

# **Broadband Policy Bill Senate File 390**

Last Action:  
**Senate Commerce  
Committee**  
February 16, 2021

**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 including effective date and applicability provisions.**

**Fiscal Services Division  
Legislative Services Agency**

## **NOTES ON BILLS AND AMENDMENTS (NOBA)**

Available online at [www.legis.iowa.gov/publications/information/appropriationBillAnalysis](http://www.legis.iowa.gov/publications/information/appropriationBillAnalysis)

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**FUNDING SUMMARY**

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Changes the amount of moneys in the Empower Rural Iowa Broadband Grant Fund allowed to be used to pay the costs and expenses associated with the administration and operation of the Grant Program from 1.0% to 3.0% of the moneys in the Fund at the beginning of the fiscal year. Page 3, Line 20

**SIGNIFICANT CODE CHANGES**

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Modifies the definition of "targeted service area" to replace the download and upload speed threshold identified by the Federal Communications Commission in the Federal Telecommunications Act of 1996 with a three-tiered system. Page 1, Line 10

Redefines "underserved area" to mean any portion of a targeted service area in which no communications service provider facilitates broadband service meeting the Tier 1 download and upload speeds. Page 2, Line 7

Establishes that the Office of the Chief Information Officer (OCIO) is not required to make renewed determinations of whether a communications service provider facilitates broadband service at or above the Tier 1, Tier 2, or Tier 3 download and upload speeds more frequently than once in a calendar year, as determined by reference to broadband availability maps. Page 2, Line 12

Requires that service providers awarded grants under the Program provide a minimum download speed of 100 megabits per second and a minimum upload speed of 100 megabits per second in targeted service areas. Page 2, Line 34

Establishes that communications service providers may apply for a grant for the installation of broadband infrastructure that facilitates broadband service providing a minimum download speed of 100 megabits per second and a minimum upload speed of 100 megabits per second and eliminates certain provisions relating to the application review process for applications for grants under the Fund. Page 4, Line 5

Eliminates specific criteria the OCIO is to consider when reviewing an application for a grant from the Fund. Page 4, Line 28

Requires that the amount of a grant awarded from the Fund is a percentage of the total project costs, and the percentage is determined by the broadband service that is available in the targeted service area. Page 5, Line 33

Eliminates the provision that prohibits the OCIO from awarding grants from the Empower Rural Iowa Broadband Grant Fund on or after July 1, 2025. Page 7, Line 18

**EFFECTIVE DATE**

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Specifies that this Bill takes effect upon enactment.

Page 7, Line 28

Senate File 390 provides for the following changes to the Code of Iowa.

<b>Page #</b>	<b>Line #</b>	<b>Bill Section</b>	<b>Action</b>	<b>Code Section</b>
1	1	1	Amend	8B.1.5,13,14
2	12	2	Amend	8B.10.1
2	34	3	Amend	8B.11

1 1 Section 1. Section 8B.1, subsections 5, 13, and 14, Code  
1 2 2021, are amended to read as follows:

1 3 5. "Facilitate" means a communication service provider's  
1 4 ability to provide broadband service at or above the download  
1 5 and upload speeds specified in the definition of targeted  
1 6 service area in this section ~~or section 8B.11, subsection~~  
1 7 ~~5, paragraph "a", if applicable~~, to a home, farm, school,  
1 8 or business within a commercially reasonable time and at a  
1 9 commercially reasonable price upon request by a consumer.

1 10 13. "Targeted service area" means any of the following:

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

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

1 23 (2) "Tier 2" means a minimum download speed of greater than  
1 24 or equal to twenty-five megabits per second but less than fifty  
1 25 megabits per second and a minimum upload speed of greater than  
1 26 or equal to three megabits per second.

1 27 (3) "Tier 3" means a minimum download speed of greater than  
1 28 or equal to fifty megabits per second but less than eighty  
1 29 megabits per second.

1 30 b. Any geographic area, as the office sets by rule, that  
1 31 is materially underserved by broadband service such that  
1 32 ~~the download and upload speeds identified by the federal~~  
1 33 ~~communications commission pursuant to section 706 of the~~  
1 34 ~~federal Telecommunications Act of 1996, as amended, of the~~  
1 35 ~~broadband service in the geographic area tier 1, tier 2,~~  
2 1 ~~and tier 3 download and upload speeds are not meaningfully~~  
2 2 ~~available. The office's power to determine the geographic~~  
2 3 ~~area by rule under this paragraph includes the power to define~~  
2 4 ~~and interpret standards as to whether a geographic area is~~

CODE: Makes a conforming change to the definition of "facilitate" to remove the reference to Iowa Code section 8B.11(5)(a).

CODE: Modifies the definition of "targeted service area" to replace the download and upload speed threshold identified by the Federal Communications Commission in the Federal Telecommunications Act of 1996 with a three-tiered system:

- Tier 1: Maximum download speed of less than 25 megabits per second and a maximum upload speed of less than 3 megabits per second.
- Tier 2: Minimum download speed of greater than or equal to 25 megabits per second but less than 50 megabits per second.
- Tier 3: Minimum download speed of greater than or equal to 50 megabits per second but less than 80 megabits per second.

2 5 materially underserved and broadband service is meaningfully  
2 6 available.

2 7 14. "Underserved area" means any portion of a targeted  
2 8 service area within which no communications service provider  
2 9 facilitates broadband service meeting the tier 1 download and  
2 10 upload speeds specified in the definition of targeted service  
2 11 area in this section.

CODE: Redefines "underserved area" to mean any portion of a targeted service area in which no communications service provider facilitates broadband service meeting the Tier 1 download and upload speeds.

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

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

CODE: Establishes that the Office of the Chief Information Officer (OCIO) is not required to make renewed determinations of whether a communications service provider facilitates broadband service at or above the Tier 1, Tier 2, or Tier 3 download and upload speeds more frequently than once in a calendar year, as determined by reference to broadband availability maps.

2 34 Sec. 3. Section 8B.11, Code 2021, is amended to read as  
2 35 follows:

3 1 8B.11 EMPOWER RURAL IOWA — BROADBAND GRANTS — FUND.  
3 2 1. The office shall administer a broadband grant program  
3 3 designed to reduce or eliminate unserved and underserved  
3 4 areas in the state, leveraging federal funds and public and  
3 5 private partnerships where possible, by awarding grants to  
3 6 communications service providers that reduce or eliminate  
3 7 targeted service areas by installing broadband infrastructure  
3 8 that facilitates broadband service providing a minimum download

CODE: Requires that service providers awarded grants under the Program provide a minimum download speed of 100 megabits per second and a minimum upload speed of 100 megabits per second in targeted service areas.

3 9 speed of one hundred megabits per second and a minimum upload

3 10 speed of one hundred megabits per second in targeted service

3 11 areas at or above the download and upload speeds specified in

3 12 subsection 5, in accordance with this section.

3 13 2. a. An empower rural Iowa broadband grant fund is

3 14 established in the state treasury under the authority of the

3 15 office. The fund shall consist of moneys available to and

3 16 obtained or accepted by the office. Moneys in the fund are

3 17 appropriated to the office to be used for the grant program,

3 18 including for broadband mapping and the administration and

3 19 operation of the grant program.

3 20 b. The office shall use moneys in the fund to provide grants

3 21 to communications service providers pursuant to this section.

3 22 The office may use not more than ~~one~~ three percent of the

3 23 moneys in the fund at the beginning of the fiscal year to pay

3 24 the costs and expenses associated with the administration and

3 25 operation of the grant program. The office shall use moneys in

3 26 the fund to leverage available federal moneys if possible.

3 27 c. Notwithstanding section 8.33, moneys in the fund

3 28 that remain unencumbered or unobligated at the close of the

3 29 fiscal year shall not revert but shall remain available for

3 30 expenditure for the purposes designated until three years

3 31 following the last day of the fiscal year in which the funds

3 32 were originally appropriated.

3 33 d. Notwithstanding paragraph "c" or any provision to the

3 34 contrary, moneys in the fund that have been awarded but not

3 35 paid to a communications service provider shall not revert

4 1 but shall remain available to the office for purposes of

4 2 administering the award in a manner consistent with the terms

4 3 and conditions of any corresponding contract or grant agreement

4 4 governing the administration of the award.

4 5 3. Communications service providers may apply to the office

4 6 for a grant pursuant to this section for the installation of

4 7 broadband infrastructure that facilitates broadband service

4 8 providing a minimum download speed of one hundred megabits

4 9 per second and a minimum upload speed of one hundred megabits

4 10 per second in targeted service areas at or above the download

4 11 and upload speeds specified in subsection 5. The office

4 12 shall include representatives from schools, communities,

4 13 agriculture, industry, and other areas as appropriate to review

CODE: Changes the amount of moneys in the Empower Rural Iowa Broadband Grant Fund allowed to be used to pay the costs and expenses associated with the administration and operation of the Grant Program from 1.00% to 3.00% of the moneys in the Fund at the beginning of the fiscal year.

FISCAL IMPACT: The funding available to the OCIO at the beginning of FY 2022 is currently unknown. As an example, if an amount between \$50,000,000 to \$150,000,000 is available within the Empower Rural Iowa Broadband Grant Fund at the beginning of the fiscal year, the OCIO would be able to use between \$1,500,000 to \$4,500,000 of the funds to pay the costs and expenses associated with the administration and operation of the Grant Program.

CODE: Establishes that communications service providers may apply for a grant for the installation of broadband infrastructure that facilitates broadband service providing a minimum download speed of 100 megabits per second and a minimum upload speed of 100 megabits per second and eliminates certain provisions relating to the application review process for applications for grants under the Fund.

4 14 and recommend grant awards. The office shall conduct an open  
 4 15 application review process that includes the opportunity  
 4 16 for the public to submit factual information as part of a  
 4 17 validation process to address claims that a targeted service  
 4 18 area is currently served with broadband service at or above the  
 4 19 download and upload speeds specified in subsection 5. Upon  
 4 20 completion of the validation process, the office may modify  
 4 21 a proposed targeted service area to account for information  
 4 22 received during the validation process. The office shall make  
 4 23 available a public internet site identifying all publicly  
 4 24 available information contained in the applications, the  
 4 25 members of the review committee, a summary of the review  
 4 26 committee's recommended results, and any results of performance  
 4 27 testing conducted after the project is completed.

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

4 34 (1) The relative need for broadband infrastructure in the  
 4 35 area and the existing broadband service speeds, including  
 5 1 whether the project serves a rural area or areas.

5 2 (2) The applicant's total proposed budget for the project,  
 5 3 including all of the following:

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

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

5 12 (3) The relative download and upload speeds of proposed  
 5 13 projects for all applicants.

5 14 ~~(4) The specific product attributes resulting from the~~  
 5 15 ~~proposed project, including technologies that provide higher~~  
 5 16 ~~qualities of service, such as service levels, latency, and~~  
 5 17 ~~other service attributes as determined by the office.~~

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

CODE: Eliminates specific criteria the OCIO is to consider when reviewing an application for a grant from the Fund.



5 20 access to broadband service.

5 21 ~~(6) The geographic diversity of the project areas of all the~~

5 22 ~~applicants.~~

5 23 ~~(7) The economic impact of the project to the area.~~

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

5 25 b. In considering the factors listed in paragraph "a"

5 26 for awarding grants pursuant to this section, the office

5 27 shall afford the greatest weight to the factors described in

5 28 paragraph "a", subparagraphs (1) through (3).

5 29 ~~c. Except as otherwise provided in this section, the office~~

5 30 ~~shall not evaluate applications based on the office's knowledge~~

5 31 ~~of the applicant except for information obtained by the office~~

5 32 ~~during the application process or period for public comment.~~

5 33 5. ~~The office shall not award a grant pursuant to this~~

5 34 ~~section that exceeds thirty-five percent of the communications~~

5 35 ~~service provider's project cost. The total amount of the~~

6 1 grants the office awards from the empower rural Iowa broadband

6 2 grant fund pursuant to this section shall ~~be as follows~~ not

6 3 exceed any of the following amounts:

6 4 a. ~~For Seventy-five percent of a communications service~~

6 5 provider's project costs for projects that will result in the

6 6 installation of broadband infrastructure that will facilitate

6 7 broadband service providing a minimum download speed less than

6 8 one hundred megabits per second but greater than or equal to

6 9 the download speed specified in the definition of targeted

6 10 service area in section 8B.1, and a minimum upload speed less

6 11 than twenty megabits per second but greater than or equal

6 12 to the upload speed specified in the definition of targeted

6 13 service area in section 8B.1, the total amount of the grants

6 14 the office awards shall not exceed fifty percent of the moneys

6 15 in the fund at the beginning of the fiscal year. However, if

6 16 the amount requested for projects that facilitate broadband

6 17 service at the speeds described in paragraph "b" for the fiscal

6 18 year is less than the amount reserved for projects under

6 19 paragraph "b", the office may award the difference to projects

6 20 under this paragraph for the same fiscal year in a targeted

6 21 service area within which no communications service provider

6 22 offers or facilitates broadband service that provides download

6 23 and upload speeds less than or equal to the tier 1 download and

6 24 upload speeds specified in the definition of targeted service

6 25 area in section 8B.1.

CODE: Requires that the amount of a grant awarded from the Fund is a percentage of the total project costs, and the percentage is determined by the broadband service that is available in the targeted service area.

DETAIL: Modifies the amount of a grant that the OCIO may award from the Fund to the following amounts:

- 75.00% of a communications service provider's costs for projects in a targeted service area in which no communications service provider offers or facilitates broadband service that provides download and upload speeds less than or equal to Tier 1.
- 50.00% of a communications service provider's costs for projects in a targeted service area in which no communications service provider offers or facilitates broadband service that provides download and upload speeds less than or equal to Tier 2.
- 35.00% of a communications service provider's costs for projects in a targeted service area in which no communications service provider offers or facilitates broadband service that provides download and upload speeds less than or equal to Tier 3.

6 26 ~~b.~~ Fifty percent of a communications service provider's  
 6 27 project costs for projects that will result in the installation  
 6 28 of broadband infrastructure that will facilitate broadband  
 6 29 service providing a minimum download speed of one hundred  
 6 30 megabits per second and a minimum upload speed of twenty  
 6 31 megabits per second; the total amount of the grants the office  
 6 32 awards shall not exceed fifty percent of the moneys in the fund  
 6 33 at the beginning of the fiscal year. However, if the amount  
 6 34 requested for projects that facilitate broadband service at  
 6 35 the speeds described in paragraph "a" for the fiscal year is  
 7 1 less than the amount reserved for projects under paragraph  
 7 2 "a", the office may award the difference to projects under  
 7 3 this paragraph for the same fiscal year in a targeted service  
 7 4 area within which no communications service provider offers or  
 7 5 facilitates broadband service that provides download and upload  
 7 6 speeds less than or equal to the tier 2 download and upload  
 7 7 speeds specified in the definition of targeted service area in  
 7 8 section 8B.1.

7 9 c. Thirty-five percent of a communications service  
 7 10 provider's project costs for projects that will result in the  
 7 11 installation of broadband infrastructure in a targeted service  
 7 12 area within which no communications service provider offers or  
 7 13 facilitates broadband service that provides download speeds  
 7 14 less than or equal to the tier 3 download speed specified in  
 7 15 the definition of targeted service area in section 8B.1.

7 16 ~~6.~~ The office shall provide public notice regarding the  
 7 17 application process and receipt of funding.

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

CODE: Eliminates the provision that prohibits the OCIO from awarding grants from the Empower Rural Iowa Broadband Grant Fund on or after July 1, 2025.

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

Allows the OCIO to adopt rules relating to the Broadband Grant Program process, management, and measurements.

7 25 ~~9.~~ 8. The office shall adopt rules establishing procedures  
 7 26 to allow aggrieved applicants an opportunity to challenge the  
 7 27 office's award of grants under this section.

Requires the OCIO to adopt rules establishing procedures to allow aggrieved applicants an opportunity to challenge the OCIO's award of grants.

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7 28 Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate  
7 29 importance, takes effect upon enactment.

Specifies that this Bill takes effect upon enactment.

7 30 Sec. 5. APPLICABILITY. This Act applies to applications  
7 31 for grants submitted pursuant to section 8B.11 on or after the  
7 32 effective date of this Act.

Specifies that this Bill applies to grants submitted on or after the effective date of this Bill.