

1 **RURAL BROADBAND SERVICE FUND**

2 2007 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John W. Hickman**

5 House Sponsor: Bradley G. Last

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7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

20 **Monies Appropriated in this Bill:**

21 This bill appropriates:

- 22 ▶ \$2,000,000 from the General Fund for fiscal year 2007-08 only, to the Rural
- 23 Broadband Service Fund Restricted Account.

24 **Other Special Clauses:**

25 This bill takes effect on July 1, 2007.

26 **Utah Code Sections Affected:**

27 ENACTS:



- 28 **63-38f-2201**, Utah Code Annotated 1953
- 29 **63-38f-2202**, Utah Code Annotated 1953
- 30 **63-38f-2203**, Utah Code Annotated 1953
- 31 **63-38f-2204**, Utah Code Annotated 1953
- 32 **63-38f-2205**, Utah Code Annotated 1953
- 33 **63-38f-2206**, Utah Code Annotated 1953



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **63-38f-2201** is enacted to read:

37 **Part 22. Rural Broadband Service Fund Act**

38 **63-38f-2201. Title.**

39 This part is known as the "Rural Broadband Service Fund Act."

40 Section 2. Section **63-38f-2202** is enacted to read:

41 **63-38f-2202. Definitions.**

42 As used in this part:

43 (1) "Broadband service" means any wire line technology identified by the director as  
44 having the capacity to transmit data from and to a subscriber's computer to the Internet or  
45 Internet-related services at a minimum rate of data transmission of 256 kilobits per second.

46 (2) "Fund" means the restricted account known as the Rural Broadband Service Fund  
47 created in Section 63-38f-2203.

48 (3) "Provider" means a person who will provide retail broadband service to subscribers  
49 in a rural area.

50 (4) "Rural area" means any territory in the state:

51 (a) within a city, town, or unincorporated area with a population of 10,000 or less  
52 based on the most recently published data of the United States Census Bureau; and

53 (b) in which broadband service is not available.

54 Section 3. Section **63-38f-2203** is enacted to read:

55 **63-38f-2203. Rural Broadband Service Fund created -- Interest -- Costs --**  
56 **Deposits to the General Fund.**

57 (1) There is created within the General Fund a restricted account known as the Rural  
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.

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

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

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

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

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

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

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

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

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

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

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

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

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

121 application.

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

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

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

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

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

132 **63-38f-2205. Annual report.**

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

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

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

141 **63-38f-2206. Rules.**

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

144 Section 7. **Appropriation.**

145 There is appropriated \$2,000,000 from the General Fund for fiscal year 2007-08 only,  
146 to the Rural Broadband Service Fund Restricted Account.

147 Section 8. **Effective date.**

148 This bill takes effect on July 1, 2007.

**Legislative Review Note**  
as of 2-5-07 4:52 PM

**Office of Legislative Research and General Counsel**

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**S.B. 268 - Rural Broadband Service Fund**

**Fiscal Note**

2007 General Session  
State of Utah

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**State Impact**

Enactment of this bill will appropriate \$2,000,000 in one-time General Fund revenues to the Rural Broadband Service Fund Restricted Account created in the bill. The transfer of General Fund resources into the restricted account will reduce the spending cap by the amount of transfer.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$2,000,000	\$0	\$0	\$0	\$0
Restricted Funds	\$0	\$2,000,000	\$0	\$0	\$2,000,000	\$0
<b>Total</b>	<b>\$0</b>	<b>\$4,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,000,000</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Businesses wishing to develop broadband services in rural areas may benefit from grants provided in through this bill.

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