

House Study Bill 638 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR BILL)

A BILL FOR

1 An Act relating to broadband service, including matters under
2 the purview of the office of the chief information officer,
3 the empower rural Iowa broadband grant fund, and certain
4 broadband infrastructure tax exemptions, and including
5 effective date and retroactive applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8B.1, subsections 5, 13, and 14, Code
2 2020, are amended to read as follows:

3 5. "*Facilitate*" means a communication service provider's
4 ability to provide broadband service at or above the download
5 and upload speeds specified in the definition of targeted
6 service area in this section or section 8B.11, subsection
7 5, paragraph "a", if applicable, to a home, farm, school,
8 or business within a commercially reasonable time and at a
9 commercially reasonable price upon request by a consumer.

10 13. "*Targeted service area*" means a any of the following:

11 a. A United States census bureau census block located
12 in this state, including any crop operation located within
13 the census block, or other geographic unit the office sets
14 by rule, within which no communications service provider
15 offers or facilitates broadband service at or above the
16 download and upload speeds identified by the federal
17 communications commission pursuant to section 706 of the
18 federal Telecommunications Act of 1996, as amended.

19 b. Any geographic area, as the office sets by rule, that
20 is materially underserved by broadband service such that
21 the download and upload speeds identified by the federal
22 communications commission pursuant to section 706 of the
23 federal Telecommunications Act of 1996, as amended, of the
24 broadband service in the geographic area are not meaningfully
25 available. The office's power to determine the geographic
26 area by rule under this paragraph includes the power to define
27 and interpret standards as to whether a geographic area is
28 materially underserved and broadband service is meaningfully
29 available.

30 14. "*Underserved area*" means any portion of a targeted
31 service area within which no communications service provider
32 ~~offers or~~ facilitates broadband service meeting the download
33 and upload speeds specified in the definition of targeted
34 service area in this section.

35 Sec. 2. Section 8B.9, subsection 5, Code 2020, is amended

1 to read as follows:

2 5. An annual report regarding the status of broadband
3 expansion and coordination, ~~the connecting Iowa farms, schools,~~
4 ~~and communities~~ empower rural Iowa broadband grant program
5 established under [section 8B.11](#), and the adequacy of the speed
6 set in the definition of targeted service area in [section 8B.1](#).

7 Sec. 3. Section 8B.10, subsection 1, Code 2020, is amended
8 to read as follows:

9 1. The determination of whether a communications service
10 provider ~~offers or~~ facilitates broadband service meeting the
11 download and upload speeds specified in the definition of
12 targeted service area in [section 8B.1](#) shall be determined
13 or ascertained by reference to broadband availability maps
14 or data sources that are ~~widely accepted for accuracy and~~
15 ~~available for public review and comment and that are identified~~
16 by the office by rule. The office shall periodically make
17 renewed determinations of whether a communications service
18 provider ~~offers or~~ facilitates broadband service at or above
19 the download and upload speeds specified in the definition of
20 targeted service area in [section 8B.1](#), which shall, to the
21 extent updated maps and data sources are available at the time,
22 include making such determinations prior to each round of grant
23 applications solicited by the office pursuant to [section 8B.11](#).

24 Sec. 4. Section 8B.10, Code 2020, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 3. All findings and determinations made
27 pursuant to this section shall exclude mobile wireless or
28 satellite data, capabilities, and delivery mediums.

29 Sec. 5. Section 8B.11, subsection 1, Code 2020, is amended
30 to read as follows:

31 1. The office shall administer a broadband grant program
32 designed to reduce or eliminate unserved and underserved
33 areas in the state, leveraging federal funds and public and
34 private partnerships where possible, by awarding grants to
35 communications service providers that reduce or eliminate

1 targeted service areas by installing broadband infrastructure
2 that facilitates broadband service in targeted service areas
3 at or above the download and upload speeds specified in the
4 ~~definition of targeted service area in section 8B.1~~ subsection
5 5, in accordance with this section.

6 Sec. 6. Section 8B.11, subsection 2, paragraphs a and b,
7 Code 2020, are amended to read as follows:

8 ~~a. A connecting Iowa farms, schools, and communities~~ An
9 empower rural Iowa broadband grant fund is established in the
10 state treasury under the authority of the office. The fund
11 shall consist of moneys available to and obtained or accepted
12 by the office. Moneys in the fund are appropriated to the
13 office to be used for the grant program, including for the
14 administration and operation of the grant program.

15 b. The office shall use moneys in the fund to provide grants
16 to communications service providers pursuant to this section.
17 The office may use moneys in the fund to pay the costs and
18 expenses associated with the administration and operation of
19 the grant program. The office shall use moneys in the fund to
20 leverage available federal moneys if possible.

21 Sec. 7. Section 8B.11, subsection 2, Code 2020, is amended
22 by adding the following new paragraph:

23 NEW PARAGRAPH. d. Notwithstanding paragraph "c" or any
24 provision to the contrary, moneys in the fund that have been
25 awarded but not paid to a communications service provider
26 shall not revert but shall remain available to the office for
27 purposes of administering the award in a manner consistent with
28 the terms and conditions of any corresponding contract or grant
29 agreement governing the administration of the award.

30 Sec. 8. Section 8B.11, subsection 3, Code 2020, is amended
31 to read as follows:

32 3. Communications service providers may apply to the office
33 for a grant pursuant to this section for the installation
34 of broadband infrastructure that facilitates broadband
35 service in targeted service areas at or above the download

1 and upload speeds specified in ~~the definition of targeted~~
2 ~~service area in [section 8B.1](#) subsection 5~~. The office may,
3 ~~by rule, increase the minimum download and upload speeds~~
4 ~~for grant eligibility pursuant to [this section](#)~~. The office
5 shall include representatives from schools, communities,
6 agriculture, industry, and other areas as appropriate to review
7 and recommend grant awards. The office shall conduct an open
8 application review process that includes the opportunity
9 for the public to submit factual information as part of a
10 validation process to address claims that a targeted service
11 area is currently served with broadband service at or above
12 the download and upload speeds specified in ~~the definition~~
13 ~~of targeted service area in [section 8B.1](#) subsection 5~~. Upon
14 completion of the validation process, the office may modify
15 a proposed targeted service area to account for information
16 received during the validation process. The office shall make
17 available a public internet site identifying all publicly
18 available information contained in the applications, the
19 members of the review committee, a summary of the review
20 committee's recommended results, and any results of performance
21 testing conducted after the project is completed.

22 Sec. 9. Section 8B.11, subsection 4, paragraph a,
23 unnumbered paragraph 1, Code 2020, is amended to read as
24 follows:

25 The office shall award grants on a competitive basis for
26 the installation of broadband infrastructure that facilitates
27 broadband service in targeted service areas at or above the
28 download and upload speeds specified in ~~the definition of~~
29 ~~targeted service area in [section 8B.1](#) subsection 5~~, after
30 considering the following:

31 Sec. 10. Section 8B.11, subsection 4, paragraph a,
32 subparagraph (2), Code 2020, is amended to read as follows:

33 (2) The applicant's total proposed budget for the project,
34 including ~~the~~ all of the following:

35 (a) The amount or percentage of local or federal matching

1 funds, if any, and any funding obligations shared between
2 public and private entities, and the.

3 (b) The percentage of funding provided directly from the
4 applicant, including whether the applicant requested from the
5 office an amount less than the maximum amount the office could
6 award pursuant to subsection 5 and, if so, the percentage of
7 the project cost that the applicant is requesting.

8 Sec. 11. Section 8B.11, subsection 5, Code 2020, is amended
9 to read as follows:

10 5. The office shall not award a grant pursuant to this
11 section that exceeds fifteen any of the following amounts:

12 a. Thirty-five percent of the communications service
13 provider's project cost, for projects that will result in the
14 installation of broadband infrastructure that will facilitate
15 broadband service providing a minimum download speed of one
16 hundred megabits per second and a minimum upload speed of
17 twenty megabits per second.

18 b. Fifteen percent of the communications service provider's
19 project cost, for projects that will result in the installation
20 of broadband infrastructure that will facilitate broadband
21 service providing a minimum download speed less than one
22 hundred megabits per second but greater than or equal to the
23 download speed specified in the definition of targeted service
24 area in section 8B.1, and a minimum upload speed less than
25 twenty megabits per second but greater than or equal to the
26 upload speed specified in the definition of targeted service
27 area in section 8B.1.

28 Sec. 12. Section 427.1, subsection 40, paragraph b, Code
29 2020, is amended to read as follows:

30 b. The exemption shall apply to the installation of
31 broadband infrastructure that facilitates broadband service
32 at or above the download and upload speeds specified in the
33 definition of targeted service area in [section 8B.1](#) commenced
34 and completed on or after July 1, 2015, and before July 1,
35 2025, in a targeted service area, and used to deliver internet

1 services to the public. A person claiming an exemption under
2 this subsection shall certify to the local assessor prior to
3 commencement of the installation that the installation of
4 broadband infrastructure will facilitate broadband service
5 at or above the download and upload speeds specified in the
6 definition of targeted service area in [section 8B.1](#) within a
7 targeted service area and shall specify the current number
8 of homes, farms, schools, and businesses in the targeted
9 service area ~~that were offered to which~~ broadband service was
10 facilitated and the download and upload speeds available prior
11 to the broadband infrastructure installation for which the
12 exemption is claimed and the number of homes, farms, schools,
13 and businesses in the targeted service area ~~that will be~~
14 ~~offered to which~~ broadband service will be facilitated and the
15 download and upload speeds that will be available as a result
16 of installation of the broadband infrastructure for which the
17 exemption is claimed.

18 Sec. 13. Section 427.1, subsection 40, paragraph f,
19 subparagraph (1), subparagraph division (d), Code 2020, is
20 amended to read as follows:

21 (d) Certification from the office of the chief information
22 officer ~~pursuant to [section 8B.10](#)~~ that the installation will
23 facilitate broadband service at or above the download and
24 upload speeds specified in the definition of targeted service
25 area in [section 8B.1](#) in a targeted service area.

26 Sec. 14. 2019 Iowa Acts, chapter 136, section 6, subsection
27 1, is amended to read as follows:

28 1. There is appropriated from the general fund of the state
29 to the office of the chief information officer for the fiscal
30 year beginning July 1, 2019, and ending June 30, 2020, the
31 following amount, or so much thereof as is necessary, to be
32 used for the purposes designated:

33 For deposit in the ~~connecting Iowa farms, schools, and~~
34 ~~communities~~ empower rural Iowa broadband grant fund established
35 under [section 8B.11](#) for a broadband grant program; and for

1 salaries, support, maintenance, and miscellaneous purposes:
2 \$ 5,000,000

3 Sec. 15. EFFECTIVE DATE. This Act, being deemed of
4 immediate importance, takes effect upon enactment.

5 Sec. 16. RETROACTIVE APPLICABILITY. The following applies
6 retroactively to July 1, 2015:

7 The section of this Act enacting section 8B.11, subsection
8 2, paragraph "d".

9 EXPLANATION

10 The inclusion of this explanation does not constitute agreement with
11 the explanation's substance by the members of the general assembly.

12 This bill relates to broadband service, including matters
13 under the purview of the office of the chief information
14 officer, the empower rural Iowa broadband grant fund, and
15 certain broadband infrastructure tax exemptions.

16 The bill amends the definitions of "facilitate", "targeted
17 service area", and "underserved area" for purposes of Code
18 chapter 8B.

19 The bill amends the definition of "facilitate" to mean a
20 communication service provider's ability to provide broadband
21 service at or above the download and upload speeds specified in
22 the definition of "targeted service area" or in Code section
23 8B.11(5), which is also amended under the bill, as described in
24 more detail below.

25 Currently, "targeted service area" is defined to mean
26 a United States census bureau census block located in
27 this state, including any crop operation located within
28 the census block, within which no communications service
29 provider offers or facilitates broadband service at or above
30 the download and upload speeds identified by the federal
31 communications commission pursuant to section 706 of the
32 federal Telecommunications Act of 1996, as amended. To this
33 definition, the bill adds as an alternative any geographic
34 area, as determined by the office of the chief information
35 officer by rule, that is materially underserved by broadband

1 service such that the download and upload speeds identified
2 by the federal communications commission pursuant to section
3 706 of the federal Telecommunications Act of 1996, as
4 amended, of the broadband service in the geographic area are
5 not meaningfully available. The bill grants to the office
6 the power to determine what constitutes a geographic area
7 being "materially underserved" and broadband service being
8 "meaningfully available".

9 The bill modifies the definition of "underserved area" to
10 remove language related to broadband service being offered
11 in a targeted service area. As a result, an underserved
12 area now means any portion of a targeted service area within
13 which no communications service provider facilitates broadband
14 service meeting the download and upload speeds specified in the
15 definition of targeted service area.

16 Currently, the office is to determine whether a
17 communications service provider offers or facilitates broadband
18 service at the proper download and upload speed by reference
19 to broadband availability maps or data sources that are widely
20 accepted for accuracy and available for public review and
21 comment and that are identified by the office by rule. The
22 bill changes this provision in several ways. First, the bill
23 deletes reference to a communications service provider offering
24 broadband service. Second, the bill removes the requirement
25 that the maps or data sources be widely accepted for accuracy
26 and available for public review and comment. Third, the bill
27 requires that the office's determinations exclude mobile
28 wireless or satellite data, capabilities, and delivery mediums.

29 The bill changes the name of the connecting Iowa farms,
30 schools, and communities broadband grant fund to the empower
31 rural Iowa broadband grant fund. The bill also modifies how
32 moneys in the empower rural Iowa broadband grant fund may be
33 used. The bill permits the office to use moneys in the fund for
34 purposes of administering and operating the grant program.

35 In addition, the bill establishes that moneys in the fund

1 that have been awarded to a communications service provider but
2 not paid shall not revert but shall remain available to the
3 office for purposes of administering the award. This provision
4 is retroactively applicable to July 1, 2015.

5 Currently, Code section 8B.11(3) allows the office, by rule,
6 to increase the minimum download and upload speeds for grant
7 eligibility under the fund. The bill deletes this provision,
8 which prevents the office from increasing the minimum download
9 and upload speeds for grant eligibility.

10 The bill adds to the factors the office is to consider
11 when determining whether to award grants from the fund. When
12 considering the applicant's total proposed budget, in addition
13 to the factors currently considered, the office is now also
14 to consider whether the applicant requested from the office
15 an amount less than the maximum amount the office could award
16 pursuant to Code section 8B.11(5).

17 The office is currently prohibited from awarding a grant
18 from the fund that exceeds 15 percent of the communications
19 service provider's project cost. The bill amends this
20 provision to allow for an award of up to 35 percent of
21 the communications service provider's project cost for
22 projects that will result in the installation of broadband
23 infrastructure that will facilitate broadband service providing
24 a minimum download speed of 100 megabits per second and a
25 minimum upload speed of 20 megabits per second. The bill
26 allows for an award of up to 15 percent of the communications
27 service provider's project cost for projects that will result
28 in the installation of broadband infrastructure that will
29 facilitate broadband service providing a minimum download speed
30 less than 100 megabits per second but greater than or equal
31 to the download speed specified in the definition of targeted
32 service area, and a minimum upload speed less than 20 megabits
33 per second but greater than or equal to the upload speed
34 specified in the definition of targeted service area.

35 The bill amends Code section 427.1(40)(b) to remove

1 reference to the broadband service being offered, inserting
2 that the broadband service need only be facilitated.

3 Currently, Code section 427.1(40) provides that the
4 certification from the office that the installation will
5 facilitate broadband service at or above the download and
6 upload speeds specified in the definition of targeted service
7 area is pursuant to Code section 8B.10. The bill strikes the
8 reference to Code section 8B.10.

9 The bill makes conforming changes related to the change
10 in name of the fund from the connecting Iowa farms, schools,
11 and communities broadband grant fund to the empower rural Iowa
12 broadband grant fund.

13 The bill takes effect upon enactment.