

House File 796 - Introduced

HOUSE FILE 796
BY COMMITTEE ON INFORMATION
TECHNOLOGY

(SUCCESSOR TO HSB 133)

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 including
4 effective date and applicability provisions.

5 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 2021, 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 any of the following:

11 a. A United States census bureau census block located in
12 this state, including any crop operation located within the
13 census block, or other geographic unit the office sets by
14 rule, within which no communications service provider offers
15 or facilitates broadband service at or above the tier 1, tier
16 2, or tier 3 download and upload speeds ~~identified by the~~
17 ~~federal communications commission pursuant to section 706 of~~
18 ~~the federal Telecommunications Act of 1996, as amended.~~ As
19 used in this subsection:

20 (1) "Tier 1" means a maximum download speed of less than
21 twenty-five megabits per second and a maximum upload speed of
22 less than three megabits per second.

23 (2) "Tier 2" means a minimum download speed of greater than
24 or equal to twenty-five megabits per second but less than fifty
25 megabits per second.

26 (3) "Tier 3" means a minimum download speed of greater than
27 or equal to fifty megabits per second but less than eighty
28 megabits per second.

29 b. Any geographic area, as the office sets by rule, that
30 is materially underserved by broadband service such that
31 ~~the download and upload speeds identified by the federal~~
32 ~~communications commission pursuant to section 706 of the~~
33 ~~federal Telecommunications Act of 1996, as amended, of the~~
34 ~~broadband service in the geographic area~~ tier 1, tier 2,
35 and tier 3 download and upload speeds are not meaningfully

1 available. The office's power to determine the geographic
2 area by rule under this paragraph includes the power to define
3 and interpret standards as to whether a geographic area is
4 materially underserved and broadband service is meaningfully
5 available.

6 14. "*Underserved area*" means any portion of a targeted
7 service area within which no communications service provider
8 facilitates broadband service meeting the tier 1 download and
9 upload speeds specified in the definition of targeted service
10 area in [this section](#).

11 Sec. 2. Section 8B.10, subsection 1, Code 2021, is amended
12 to read as follows:

13 1. The determination of whether a communications service
14 provider facilitates broadband service meeting the tier
15 1, tier 2, or tier 3 download and upload speeds specified
16 in the definition of targeted service area in [section 8B.1](#)
17 shall be determined or ascertained by reference to broadband
18 availability maps or data sources that are identified by
19 the office by rule. The office shall periodically make
20 renewed determinations of whether a communications service
21 provider facilitates broadband service at or above the tier
22 1, tier 2, or tier 3 download and upload speeds specified
23 in the definition of targeted service area in [section 8B.1](#),
24 which shall, to the extent updated maps and data sources are
25 available at the time, include making such determinations prior
26 to each round of grant applications solicited by the office
27 pursuant to [section 8B.11](#). The office is not required to make
28 renewed determinations of whether a communications service
29 provider facilitates broadband service at or above the tier
30 1, tier 2, or tier 3 download and upload speeds specified in
31 the definition of targeted service area in section 8B.1 more
32 frequently than once in any calendar year.

33 Sec. 3. Section 8B.11, Code 2021, is amended to read as
34 follows:

35 **8B.11 Empower rural Iowa — broadband grants — fund.**

1 1. The office shall administer a broadband grant program
2 designed to reduce or eliminate unserved and underserved
3 areas in the state, leveraging federal funds and public and
4 private partnerships where possible, by awarding grants to
5 communications service providers that reduce or eliminate
6 targeted service areas by installing broadband infrastructure
7 that facilitates broadband service ~~in targeted service areas at~~
8 ~~or above the download and upload speeds specified in subsection~~
9 ~~5, in accordance with this section in accordance with the~~
10 following:

11 a. The broadband infrastructure facilitates broadband
12 service that provides a minimum download speed of one hundred
13 megabits per second and a minimum upload speed of one hundred
14 megabits per second in a targeted service area within which no
15 communications service provider offers or facilitates broadband
16 service that provides download and upload speeds less than or
17 equal to the tier 1 download and upload speeds specified in the
18 definition of targeted service area in section 8B.1.

19 b. The broadband infrastructure facilitates broadband
20 service that provides a minimum download speed of one hundred
21 megabits per second and a minimum upload speed of one hundred
22 megabits per second in a targeted service area within which no
23 communications service provider offers or facilitates broadband
24 service that provides any of the following:

25 (1) Download speeds less than or equal to the tier 2
26 download speed specified in the definition of targeted service
27 area in section 8B.1.

28 (2) Download speeds less than or equal to the tier 3
29 download speed specified in the definition of targeted service
30 area in section 8B.1.

31 2. a. An empower rural Iowa broadband grant fund is
32 established in the state treasury under the authority of the
33 office. The fund shall consist of moneys available to and
34 obtained or accepted by the office. Moneys in the fund are
35 appropriated to the office to be used for the grant program,

1 including for broadband mapping and the administration and
2 operation of the grant program.

3 *b.* The office shall use moneys in the fund to provide grants
4 to communications service providers pursuant to [this section](#).
5 The office may use not more than ~~one~~ two and one-half percent
6 of the moneys in the fund at the beginning of the fiscal year to
7 pay the costs and expenses associated with the administration
8 and operation of the grant program. The office shall use
9 moneys in the fund to leverage available federal moneys if
10 possible.

11 *c.* Notwithstanding [section 8.33](#), moneys in the fund
12 that remain unencumbered or unobligated at the close of the
13 fiscal year shall not revert but shall remain available for
14 expenditure for the purposes designated until three years
15 following the last day of the fiscal year in which the funds
16 were originally appropriated.

17 *d.* Notwithstanding paragraph “*c*” or any provision to the
18 contrary, moneys in the fund that have been awarded but not
19 paid to a communications service provider shall not revert
20 but shall remain available to the office for purposes of
21 administering the award in a manner consistent with the terms
22 and conditions of any corresponding contract or grant agreement
23 governing the administration of the award.

24 3. Communications service providers may apply to the office
25 for a grant pursuant to [this section](#) for the installation of
26 broadband infrastructure that facilitates broadband service
27 in targeted service areas ~~at or above the download and upload~~
28 ~~speeds specified in [subsection 5](#).~~ The office shall include
29 ~~representatives from schools, communities, agriculture,~~
30 ~~industry, and other areas as appropriate to review and~~
31 ~~recommend grant awards.~~ The office shall conduct an open
32 application review process that includes the opportunity
33 for the public to submit factual information as part of a
34 validation process to address claims that a targeted service
35 area is currently served with broadband service at or above the

1 ~~download and upload speeds specified in subsection 5.~~ Upon
2 ~~completion of the validation process, the office may modify~~
3 ~~a proposed targeted service area to account for information~~
4 ~~received during the validation process.~~ The office shall make
5 available a public internet site identifying all publicly
6 available information contained in the applications, ~~the~~
7 ~~members of the review committee, a summary of the review~~
8 ~~committee's recommended results,~~ and any results of performance
9 testing conducted after the project is completed. The office
10 shall devote one full-time equivalent position to evaluate
11 applications submitted under this section and provide technical
12 assistance to communications service providers in completing
13 applications for federal funds, or any other funds from any
14 public or private sources, related to improving broadband
15 infrastructure.

16 4. a. The office shall award grants on a competitive
17 basis for the installation of broadband infrastructure that
18 facilitates broadband service as provided in subsection 3 in
19 targeted service areas ~~at or above the download and upload~~
20 ~~speeds specified in subsection 5,~~ after considering the
21 following:

22 (1) The relative need for broadband infrastructure in the
23 area and the existing broadband service speeds, including
24 whether the project serves a rural area or areas.

25 (2) The applicant's total proposed budget for the project,
26 including all of the following:

27 (a) The amount or percentage of local or federal matching
28 funds, if any, and any funding obligations shared between
29 public and private entities.

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

35 (3) The relative download and upload speeds of proposed

1 projects for all applicants.

2 (4) The specific product attributes resulting from the
3 proposed project, including technologies that provide higher
4 qualities of service, such as service levels, latency, and
5 other service attributes as determined by the office.

6 (5) The percentage of the homes, farms, schools, and
7 businesses in the targeted service area that will be provided
8 access to broadband service.

9 ~~(6) The geographic diversity of the project areas of all the~~
10 ~~applicants.~~

11 ~~(7) The economic impact of the project to the area.~~

12 (6) The proportion of proposed projects that will result
13 in the installation of broadband infrastructure in a targeted
14 service area within which the only broadband service available
15 provides the tier 1 download and upload speeds specified in the
16 definition of targeted service area in section 8B.1.

17 ~~(8)~~ (7) Other factors the office deems relevant.

18 b. In considering the factors listed in paragraph "a"
19 for awarding grants pursuant to [this section](#), the office
20 shall afford the greatest weight to the factors described in
21 paragraph "a", subparagraphs (1) through (3), and subparagraph
22 (6).

23 ~~c. Except as otherwise provided in [this section](#), the office~~
24 ~~shall not evaluate applications based on the office's knowledge~~
25 ~~of the applicant except for information obtained by the office~~
26 ~~during the application process or period for public comment.~~

27 5. ~~The office shall not award a grant pursuant to this~~
28 ~~section that exceeds thirty five percent of the communications~~
29 ~~service provider's project cost. The total amount of the~~
30 ~~grants the office awards from the empower rural Iowa broadband~~
31 ~~grant fund pursuant to [this section](#) shall be as follows not~~
32 ~~exceed any of the following amounts:~~

33 a. For Seventy-five percent of a communications service
34 provider's project costs for projects that will result in the
35 installation of broadband infrastructure that will facilitate

1 ~~broadband service providing a minimum download speed less than~~
 2 ~~one hundred megabits per second but greater than or equal to~~
 3 ~~the download speed specified in the definition of targeted~~
 4 ~~service area in section 8B.1, and a minimum upload speed less~~
 5 ~~than twenty megabits per second but greater than or equal~~
 6 ~~to the upload speed specified in the definition of targeted~~
 7 ~~service area in section 8B.1, the total amount of the grants~~
 8 ~~the office awards shall not exceed fifty percent of the moneys~~
 9 ~~in the fund at the beginning of the fiscal year. However, if~~
 10 ~~the amount requested for projects that facilitate broadband~~
 11 ~~service at the speeds described in paragraph "b" for the fiscal~~
 12 ~~year is less than the amount reserved for projects under~~
 13 ~~paragraph "b", the office may award the difference to projects~~
 14 ~~under this paragraph for the same fiscal year in a targeted~~
 15 ~~service area within which no communications service provider~~
 16 ~~offers or facilitates broadband service that provides download~~
 17 ~~and upload speeds less than or equal to the tier 1 download and~~
 18 ~~upload speeds specified in the definition of targeted service~~
 19 ~~area in section 8B.1.~~

20 ~~b. For Fifty percent of a communications service provider's~~
 21 ~~project costs for projects that will result in the installation~~
 22 ~~of broadband infrastructure that will facilitate broadband~~
 23 ~~service providing a minimum download speed of one hundred~~
 24 ~~megabits per second and a minimum upload speed of twenty~~
 25 ~~megabits per second, the total amount of the grants the office~~
 26 ~~awards shall not exceed fifty percent of the moneys in the fund~~
 27 ~~at the beginning of the fiscal year. However, if the amount~~
 28 ~~requested for projects that facilitate broadband service at~~
 29 ~~the speeds described in paragraph "a" for the fiscal year is~~
 30 ~~less than the amount reserved for projects under paragraph~~
 31 ~~"a", the office may award the difference to projects under~~
 32 ~~this paragraph for the same fiscal year in a targeted service~~
 33 ~~area within which no communications service provider offers or~~
 34 ~~facilitates broadband service that provides download and upload~~
 35 ~~speeds less than or equal to the tier 2 download and upload~~

1 speeds specified in the definition of targeted service area in
2 section 8B.1.

3 c. Thirty-five percent of a communications service
4 provider's project costs for projects that will result in the
5 installation of broadband infrastructure in a targeted service
6 area within which no communications service provider offers or
7 facilitates broadband service that provides download speeds
8 less than or equal to the tier 3 download speed specified in
9 the definition of targeted service area in section 8B.1.

10 6. Notwithstanding subsections 3 and 5, communications
11 service providers may apply to the office for a grant
12 pursuant to this section for the installation of broadband
13 infrastructure that facilitates broadband service providing a
14 minimum download speed of one hundred megabits per second and a
15 minimum upload speed of twenty megabits per second in targeted
16 service areas pursuant to this subsection. The office shall
17 make available a public internet site identifying all publicly
18 available information contained in the applications and any
19 results of performance testing conducted after the project is
20 completed.

21 a. The office shall award grants under this subsection on
22 a competitive basis after considering the factors provided in
23 subsection 4 and affording weight to the factors pursuant to
24 subsection 4, paragraph "b".

25 b. The total amount of the grants the office shall award
26 pursuant to this subsection shall not exceed fifty percent
27 of a communications service provider's project costs for
28 projects that will result in the installation of broadband
29 infrastructure in a targeted service area within which no
30 communications service provider offers or facilitates broadband
31 service that provides download and upload speeds less than or
32 equal to the tier 1 download and upload speeds specified in the
33 definition of targeted service area in section 8B.1.

34 7. Notwithstanding subsections 5 and 6, at least twenty
35 percent of the total amount of the grants the office awards

1 from the empower rural Iowa broadband grant fund pursuant to
2 this section shall be allocated to projects that will result
3 in the installation of broadband infrastructure in difficult
4 to serve targeted service areas within which no communications
5 service provider offers or facilitates broadband service that
6 provides download and upload speeds less than or equal to the
7 tier 1 download and upload speeds specified in the definition
8 of targeted service area in section 8B.1. For purposes of this
9 subsection, a targeted service area is difficult to serve if
10 the soil conditions, topography, or other local conditions make
11 the installation of broadband infrastructure in the targeted
12 service area more time-consuming or labor-intensive compared to
13 other areas of the state.

14 ~~6.~~ 8. The office shall provide public notice regarding the
15 application process and receipt of funding.

16 ~~7.~~ ~~The office shall not award a grant pursuant to this~~
17 ~~section on or after July 1, 2025.~~

18 ~~8.~~ 9. The office may adopt rules pursuant to [chapter 17A](#)
19 interpreting [this chapter](#) or necessary for administering this
20 chapter, including but not limited to rules relating to the
21 broadband grant program process, management, and measurements
22 as deemed necessary by the office.

23 ~~9.~~ 10. The office shall adopt rules establishing procedures
24 to allow aggrieved applicants an opportunity to challenge the
25 office's award of grants under [this section](#).

26 Sec. 4. EMERGENCY RULES.

27 1. The office of the chief information officer may adopt
28 emergency rules under section 17A.4, subsection 3, and section
29 17A.5, subsection 2, paragraph "b", to implement the provisions
30 of this Act and the rules shall be effective immediately upon
31 filing unless a later date is specified in the rules, unless
32 the effective date of the rules is delayed or the applicability
33 of the rules is suspended by the administrative rules review
34 committee. Any rules adopted in accordance with this section
35 shall not take effect before the rules are reviewed by the

1 administrative rules review committee. The delay authority
2 provided to the administrative rules review committee under
3 section 17A.4, subsection 7, and section 17A.8, subsection 9,
4 shall be applicable to a delay imposed under this section,
5 notwithstanding a provision in those sections making them
6 inapplicable to section 17A.5, subsection 2, paragraph "b".
7 Any rules adopted in accordance with the provisions of this
8 section shall also be published as a notice of intended action
9 as provided in section 17A.4.

10 2. If during a fiscal year the office of the chief
11 information officer is adopting rules in accordance with this
12 section or as otherwise directed or authorized by state law,
13 and the rules will result in an expenditure increase beyond the
14 amount anticipated in the budget process or if the expenditure
15 was not addressed in the budget process for the fiscal year,
16 the office shall notify the members of the general assembly,
17 and the department of management concerning the rules and the
18 expenditure increase. The notification shall be provided at
19 least thirty calendar days prior to the date notice of the
20 rules is submitted to the administrative rules coordinator and
21 the administrative code editor.

22 Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate
23 importance, takes effect upon enactment.

24 Sec. 6. APPLICABILITY. This Act applies to applications
25 for grants submitted pursuant to section 8B.11 on or after the
26 effective date of this Act.

27 EXPLANATION

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

30 This bill relates to broadband service, including
31 facilitating the availability of broadband service in unsecured
32 and underserved areas, and administration of the empower rural
33 Iowa broadband grant fund.

34 The bill modifies the definition of "facilitate" for
35 purposes of Code chapter 8B to mean a communications service

1 provider's ability to provide broadband service at or above
2 the download and upload speeds specified in the definition
3 of a targeted service area to a home, farm, school, or
4 business within a commercially reasonable time and at a
5 commercially reasonable price upon request. The bill modifies
6 the definition of "targeted service area" to mean either of
7 the following: a United States census bureau census block
8 located in this state, including any crop operation located
9 within the census block, or other geographic unit the office
10 of the chief information officer sets by rule, within which no
11 communications service provider offers or facilitates broadband
12 service at or above the tier 1, tier 2, or tier 3 download and
13 upload speeds enumerated in the bill; or any geographic area,
14 as the office sets by rule, that is materially underserved by
15 broadband service such that tier 1, tier 2, and tier 3 download
16 and upload speeds are not meaningfully available. The bill
17 defines "tier 1" as a maximum download speed of less than 25
18 megabits per second and a maximum upload speed of less than
19 three megabits per second. The bill defines "tier 2" as a
20 minimum download speed of greater than or equal to 25 megabits
21 per second but less than 50 megabits per second. The bill
22 defines "tier 3" as a minimum download speed of greater than or
23 equal to 50 megabits per second but less than 80 megabits per
24 second. The bill modifies the definition of "underserved area"
25 to mean any portion of a targeted service area within which no
26 communications service provider facilitates broadband service
27 meeting the tier 1 speeds.

28 The bill provides that the determination of whether
29 a communications service provider facilitates broadband
30 service meeting the tier 1, tier 2, or tier 3 download and
31 upload speeds shall be determined by reference to broadband
32 availability maps or data sources that are identified by the
33 office by rule. The bill requires the office to periodically
34 make renewed determinations as to whether a communications
35 service provider facilitates broadband service at or above

1 those download and upload speeds. The bill establishes that
2 the office is not required to make renewed determinations more
3 frequently than once in any calendar year.

4 The bill provides that, except as described below, grants
5 from the empower rural Iowa broadband grant fund shall only
6 be made to communications service providers that reduce or
7 eliminate targeted service areas by installing broadband
8 infrastructure that facilitates broadband service providing a
9 minimum download speed of 100 megabits per second and a minimum
10 upload speed of 100 megabits per second in targeted service
11 areas. The bill provides that the office may use not more than
12 2.5 percent of the moneys in the fund at the beginning of the
13 fiscal year to pay the costs associated with the administration
14 of the grant program. The bill requires the office to devote
15 one full-time equivalent position to evaluate applications for
16 grant awards under the fund.

17 The bill strikes provisions relating to the application
18 review process for applications for grants under the fund.
19 Additionally, the bill strikes provisions relating to a review
20 committee for the review and recommendation of grant awards.
21 The bill also makes certain changes to what the office is
22 to consider when reviewing an application for a grant from
23 the fund and the weight the office is to afford to certain
24 considerations.

25 The bill provides a framework to determine the maximum
26 amount of a grant that the office may award from the fund.
27 The bill establishes that the amount of a grant awarded
28 from the fund is a percentage of the communications service
29 provider's project costs, and the percentage is determined by
30 the broadband service that is available in the targeted service
31 area.

32 The bill also authorizes the office to award grants from
33 the fund to communications service providers that reduce or
34 eliminate targeted service areas by installing broadband
35 infrastructure that facilitates broadband service providing a

1 minimum download speed of 100 megabits per second and a minimum
2 upload speed of 20 megabits per second. The bill requires
3 that these projects result in the installation of broadband
4 infrastructure in a targeted service area within which no
5 communications service provider offers broadband service that
6 provides download and upload speeds less than or equal to the
7 tier 1 download and upload speeds.

8 The bill requires at least 20 percent of the total amount
9 of the grants the office awards from the fund to be allocated
10 to projects that will result in the installation of broadband
11 infrastructure in difficult to serve targeted service areas
12 within which no communications service provider offers
13 broadband service that provides download and upload speeds less
14 than or equal to the tier 1 download and upload speeds.

15 The bill authorizes the office to adopt emergency rules to
16 implement the provisions of the bill.

17 The bill strikes Code section 8B.11, subsection 7, which
18 prohibits the office from awarding a grant from the fund on or
19 after July 1, 2025.

20 The bill takes effect upon enactment and applies to
21 applications for grants submitted pursuant to Code section
22 8B.11 on or after the effective date of the bill.