

Senate File 390 - Introduced

SENATE FILE 390
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1089)

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 minimum download speed of less than
21 twenty-five megabits per second and a minimum 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 and a minimum upload speed of greater than
26 or equal to three megabits per second.

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

30 b. Any geographic area, as the office sets by rule, that
31 is materially underserved by broadband service such that
32 ~~the download and upload speeds identified by the federal~~
33 ~~communications commission pursuant to section 706 of the~~
34 ~~federal Telecommunications Act of 1996, as amended, of the~~
35 ~~broadband service in the geographic area~~ tier 1, tier 2,

1 and tier 3 download and upload speeds are not meaningfully
2 available. The office's power to determine the geographic
3 area by rule under this paragraph includes the power to define
4 and interpret standards as to whether a geographic area is
5 materially underserved and broadband service is meaningfully
6 available.

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

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

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

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

1 **8B.11 Empower rural Iowa — broadband grants — fund.**

2 1. The office shall administer a broadband grant program
3 designed to reduce or eliminate unserved and underserved
4 areas in the state, leveraging federal funds and public and
5 private partnerships where possible, by awarding grants to
6 communications service providers that reduce or eliminate
7 targeted service areas by installing broadband infrastructure
8 that facilitates broadband service providing a minimum download
9 speed of one hundred megabits per second and a minimum upload
10 speed of one hundred megabits per second in targeted service
11 areas ~~at or above the download and upload speeds specified in~~
12 ~~subsection 5~~, in accordance with [this section](#).

13 2. *a.* An empower rural Iowa broadband grant fund is
14 established in the state treasury under the authority of the
15 office. The fund shall consist of moneys available to and
16 obtained or accepted by the office. Moneys in the fund are
17 appropriated to the office to be used for the grant program,
18 including for broadband mapping and the administration and
19 operation of the grant program.

20 *b.* The office shall use moneys in the fund to provide grants
21 to communications service providers pursuant to [this section](#).
22 The office may use not more than ~~one~~ three percent of the
23 moneys in the fund at the beginning of the fiscal year to pay
24 the costs and expenses associated with the administration and
25 operation of the grant program. The office shall use moneys in
26 the fund to leverage available federal moneys if possible.

27 *c.* Notwithstanding [section 8.33](#), moneys in the fund
28 that remain unencumbered or unobligated at the close of the
29 fiscal year shall not revert but shall remain available for
30 expenditure for the purposes designated until three years
31 following the last day of the fiscal year in which the funds
32 were originally appropriated.

33 *d.* Notwithstanding paragraph “c” or any provision to the
34 contrary, moneys in the fund that have been awarded but not
35 paid to a communications service provider shall not revert

1 but shall remain available to the office for purposes of
2 administering the award in a manner consistent with the terms
3 and conditions of any corresponding contract or grant agreement
4 governing the administration of the award.

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

28 4. a. The office shall award grants on a competitive
29 basis for the installation of broadband infrastructure that
30 facilitates broadband service as provided in subsection 3 in
31 targeted service areas ~~at or above the download and upload~~
32 ~~speeds specified in [subsection 5](#)~~, after considering the
33 following:

34 (1) The relative need for broadband infrastructure in the
35 area and the existing broadband service speeds, including

1 whether the project serves a rural area or areas.

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

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

7 (b) The percentage of funding provided directly from the
8 applicant, including whether the applicant requested from the
9 office an amount less than the maximum amount the office could
10 award pursuant to [subsection 5](#) and, if so, the percentage of
11 the project cost that the applicant is requesting.

12 (3) The relative download and upload speeds of proposed
13 projects for all applicants.

14 ~~(4) The specific product attributes resulting from the
15 proposed project, including technologies that provide higher
16 qualities of service, such as service levels, latency, and
17 other service attributes as determined by the office.~~

18 ~~(5)~~ (4) The percentage of the homes, farms, schools, and
19 businesses in the targeted service area that will be provided
20 access to broadband service.

21 ~~(6) The geographic diversity of the project areas of all the
22 applicants.~~

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

24 ~~(8)~~ (5) Other factors the office deems relevant.

25 *b.* In considering the factors listed in paragraph "a"
26 for awarding grants pursuant to [this section](#), the office
27 shall afford the greatest weight to the factors described in
28 paragraph "a", subparagraphs (1) through (3).

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

33 5. The office shall not award a grant pursuant to this
34 section that exceeds thirty-five percent of the communications
35 service provider's project cost. The total amount of the

1 grants the office awards from the empower rural Iowa broadband
 2 grant fund pursuant to this section shall ~~be as follows~~ not
 3 exceed any of the following amounts:

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

26 b. For Fifty percent of a communications service provider's
 27 project costs for projects that will result in the installation
 28 of broadband infrastructure that will facilitate broadband
 29 service providing a minimum download speed of one hundred
 30 megabits per second and a minimum upload speed of twenty
 31 megabits per second, the total amount of the grants the office
 32 awards shall not exceed fifty percent of the moneys in the fund
 33 at the beginning of the fiscal year. However, if the amount
 34 requested for projects that facilitate broadband service at
 35 the speeds described in paragraph "a" for the fiscal year is

1 ~~less than the amount reserved for projects under paragraph~~
2 ~~"a", the office may award the difference to projects under~~
3 ~~this paragraph for the same fiscal year in a targeted service~~
4 ~~area within which no communications service provider offers or~~
5 ~~facilitates broadband service that provides download and upload~~
6 ~~speeds less than or equal to the tier 2 download and upload~~
7 ~~speeds specified in the definition of targeted service area in~~
8 ~~section 8B.1.~~

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

16 6. The office shall provide public notice regarding the
17 application process and receipt of funding.

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

20 ~~8. 7.~~ The office may adopt rules pursuant to [chapter 17A](#)
21 interpreting [this chapter](#) or necessary for administering this
22 chapter, including but not limited to rules relating to the
23 broadband grant program process, management, and measurements
24 as deemed necessary by the office.

25 ~~9. 8.~~ The office shall adopt rules establishing procedures
26 to allow aggrieved applicants an opportunity to challenge the
27 office's award of grants under [this section](#).

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

30 Sec. 5. APPLICABILITY. This Act applies to applications
31 for grants submitted pursuant to section 8B.11 on or after the
32 effective date of this Act.

33

EXPLANATION

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

1 This bill relates to broadband service, including
2 facilitating the availability of broadband service in unsecured
3 and underserved areas, and administration of the empower rural
4 Iowa broadband grant fund.

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

35 The bill provides that the determination of whether

1 a communications service provider facilitates broadband
2 service meeting the tier 1, tier 2, or tier 3 download and
3 upload speeds shall be determined by reference to broadband
4 availability maps or data sources that are identified by the
5 office by rule. The bill requires the office to periodically
6 make renewed determinations as to whether a communications
7 service provider facilitates broadband service at or above
8 those download and upload speeds. The bill establishes that
9 the office is not required to make renewed determinations more
10 frequently than once in any calendar year.

11 The bill provides that grants from the empower rural Iowa
12 broadband grant fund shall only be made to communications
13 service providers that reduce or eliminate targeted service
14 areas by installing broadband infrastructure that facilitates
15 broadband service providing a minimum download speed of 100
16 megabits per second and a minimum upload speed of 100 megabits
17 per second in targeted service areas. The bill provides that
18 the office may use not more than 3 percent of the moneys in
19 the fund at the beginning of the fiscal year to pay the costs
20 associated with the administration of the grant program.

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

28 The bill provides that the amount of the grants the
29 office awards from the fund shall not exceed 75 percent
30 of a communications service provider's project costs for
31 projects that will result in the installation of broadband
32 infrastructure in a targeted service area within which no
33 communications service provider offers or facilitates broadband
34 service that provides download and upload speeds less than or
35 equal to the tier 1 download and upload speeds; 50 percent

1 of a communications service provider's project costs for
2 projects that will result in the installation of broadband
3 infrastructure in a targeted service area within which no
4 communications service provider offers or facilitates broadband
5 service that provides download and upload speeds less than
6 or equal to the tier 2 download and upload speeds; and 35
7 percent of a communications service provider's project costs
8 for projects that will result in the installation of broadband
9 infrastructure in a targeted service area within which no
10 communications service provider offers or facilitates broadband
11 service that provides download speeds less than or equal to the
12 tier 3 download speed.

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

16 The bill takes effect upon enactment and applies to
17 applications for grants submitted pursuant to Code section
18 8B.11 on or after the effective date of the bill.