

Empower Rural Iowa Bill Senate File 2400

Last Action:

Final Action

June 10, 2020

An Act relating to broadband service, including matters under the purview of the office of the chief information officer, the empower rural Iowa broadband grant fund, and certain broadband infrastructure tax exemptions, and including effective date and retroactive applicability provisions.

**Fiscal Services Division
Legislative Services Agency**

NOTES ON BILLS AND AMENDMENTS (NOBA)

Available online at www.legis.iowa.gov/publications/information/appropriationBillAnalysis

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CHANGES TO PRIOR APPROPRIATIONS

Permits funds appropriated for the Empower Rural Iowa Broadband Grant Program to be used for the administration and operation of the Program, and allows up to 1.0% of the moneys in the Empower Rural Iowa Broadband Grant Fund to pay the costs and expenses associated with the administration and operation of the Program. Page 4, Line 11

Establishes that the moneys in the Empower Rural Iowa Broadband Grant Fund that have been awarded but not paid to a communications service provider will not revert but will remain available to the Office of the Chief Information Officer (OCIO) for the purposes of administering the award. Page 4, Line 28

SIGNIFICANT CODE CHANGES

Expands the definition of "targeted service area" to include any geographic area as determined by the OCIO through the rule making process that is materially underserved by broadband service such that the download and upload speeds identified by the Federal Communications Commission in Section 706 of the [Federal Telecommunications Act of 1996](#), as amended, are not meaningfully available. The provision also grants the OCIO the power to define and interpret whether an area is materially underserved and broadband service is meaningfully available through the rulemaking process. Page 2, Line 10

Requires the OCIO to provide technical assistance to communications service providers related to the grant applications. Page 2, Line 35

Changes the name of the Connecting Iowa Farms, Schools, and Communities Broadband Grant Program to the Empower Rural Iowa Broadband Grant Program. Page 3, Line 5

Removes language requiring broadband availability maps or data sources to be widely accepted for accuracy and available for public review and comment. Page 3, Line 12

Excludes mobile wireless or satellite data, capabilities, and delivery mediums from all findings and determinations regarding targeted service areas made pursuant to Iowa Code section [8B.10](#). Page 3, Line 29

Removes language allowing the OCIO to increase the minimum download or upload speeds for grant eligibility through the rules process. Page 5, Line 2

Expands the information required to complete an application to include whether the applicant is requesting an amount less than the maximum amount the OCIO could award, and if so, the percentage of the project Page 6, Line 3

cost the applicant is requesting.

Increases the percentage of matching public funds available from 15.0% to 35.0% of the total project cost for projects resulting in the installation of broadband infrastructure.

Page 6, Line 15

Requires that no more than 50.0% of the moneys in the Empower Rural Iowa Broadband Grant Fund at the beginning of the fiscal year can be awarded for projects resulting in the installation of broadband infrastructure facilitating a minimum download speed of less than 100 megabits per second but greater than or equal to the download speed specified in the definition of "targeted service area," and a minimum upload speed of less than 20 megabits per second but greater than or equal to the upload speed specified in the definition of "targeted service area."

Page 6, Line 23

Requires that no more than 50.0% of the moneys in the Fund at the beginning of the fiscal year can be awarded for projects resulting in the installation of broadband infrastructure facilitating a minimum download speed of 100 megabits per second and a minimum upload speed of less than 20 megabits per second unless the amount requested for qualifying projects below these minimums is less than the amount reserved for those projects.

Page 7, Line 4

Amends the FY 2020 Administration and Regulation Appropriations Act ([HF 759](#)) to reference Empower Rural Iowa Broadband Grant Fund rather than the Connecting Iowa Farms, Schools, and Communities Broadband Grant Fund.

Page 8, Line 14

Permits the OCIO to provide grants of federal moneys obtained as a result of the public health disaster emergency proclaimed by the Governor on March 17, 2020, so long as the OCIO complies with the federal requirements for the use of the federal moneys.

Page 8, Line 26

EFFECTIVE DATE

Specifies that the Bill takes effect upon enactment.

Page 9, Line 2

Specifies that the section of the Bill enacting Iowa Code section 8B.11, subsection 2, paragraph "d" applies retroactively to July 1, 2015.

Page 9, Line 4

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

2 3 5. "Facilitate" means a communication service provider's
2 4 ability to provide broadband service at or above the download
2 5 and upload speeds specified in the definition of targeted
2 6 service area in this section or section 8B.11, subsection
2 7 5, paragraph "a", if applicable, to a home, farm, school,
2 8 or business within a commercially reasonable time and at a
2 9 commercially reasonable price upon request by a consumer.

CODE: Conforming Language

2 10 13. "Targeted service area" means ~~a~~ any of the following:
2 11 a. A United States census bureau census block located
2 12 in this state, including any crop operation located within
2 13 the census block, or other geographic unit the office sets
2 14 by rule, within which no communications service provider
2 15 offers or facilitates broadband service at or above the
2 16 download and upload speeds identified by the federal
2 17 communications commission pursuant to section 706 of the
2 18 federal Telecommunications Act of 1996, as amended.
2 19 b. Any geographic area, as the office sets by rule, that
2 20 is materially underserved by broadband service such that
2 21 the download and upload speeds identified by the federal
2 22 communications commission pursuant to section 706 of the
2 23 federal Telecommunications Act of 1996, as amended, of the
2 24 broadband service in the geographic area are not meaningfully
2 25 available. The office's power to determine the geographic
2 26 area by rule under this paragraph includes the power to define
2 27 and interpret standards as to whether a geographic area is
2 28 materially underserved and broadband service is meaningfully
2 29 available.

CODE: Expands the definition of "targeted service area" to include any geographic area as determined by the OCIO through the rule making process that is materially underserved by broadband service such that the download and upload speeds identified by the Federal Communications Commission in [Section 706 of the Federal Telecommunications Act of 1996](#), as amended, are not meaningfully available. The provision also grants the OCIO the power to define and interpret whether an area is materially underserved and broadband service is meaningfully available through the rulemaking process.

2 30 14. "Underserved area" means any portion of a targeted
2 31 service area within which no communications service provider
2 32 ~~offers or~~ facilitates broadband service meeting the download
2 33 and upload speeds specified in the definition of targeted
2 34 service area in this section.

2 35 Sec. 2. Section 8B.4, Code 2020, is amended by adding the
3 1 following new subsection:
3 2 NEW SUBSECTION 17A. Provide technical assistance to
3 3 communications service providers related to grant applications
3 4 under section 8B.11.

CODE: Requires the OCIO to provide technical assistance to communications service providers related to the grant applications.

3 5 Sec. 3. Section 8B.9, subsection 5, Code 2020, is amended
3 6 to read as follows:

3 7 5. An annual report regarding the status of broadband
3 8 expansion and coordination, the ~~connecting Iowa farms, schools,~~

CODE: Changes the name of the Connecting Iowa Farms, Schools, and Communities Broadband Grant Program to the Empower Rural Iowa Broadband Grant Program.

3 9 and communities empower rural Iowa broadband grant program
 3 10 established under section 8B.11, and the adequacy of the speed
 3 11 set in the definition of targeted service area in section 8B.1.

3 12 Sec. 4. Section 8B.10, subsection 1, Code 2020, is amended
 3 13 to read as follows:

3 14 1. The determination of whether a communications service
 3 15 provider ~~offers or~~ facilitates broadband service meeting the
 3 16 download and upload speeds specified in the definition of
 3 17 targeted service area in section 8B.1 shall be determined
 3 18 or ascertained by reference to broadband availability maps
 3 19 or data sources that are ~~widely accepted for accuracy and~~
 3 20 ~~available for public review and comment and that are~~ identified
 3 21 by the office by rule. The office shall periodically make
 3 22 renewed determinations of whether a communications service
 3 23 provider ~~offers or~~ facilitates broadband service at or above
 3 24 the download and upload speeds specified in the definition of
 3 25 targeted service area in section 8B.1, which shall, to the
 3 26 extent updated maps and data sources are available at the time,
 3 27 include making such determinations prior to each round of grant
 3 28 applications solicited by the office pursuant to section 8B.11.

CODE: Removes language requiring broadband availability maps or data sources to be widely accepted for accuracy and available for public review and comment.

3 29 Sec. 5. Section 8B.10, Code 2020, is amended by adding the
 3 30 following new subsection:

3 31 NEW SUBSECTION 3. All findings and determinations made
 3 32 pursuant to this section shall exclude mobile wireless or
 3 33 satellite data, capabilities, and delivery mediums.

CODE: Excludes mobile wireless or satellite data, capabilities, and delivery mediums from all findings and determinations regarding targeted service areas made pursuant to Iowa Code section [8B.10](#).

3 34 Sec. 6. Section 8B.11, subsection 1, Code 2020, is amended
 3 35 to read as follows:

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

CODE: Changes the reference for download and upload speed requirements from Iowa Code section [8B.1](#) to Iowa Code section 8B.11 subsection 5 as amended by section 12 of this Act.

4 11 Sec. 7. Section 8B.11, subsection 2, paragraphs a and b,
 4 12 Code 2020, are amended to read as follows:

4 13 a.—~~A connecting Iowa farms, schools, and communities An~~
 4 14 empower rural Iowa broadband grant fund is established in
 4 15 the state treasury under the authority of the office. The
 4 16 fund shall consist of moneys available to and obtained or
 4 17 accepted by the office. Moneys in the fund are appropriated

CODE: Permits funds appropriated for the Empower Rural Iowa Broadband Grant Program to be used for the administration and operation of the Program, and allows up to 1.00% of the moneys in the Empower Rural Iowa Broadband Grant Fund to pay the costs and expenses associated with the administration and operation of the Program.

4 18 to the office to be used for the grant program, including for
 4 19 broadband mapping and the administration and operation of the
 4 20 grant program.

4 21 b. The office shall use moneys in the fund to provide grants
 4 22 to communications service providers pursuant to this section.
 4 23 The office may use not more than one percent of the moneys in
 4 24 the fund at the beginning of the fiscal year to pay the costs
 4 25 and expenses associated with the administration and operation
 4 26 of the grant program. The office shall use moneys in the fund
 4 27 to leverage available federal moneys if possible.

4 28 Sec. 8. Section 8B.11, subsection 2, Code 2020, is amended
 4 29 by adding the following new paragraph:
 4 30 NEW PARAGRAPH d. Notwithstanding paragraph “c” or any
 4 31 provision to the contrary, moneys in the fund that have been
 4 32 awarded but not paid to a communications service provider
 4 33 shall not revert but shall remain available to the office for
 4 34 purposes of administering the award in a manner consistent with
 4 35 the terms and conditions of any corresponding contract or grant
 5 1 agreement governing the administration of the award.

CODE: Establishes that the moneys in the Empower Rural Iowa Broadband Grant Fund that have been awarded but not paid to a communications service provider will not revert but will remain available to the OCIO for the purposes of administering the award.

5 2 Sec. 9. Section 8B.11, subsection 3, Code 2020, is amended
 5 3 to read as follows:

5 4 3. Communications service providers may apply to the office
 5 5 for a grant pursuant to this section for the installation
 5 6 of broadband infrastructure that facilitates broadband
 5 7 service in targeted service areas at or above the download
 5 8 and upload speeds specified in ~~the definition of targeted~~
 5 9 ~~service area in section 8B.1 subsection 5.~~ The office may,
 5 10 ~~by rule, increase the minimum download and upload speeds~~
 5 11 ~~for grant eligibility pursuant to this section.~~ The office
 5 12 shall include representatives from schools, communities,
 5 13 agriculture, industry, and other areas as appropriate to review
 5 14 and recommend grant awards. The office shall conduct an open
 5 15 application review process that includes the opportunity
 5 16 for the public to submit factual information as part of a
 5 17 validation process to address claims that a targeted service
 5 18 area is currently served with broadband service at or above
 5 19 the download and upload speeds specified in ~~the definition~~
 5 20 ~~of targeted service area in section 8B.1 subsection 5.~~ Upon
 5 21 completion of the validation process, the office may modify
 5 22 a proposed targeted service area to account for information
 5 23 received during the validation process. The office shall make
 5 24 available a public internet site identifying all publicly
 5 25 available information contained in the applications, the
 5 26 members of the review committee, a summary of the review
 5 27 committee’s recommended results, and any results of performance
 5 28 testing conducted after the project is completed.

CODE: Removes language allowing the OCIO to increase the minimum download or upload speeds for grant eligibility through the rules process.

5 29 Sec. 10. Section 8B.11, subsection 4, paragraph a,
5 30 unnumbered paragraph 1, Code 2020, is amended to read as
5 31 follows:

5 32 The office shall award grants on a competitive basis for
5 33 the installation of broadband infrastructure that facilitates
5 34 broadband service in targeted service areas at or above the
5 35 download and upload speeds specified in ~~the definition of~~
6 1 ~~targeted service area in section 8B.1 subsection 5~~, after
6 2 considering the following:

6 3 Sec. 11. Section 8B.11, subsection 4, paragraph a,
6 4 subparagraph (2), Code 2020, is amended to read as follows:

6 5 (2) The applicant's total proposed budget for the project,
6 6 including ~~the~~ all of the following:

6 7 (a) The amount or percentage of local or federal matching
6 8 funds, if any, and any funding obligations shared between
6 9 public and private entities, and the

6 10 (b) The percentage of funding provided directly from the
6 11 applicant, including whether the applicant requested from the
6 12 office an amount less than the maximum amount the office could
6 13 award pursuant to subsection 5 and, if so, the percentage of
6 14 the project cost that the applicant is requesting.

6 15 Sec. 12. Section 8B.11, subsection 5, Code 2020, is amended
6 16 to read as follows:

6 17 5. The office shall not award a grant pursuant to this
6 18 section that exceeds ~~fifteen~~ thirty-five percent of the
6 19 communications service provider's project cost. The total
6 20 amount of the grants the office awards from the empower rural
6 21 Iowa broadband grant fund pursuant to this section shall be as
6 22 follows:

6 23 a. For projects that will result in the installation of
6 24 broadband infrastructure that will facilitate broadband service
6 25 providing a minimum download speed less than one hundred
6 26 megabits per second but greater than or equal to the download
6 27 speed specified in the definition of targeted service area
6 28 in section 8B.1, and a minimum upload speed less than twenty
6 29 megabits per second but greater than or equal to the upload
6 30 speed specified in the definition of targeted service area in
6 31 section 8B.1, the total amount of the grants the office awards
6 32 shall not exceed fifty percent of the moneys in the fund at the
6 33 beginning of the fiscal year. However, if the amount requested
6 34 for projects that facilitate broadband service at the speeds
6 35 described in paragraph "b" for the fiscal year is less than the
7 1 amount reserved for projects under paragraph "b", the office may
7 2 award the difference to projects under this paragraph for the

CODE: Changes the reference for download and upload speed requirements from Iowa Code section 8B.1 to Iowa Code section 8B.11 subsection 5 as amended by section 12 of this Act.

CODE: Expands the information required to complete an application to include whether the applicant is requesting an amount less than the maximum amount the OCIO could award, and if so, the percentage of the project cost the applicant is requesting.

CODE: Increases the percentage of matching public funds available from 15.00% to 35.00% of the total project cost for projects resulting in the installation of broadband infrastructure.

CODE: Requires that no more than 50.00% of the moneys in the Empower Rural Iowa Broadband Grant Fund at the beginning of the fiscal year can be awarded for projects resulting in the installation of broadband infrastructure facilitating a minimum download speed of less than 100 megabits per second but greater than or equal to the download speed specified in the definition of "targeted service area," and a minimum upload speed of less than 20 megabits per second but greater than or equal to the upload speed specified in the definition of "targeted service area."

7 3 same fiscal year.

7 4 b. For projects that will result in the installation of
 7 5 broadband infrastructure that will facilitate broadband service
 7 6 providing a minimum download speed of one hundred megabits
 7 7 per second and a minimum upload speed of twenty megabits per
 7 8 second, the total amount of the grants the office awards shall
 7 9 not exceed fifty percent of the moneys in the fund at the
 7 10 beginning of the fiscal year. However, if the amount requested
 7 11 for projects that facilitate broadband service at the speeds
 7 12 described in paragraph "a" for the fiscal year is less than the
 7 13 amount reserved for projects under paragraph "a", the office may
 7 14 award the difference to projects under this paragraph for the
 7 15 same fiscal year.

CODE: Requires that no more than 50.00% of the moneys in the Fund at the beginning of the fiscal year can be awarded for projects resulting in the installation of broadband infrastructure facilitating a minimum download speed of 100 megabits per second and a minimum upload speed of less than 20 megabits per second unless the amount requested for qualifying projects below these minimums is less than the amount reserved for those projects.

7 16 Sec. 13. Section 427.1, subsection 40, paragraph b, Code
 7 17 2020, is amended to read as follows:
 7 18 b. The exemption shall apply to the installation of
 7 19 broadband infrastructure that facilitates broadband service
 7 20 at or above the download and upload speeds specified in the
 7 21 definition of targeted service area in section 8B.1 commenced
 7 22 and completed on or after July 1, 2015, and before July 1,
 7 23 2025, in a targeted service area, and used to deliver internet
 7 24 services to the public. A person claiming an exemption under
 7 25 this subsection shall certify to the local assessor prior to
 7 26 commencement of the installation that the installation of
 7 27 broadband infrastructure will facilitate broadband service
 7 28 at or above the download and upload speeds specified in the
 7 29 definition of targeted service area in section 8B.1 within a
 7 30 targeted service area and shall specify the current number
 7 31 of homes, farms, schools, and businesses in the targeted
 7 32 service area ~~that were offered to which~~ broadband service was
 7 33 facilitated and the download and upload speeds available prior
 7 34 to the broadband infrastructure installation for which the
 7 35 exemption is claimed and the number of homes, farms, schools,
 8 1 and businesses in the targeted service area ~~that will be~~
 8 2 ~~offered to which~~ broadband service will be facilitated and the
 8 3 download and upload speeds that will be available as a result
 8 4 of installation of the broadband infrastructure for which the
 8 5 exemption is claimed.

CODE: Specifies that broadband service providers need not offer target speeds to customers in targeted service areas, but instead must facilitate the availability of upload and download speeds within the specified range for the targeted service areas.

8 6 Sec. 14. Section 427.1, subsection 40, paragraph f,
 8 7 subparagraph (1), subparagraph division (d), Code 2020, is
 8 8 amended to read as follows:
 8 9 (d) Certification from the office of the chief information
 8 10 officer ~~pursuant to section 8B.10~~ that the installation will
 8 11 facilitate broadband service at or above the download and
 8 12 upload speeds specified in the definition of targeted service

CODE: Conforming Language

8 13 area in section 8B.1 in a targeted service area.

8 14 Sec. 15. 2019 Iowa Acts, chapter 136, section 6, subsection
8 15 1, is amended to read as follows:

8 16 1. There is appropriated from the general fund of the state
8 17 to the office of the chief information officer for the fiscal
8 18 year beginning July 1, 2019, and ending June 30, 2020, the
8 19 following amount, or so much thereof as is necessary, to be
8 20 used for the purposes designated:

8 21 For deposit in the ~~connecting Iowa farms, schools, and~~
8 22 ~~communities empower rural Iowa~~ broadband grant fund established
8 23 under section 8B.11 for a broadband grant program; and for
8 24 salaries, support, maintenance, and miscellaneous purposes:
8 25 \$ 5,000,000

8 26 Sec. 16. PUBLIC HEALTH DISASTER EMERGENCY
8 27 GRANTS. Notwithstanding section 8B.11 and any rules adopted
8 28 by the office of the chief information officer pursuant to
8 29 chapter 8B, the office of the chief information officer may
8 30 provide grants of federal moneys obtained as a result of the
8 31 public health disaster emergency proclaimed by the governor on
8 32 March 17, 2020, to communications service providers to install
8 33 broadband infrastructure in this state or facilitate broadband
8 34 service in this state so long as the office of the chief
8 35 information officer complies with the federal requirements for
9 1 the use of the federal moneys.

9 2 Sec. 17. EFFECTIVE DATE. This Act, being deemed of
9 3 immediate importance, takes effect upon enactment.

9 4 Sec. 18. RETROACTIVE APPLICABILITY. The following applies
9 5 retroactively to July 1, 2015:
9 6 The section of this Act enacting section 8B.11, subsection
9 7 2, paragraph "d".

CODE: Amends the FY 2020 Administration and Regulation
Appropriations Act ([HF 759](#)) to reference Empower Rural Iowa
Broadband Grant Fund rather than the Connecting Iowa Farms,
Schools, and Communities Broadband Grant Fund.

CODE: Permits the OCIO to provide grants of federal moneys obtained
as a result of the public health disaster emergency proclaimed by the
Governor on March 17, 2020, so long as the OCIO complies with the
federal requirements for the use of the federal moneys.

Specifies that the Bill takes effect upon enactment.

Specifies that the section of the Bill enacting Iowa Code section 8B.11,
subsection 2, paragraph "d" applies retroactively to July 1, 2015.