to (i) broadband deployment and program successes,
88 (ii) obstacles to program and resource coordination, (iii) strategies for improving such programs and
89 resources needed to help close the Commonwealth's rural digital divide, and (iv) progress made on the
90 objectives detailed in the strategic plan. The Chief Advisor shall submit to the Governor and the General
91 Assembly an annual executive summary of the interim activity and work of the Chief Advisor no later
92 than the first day of each regular session of the General Assembly. The executive summary shall be
93 submitted for publication as a report document as provided in the procedures of the Division of
94 Legislative Automated Systems for the processing of legislative documents and reports and shall be
95 posted on the General Assembly's website.

96 D. The Chief Advisor may form such advisory panels and commissions as deemed necessary,
97 convenient, or desirable to advise and assist in exercising the powers and performing the duties
98 conferred by this section. Persons appointed to advisory committees shall be selected for their
99 knowledge of, background in, or experience with information technology, broadband
100 telecommunications, or economic development in a private, for-profit, or not-for-profit organization.

101 E. The disclosure requirements of Article 5 (§ 2.2-3113 et seq.) of the State and Local Government
102 Conflict of Interests Act shall apply to members of the advisory committees.

103 **§ 36-139.9. Statewide broadband availability map.**

104 A. As used in this section, unless the context requires a different meaning:

105 "Broadband" means Internet access at speeds equal to or greater than the broadband Internet speed
106 benchmark set by the Federal Communications Commission.

107 "Broadband provider" means a provider of fixed or mobile broadband Internet access service and
108 includes any entity required to provide the federal government with information on Federal
109 Communications Commission Form 477 or as part of the federal Digital Opportunity Data Collection
110 program or a provider of satellite-based broadband Internet access service that has been designated as
111 an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e)(6) for any portion of the
112 Commonwealth.

113 "Chief Advisor" means the Commonwealth Broadband Chief Advisor as established in § 2.2-205.2.

114 "Map" means the statewide broadband availability map developed and maintained pursuant to this
115 section.

116 B. The Department shall, in coordination with the Office of the Chief Advisor, develop a statewide
117 broadband availability map indicating broadband coverage, including maximum broadband speeds
118 available in service territories in the Commonwealth. The Department and Chief Advisor shall provide
119 the initial map by July 1, 2022, or as soon as practicable, and shall update the map at least annually.

120 C. Broadband providers shall be required to submit updated service territory data to the Department
121 annually. The Department shall establish a process, timeline, and specific data requirements for

broadband providers to submit their data. All public bodies shall cooperate with the Department, or any agent thereof, to furnish data requested by the Department for the initial improvement and maintenance of the map.

D. In no instance may the Department require broadband providers to submit any data, in either substantive content or form, beyond that which the provider is required to submit to the Federal Communications Commission pursuant to the federal Broadband Deployment Accuracy and Technological Availability Act, 47 U.S.C. § 641 et. seq., provided, however, that satellite-based broadband providers that have been designated as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e)(6) for any portion of the Commonwealth shall be required to submit comparable data as other broadband providers. Public bodies and broadband providers shall not be required to submit any customer information, such as names, addresses, or account numbers.

E. The Department may publish only anonymized versions of the map, showing locations served and unserved by broadband without reference to any specific provider. The map shall not include information regarding ownership or control over the network or networks providing service. The Department shall establish a process for broadband providers to petition the Department to correct inaccuracies in the map. Any determination made by the Department pursuant to any specific petition with respect to any specific map to correct inaccuracies shall be final and not subject to further review.

F. Maps published by the Department pursuant to this section may be considered, but shall not be considered conclusive, for purposes of determining eligibility for funding for Commonwealth broadband expansion grant or loan programs, including the Virginia Telecommunication Initiative, or challenges thereto.

G. The Department:

1. May contract with private parties to make the necessary improvements to the existing map and to maintain the map. Such private parties may include any entities and individuals selected by the Department to assist the Department in improving and maintaining such a map;

2. Shall consult existing broadband maps, particularly those published by the Federal Communications Commission; and

3. May acquire existing, privately held data or mapping information that may contribute to the accuracy of the map.

H. Information submitted by a broadband provider in connection with this section shall be excluded from the requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Information submitted by a broadband provider pursuant to this section shall be used solely for the purposes stated under this section and shall not be released by the Department, or any other public records custodian, without the express written permission of the submitting broadband provider.

I. The Department shall annually evaluate federal mapping data and shall waive the requirement for broadband providers to submit territory data if a map of near identical or greater quality is made publicly available by the Federal Communications Commission as part of the federal Digital Opportunity Data Collection program or its successor. This waiver shall not be unreasonably withheld.