

RURAL BROADBAND SERVICE FUND

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John W. Hickman

House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill establishes a restricted account within the General Fund to be used for grants to providers deploying broadband service in rural areas.

Highlighted Provisions:

This bill:

- ▶ establishes a restricted account within the General Fund to be used for grants to providers deploying broadband service in rural areas;
- ▶ provides an application process for grants from the fund;
- ▶ provides for the deposit of fund monies into the General Fund on July 1, 2010;
- ▶ requires an annual report to the Legislature; and
- ▶ allows rulemaking by the director of the Governor's Office of Economic Development for the administration of the fund.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ \$1,000,000 from the General Fund for fiscal year 2007-08 only, to the Rural Broadband Service Fund Restricted Account.

Other Special Clauses:

This bill takes effect on July 1, 2007.

Utah Code Sections Affected:

ENACTS:

63-38f-2201, Utah Code Annotated 1953

63-38f-2202, Utah Code Annotated 1953

58 Broadband Service Fund.

59 (2) The fund shall be funded by:

60 (a) monies appropriated to the fund by the Legislature; and

61 (b) the interest described in Subsection (3).

62 (3) (a) The fund shall earn interest.

63 (b) The interest described in Subsection (3)(a) shall be deposited into the fund.

64 (4) Upon appropriation by the Legislature, the monies and interest deposited into the
65 fund in accordance with this section may be expended:

66 (a) by the director with the advice of the board to award grants to providers as provided
67 in this part; and

68 (b) to cover the costs of administering this part in an amount during any fiscal year not
69 to exceed 2% of the fund balance at the start of any fiscal year.

70 (5) (a) Except as provided in Subsection (5)(b), the monies and interest deposited into
71 the fund in accordance with this section shall be nonlapsing.

72 (b) Notwithstanding Subsection (5)(a), the Division of Finance shall deposit any
73 monies and interest in the fund into the General Fund on July 1, 2010.

74 Section 4. Section **63-38f-2204** is enacted to read:

75 **63-38f-2204. Grants for rural broadband deployment.**

76 (1) (a) A provider that wishes to deploy broadband service in a rural area may file an
77 application for a grant with the office.

78 (b) An application shall:

79 (i) be accompanied by an affidavit executed by the provider under oath; and

80 (ii) provide information prescribed in rules adopted by the director.

81 (2) The director shall:

82 (a) provide reasonable public notice of an application;

83 (b) allow public comment on the application for a reasonable period of time;

84 (c) allow any other provider a reasonable opportunity to file an application to provide
85 broadband service in all or part of the rural area specified in the application filed under

86 Subsection (1); and

87 (d) make rules concerning the method of providing public notice, the time period for
88 public comment, and the manner of filing a competing application.

89 (3) (a) The office shall review all applications submitted in accordance with
90 Subsections (1) and (2) to provide broadband service in a rural area.

91 (b) In reviewing any application, the office may obtain information from the provider
92 or others and conduct its own analysis of any issue relevant to the application, including
93 economic development.

94 (4) After review of all applications for any rural area in accordance with Subsection
95 (3), the director may approve an application and enter into a written agreement with a provider
96 to provide a grant from the fund if the director, with the advice of the board, is satisfied that the
97 provider's application establishes that:

98 (a) the provider has the financial, managerial, and technical ability to deploy broadband
99 service in the rural area in accordance with the application;

100 (b) the territory in which the provider proposes to deploy broadband service is a rural
101 area;

102 (c) the cost of deployment of broadband service in the rural area is reasonable;

103 (d) the initial terms and conditions on which broadband service will be made available
104 to potential subscribers in the rural area are reasonable;

105 (e) the provider has a viable business plan to continue providing broadband service to
106 all or some subscribers within the rural area;

107 (f) if a competitive application was filed for the rural area, the provider's application is
108 the most advantageous application to potential subscribers or the state; and

109 (g) the application otherwise meets the requirements of this part and any rules adopted
110 by the director concerning broadband service deployment.

111 (5) (a) The director may, with the advice of the board, require the provider to make
112 adjustments to the application or agree to reasonable conditions consistent with the purposes of
113 this part before approving the application.

114 (b) Any adjustments and conditions required by the director shall be included in the
115 written agreement entered into with the provider.

116 (6) The amount of any grant provided from the fund shall be no greater than the lesser
117 of 1/2 of:

118 (a) the actual cost of deployment of broadband service in the rural area as established
119 by verified accounts filed with the office after completion of deployment; or

120 (b) the projected amount established during the application process by the director and
121 board for the deployment of broadband service in the rural area as provided in the verified
122 application.

123 (7) Upon completion of deployment of broadband service by a provider in accordance
124 with the terms of an agreement as provided in Subsection (4), the director shall pay the amount
125 of the grant agreed upon consistent with Subsection (6) to the provider from the fund.

126 (8) In making any determination required under this section, the director, the office,
127 and the board:

128 (a) may not discriminate against any accepted technology for provision of broadband
129 service other than for reasons of cost or the terms and conditions upon which the provider
130 proposes to provide broadband service to potential subscribers; and

131 (b) may consult with the Division of Public Utilities created in Section 13-1-2.

132 Section 5. Section **63-38f-2205** is enacted to read:

133 **63-38f-2205. Annual report.**

134 (1) The office shall make a report to the Legislature's Workforce Services and
135 Community and Economic Development Interim Committee by October 1 of each year until
136 the fund is terminated under Subsection 63-38f-2203(5)(b).

137 (2) The report required by Subsection (1) shall provide information concerning
138 deployment of broadband service using grants from the fund, pending applications, the balance
139 remaining in the fund, and suggested appropriations to the fund to achieve the purposes of this
140 part.

141 Section 6. Section **63-38f-2206** is enacted to read:

142 **63-38f-2206. Rules.**

143 The director, with the advice of the board, may, makes rules in accordance with Title
144 63, Chapter 46a, Utah Administrative Rulemaking Act, to administer this part.

145 **Section 7. Appropriation.**

146 There is appropriated \$1,000,000 from the General Fund for fiscal year 2007-08 only,
147 to the Rural Broadband Service Fund Restricted Account.

148 **Section 8. Effective date.**

149 This bill takes effect on July 1, 2007.