

CHAPTER 47

BROADBAND SERVICE EXPANSION — MISCELLANEOUS CHANGES

H.F. 848

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.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. [Section 8B.1, subsections 5, 13, and 14](#), Code 2021, are amended to read as follows:

5. “Facilitate” means a communication service provider’s ability to provide broadband service at or above the download and upload speeds specified in the definition of targeted service area in [this section](#) or ~~section 8B.11, subsection 5~~, paragraph “a”, if applicable, to a home, farm, school, or business within a commercially reasonable time and at a commercially reasonable price upon request by a consumer.

13. “Targeted service area” means any of the following:

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

(1) “Tier 1” means a maximum download speed of less than twenty-five megabits per second and a maximum upload speed of less than three megabits per second.

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

(3) “Tier 3” means a minimum download speed of greater than or equal to fifty megabits per second but less than eighty megabits per second.

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

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

Sec. 2. [Section 8B.10, subsection 1](#), Code 2021, is amended to read as follows:

1. The determination of whether a communications service provider facilitates broadband service meeting the tier 1, tier 2, or tier 3 download and upload speeds specified in the definition of targeted service area in [section 8B.1](#) shall be determined or ascertained by reference to broadband availability maps or data sources that are identified by the office by rule. The office shall periodically 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 specified in the definition of targeted service area in [section 8B.1](#), which shall, to the extent updated maps and data sources are available at the time, include making such determinations prior to each round of grant applications solicited by the office pursuant to [section 8B.11](#). The office 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 specified in the definition of targeted service area in [section 8B.1](#) more frequently than once in any calendar year.

Sec. 3. [Section 8B.11](#), Code 2021, is amended to read as follows:

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

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

a. The broadband infrastructure facilitates broadband service that provides a minimum download speed of one hundred megabits per second and a minimum upload speed of one hundred megabits per second in a targeted service area within which no communications service provider offers or facilitates broadband service that provides download and upload speeds less than or equal to the tier 1 download and upload speeds specified in the definition of targeted service area in [section 8B.1](#).

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

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

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

2. a. An empower rural Iowa broadband grant fund is established in the state treasury under the authority of the office. The fund shall consist of moneys available to and obtained or accepted by the office. Moneys in the fund are appropriated to the office to be used for the grant program, including for broadband mapping and the administration and operation of the grant program, and for the fiberoptic network conduit installation program established in [section 8B.25](#).

b. The office shall use moneys in the fund to provide grants to communications service providers pursuant to [this section](#) and to lead and coordinate the fiberoptic network conduit installation program pursuant to [section 8B.25](#). The office may use not more than ~~one~~ two and one-half percent of the moneys in the fund at the beginning of the fiscal year to pay the costs and expenses associated with the administration and operation of the grant program and the fiberoptic network conduit installation program. The office shall use moneys in the fund to leverage available federal moneys if possible.

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

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

3. Communications service providers may apply to the office for a grant pursuant to [this section](#) for the installation of broadband infrastructure that facilitates broadband service in targeted service areas ~~at or above the download and upload speeds specified in [subsection 5](#). The office shall include representatives from schools, communities, agriculture, industry, and other areas as appropriate to review and recommend grant awards. The office shall conduct an open application review process that includes the opportunity for the public to submit factual information as part of a validation process to address claims that a targeted service area is currently served with broadband service at or above the download and upload speeds specified in [subsection 5](#). Upon completion of the validation process, the office may modify a proposed targeted service area to account for information received during the validation process. The office shall make available a public internet site identifying all publicly available information contained in the applications, the members of the review~~

~~committee, a summary of the review committee's recommended results, and any results of performance testing conducted after the project is completed. The office shall devote one full-time equivalent position to evaluate applications submitted under [this section](#) and provide technical assistance to communications service providers in completing applications for federal funds, or any other funds from any public or private sources, related to improving broadband infrastructure.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~a. For Seventy-five percent of a communications service provider's project costs for projects that will result in the installation of broadband infrastructure that will facilitate broadband service providing a minimum download speed less than one hundred megabits per second but greater than or equal to the download speed specified in the definition of targeted service area in [section 8B.1](#), and a minimum upload speed less than twenty megabits per second but greater than or equal to the upload speed specified in the definition of targeted service area in [section 8B.1](#), the total amount of the grants the office awards shall not exceed fifty percent of the moneys in the fund at the beginning of the fiscal year. However, if the amount requested for projects that facilitate broadband service at the speeds described in paragraph "b" for the fiscal year is less than the amount reserved for projects under paragraph "b", the office may award the difference to projects under this paragraph for the same fiscal year in a targeted service area within which no communications service provider offers or facilitates broadband service that provides download and upload speeds less than or equal to the tier 1 download and upload speeds specified in the definition of targeted service area in [section 8B.1](#).~~

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

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

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

a. The office shall award grants under [this subsection](#) on a competitive basis after considering the factors provided in [subsection 4](#) and affording weight to the factors pursuant to [subsection 4](#), paragraph "b".

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

7. Notwithstanding [subsections 5 and 6](#), at least twenty percent of the total amount of the grants the office awards from the empower rural Iowa broadband grant fund pursuant to [this section](#) shall be allocated to projects that will result in the installation of broadband infrastructure in difficult to serve targeted service areas within which no communications service provider offers or facilitates broadband service that provides download and upload speeds less than or equal to the tier 1 download and upload speeds specified in the definition of targeted service area in [section 8B.1](#). For purposes of [this subsection](#), a targeted service area is difficult to serve if the soil conditions, topography, or other local conditions make the installation of broadband infrastructure in the targeted service area more time-consuming or labor-intensive compared to other areas of the state.

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

7. ~~The office shall not award a grant pursuant to [this section](#) on or after July 1, 2025.~~

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

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

Sec. 4. EMERGENCY RULES. The office of the chief information officer may adopt emergency rules under [section 17A.4](#), [subsection 3](#), and [section 17A.5](#), [subsection 2](#), paragraph "b", to implement the provisions of this Act and the rules shall be effective immediately upon filing unless a later date is specified in the rules, unless the effective date

of the rules is delayed or the applicability of the rules is suspended by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under [section 17A.4, subsection 7](#), and [section 17A.8, subsection 9](#), shall be applicable to a delay imposed under this section, notwithstanding a provision in those sections making them inapplicable to [section 17A.5, subsection 2](#), paragraph “b”. Any rules adopted in accordance with the provisions of this section shall also be published as a notice of intended action as provided in [section 17A.4](#).¹

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

Sec. 6. APPLICABILITY. This Act applies to applications for grants submitted pursuant to [section 8B.11](#) on or after the effective date of this Act.

Approved April 28, 2021

¹ See chapter 174, §33 herein