

CHAPTER 123
SB 85-FN - FINAL VERSION

03/04/2021 0449s
3Jun2021... 1328h

2021 SESSION

21-0832
05/10

SENATE BILL ***85-FN***

AN ACT establishing a broadband matching grant initiative and fund.

SPONSORS: Sen. Bradley, Dist 3; Sen. Cavanaugh, Dist 16; Sen. Avard, Dist 12; Sen. Prentiss, Dist 5; Sen. Sherman, Dist 24; Sen. Ward, Dist 8; Sen. Watters, Dist 4; Sen. Daniels, Dist 11; Sen. Gannon, Dist 23; Sen. Giuda, Dist 2; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Sen. Hennessey, Dist 1; Sen. Carson, Dist 14; Rep. Umberger, Carr. 2; Rep. Marsh, Carr. 8; Rep. Cushing, Rock. 21

COMMITTEE: Election Law and Municipal Affairs

AMENDED ANALYSIS

This bill establishes the broadband matching grant initiative and fund in the office of strategic initiatives. The bill also includes contingent provisions to establish the initiative within the department of energy.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT establishing a broadband matching grant initiative and fund.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 123:1 Findings and Purpose. The COVID-19 pandemic has shown the absolute necessity for
2 broadband Internet access for all New Hampshire residents for working, education, medicine, social
3 interaction, and other purposes. The pandemic has also shown gaps in adequate coverage primarily
4 in rural areas of New Hampshire. Increasingly residents are going to require better access to
5 broadband at a sufficient upload and download speed. A matching grant that utilizes state and
6 federal funds shall be matched by political subdivision and private funds is essential to improved
7 broadband access. The general court recognizes that a public-private partnership is essential to
8 developing broadband access required in New Hampshire.

9 123:2 New Subdivision; Broadband Matching Grant Initiative. Amend RSA 4-C by inserting
10 after section 37 the following new subdivision:

Broadband Matching Grant Initiative

11 4-C:38 Broadband Matching Grant Initiative Established.

12 I. There is hereby established within the office of strategic initiatives a broadband matching
13 grant initiative, the purpose of which shall be to provide matching grants to broadband providers,
14 political subdivisions, and communications districts in order to improve broadband availability
15 across the state. When awarding grants, the office of strategic initiatives shall take into
16 consideration broad geographic coverage of broadband services in New Hampshire and participation
17 of political subdivisions and broadband providers in the grant process that will support business and
18 residential users.

19 II. Eligible projects shall provide high speed Internet access in unserved areas of the state
20 that lack access to broadband services, as defined in RSA 38:38, I(f), from at least one broadband
21 provider.

22 III. Any broadband provider, political subdivision, or communications district formed under
23 RSA 53-G shall be eligible for a grant of up to 50 percent of the total eligible costs of a project.
24 Projects under construction at the time of application shall be ineligible. Projects in the planning
25 stages shall be eligible.

26 4-C:39 Program Guidelines; Rulemaking.

27 I. The office of strategic initiatives shall adopt rules under RSA 541-A and RSA 4-C:5,
28 relative to grant application and distribution procedures.
29

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1 II. The rules shall, at a minimum, include the following:

2 (a) Establishment of a technology-neutral competitive grant process based on objective
3 criteria.

4 (b) Establishment of a challenge process, with reasonable timelines, through which
5 information may be provided to the state to ensure that funds are not used to build projects in served
6 areas or areas where construction of a network to provide broadband service is planned to be
7 complete within one year.

8 (c) A method to ensure an applicant's trade secrets, financial information, and
9 proprietary information submitted as part of an application are exempt from disclosure under RSA
10 91-A.

11 (d) Establishment of a process that promotes faster service, up to and including gigabit
12 service.

13 III. The office of strategic initiatives shall ensure that any grants awarded to broadband
14 providers are provided with an appropriate level of consultation with the local governing bodies and
15 a determination that the grants advance the goal of deploying broadband to unserved areas within
16 communities.

17 IV. Eligible costs for the program shall include, but are not limited to:

18 (a) Costs associated with access to utility poles and other necessary structures.

19 (b) Construction of broadband network infrastructure in eligible areas.

20 (c) Construction of service connections to individual homes or businesses.

21 (d) Upgrades to existing infrastructure that currently provides service that does not
22 meet the minimum definition of broadband in RSA 38:38, I(c).

23 (e) All other costs directly attributable to the construction project. In cases where a cost
24 is shared with another ongoing project, shared costs shall be prorated.

25 (f) Planning costs related to network design and program eligibility.

26 V. Eligible costs shall not include any operating expenses or other recurring costs.

27 VI. The broadband provider, political subdivision, or communications district shall provide a
28 minimum of 50 percent of the total cost of the project. Sources of the match may include revenue
29 bonds issued by the political subdivision, bonds issued by the communication district, or private
30 investment by broadband providers either jointly or independently. Sources of the match provided
31 by broadband providers shall not include other federal or state funding awarded specifically to
32 support the expansion of broadband networks.

33 VII. The office of strategic initiatives shall not, as a condition of an award of grant money,
34 impose any requirement, rate regulation, or other term or condition of service that differs from the
35 applicant's terms or conditions of service in its other service areas.

36 4-C:40 Broadband Matching Grant Fund.

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1 I. There is hereby established the broadband matching grant fund. The fund shall be kept
2 separate and distinct from all other funds and shall be continually appropriated to the director of the
3 office of strategic initiatives for the purposes of this subdivision. In addition to state appropriations,
4 the office of strategic initiatives may accept gifts, grants, and donations for deposit into the fund.

5 II. Any federal funds received by the state for the purposes of expanding or improving
6 Internet access that are not otherwise committed to other programs or required by the federal
7 legislation authorizing the funds shall be deposited into the broadband matching grant fund.

8 123:3 New Subparagraph; Dedicated Funds; Broadband Matching Grant Fund. Amend RSA
9 6:12, I(b) by inserting after subparagraph (364) the following new subparagraph:

10 (365) Moneys deposited in the broadband matching grant fund under RSA 4-C:40.

11 123:4 New Subdivision; Broadband Matching Grant Initiative; Department of Energy. Amend
12 RSA 12-P by inserting after section 15 the following new subdivision:

Broadband Matching Grant Initiative

13 12-P:16 Broadband Matching Grant Initiative Established.

14 I. There is hereby established within the department of energy a broadband matching grant
15 initiative, the purpose of which shall be to provide matching grants to broadband providers, political
16 subdivisions, and communications districts in order to improve broadband availability across the
17 state. When awarding grants, the department shall take into consideration broad geographic
18 coverage of broadband services in New Hampshire and participation of political subdivisions and
19 broadband providers in the grant process that will support business and residential users.
20

21 II. Eligible projects shall provide high speed Internet access in unserved areas of the state
22 that lack access to broadband services, as defined in RSA 38:38, I(f), from at least one broadband
23 provider.

24 III. Any broadband provider, political subdivision, or communications district formed under
25 RSA 53-G shall be eligible for a grant of up to 50 percent of the total eligible costs of a project.
26 Projects under construction at the time of application shall be ineligible. Projects in the planning
27 stages shall be eligible.

28 12-P:17 Program Guidelines; Rulemaking.

29 I. The department of energy shall adopt rules under RSA 541-A, relative to grant application
30 and distribution procedures.

31 II. The rules shall, at a minimum, include the following:

32 (a) Establishment of a technology-neutral competitive grant process based on objective
33 criteria.

34 (b) Establishment of a challenge process, with reasonable timelines, through which
35 information may be provided to the state to ensure that funds are not used to build projects in served
36 areas or areas where construction of a network to provide broadband service is planned to be
37 complete within one year.

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1 (c) A method to ensure an applicant's trade secrets, financial information, and
2 proprietary information submitted as part of an application are exempt from disclosure under RSA
3 91-A.

4 (d) Establishment of a process that promotes faster service, up to and including gigabit
5 service.

6 III. The department of energy shall ensure that any grants awarded to broadband providers
7 are provided with an appropriate level of consultation with the local governing bodies and a
8 determination that the grants advance the goal of deploying broadband to unserved areas within
9 communities.

10 IV. Eligible costs for the program shall include, but are not limited to:

11 (a) Costs associated with access to utility poles and other necessary structures.

12 (b) Construction of broadband network infrastructure in eligible areas.

13 (c) Construction of service connections to individual homes or businesses.

14 (d) Upgrades to existing infrastructure that currently provides service that does not
15 meet the minimum definition of broadband in RSA 38:38, I(c).

16 (e) All other costs directly attributable to the construction project. In cases where a cost
17 is shared with another ongoing project, shared costs shall be prorated.

18 (f) Planning costs related to network design and program eligibility.

19 V. Eligible costs shall not include any operating expenses or other recurring costs.

20 VI. The broadband provider, political subdivision, or communications district shall provide a
21 minimum of 50 percent of the total cost of the project. Sources of the match may include revenue
22 bonds issued by the political subdivision, bonds issued by the communication district, or private
23 investment by broadband providers either jointly or independently. Sources of the match provided
24 by broadband providers shall not include other federal or state funding awarded specifically to
25 support the expansion of broadband networks.

26 VII. The department of energy shall not, as a condition of an award of grant money, impose
27 any requirement, rate regulation, or other term or condition of service that differs from the
28 applicant's terms or conditions of service in its other service areas.

29 12-P:18 Broadband Matching Grant Fund.

30 I. There is hereby established the broadband matching grant fund. The fund shall be kept
31 separate and distinct from all other funds and shall be continually appropriated to the commissioner
32 of the department of energy for the purposes of this subdivision. In addition to state appropriations,
33 the department may accept gifts, grants, and donations for deposit into the fund.

34 II. Any federal funds received by the state for the purposes of expanding or improving
35 Internet access that are not otherwise committed to other programs or required by the federal
36 legislation authorizing the funds shall be deposited into the broadband matching grant fund.

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1 123:5 New Subparagraph; Dedicated Funds; Broadband Matching Grant Fund. Amend RSA
2 6:12, I(b) by inserting after subparagraph (364) the following new subparagraph:

3 (365) Moneys deposited in the broadband matching grant fund under RSA 12-P:18.

4 123:6 Contingency. If HB 2 of the 2021 general legislative session becomes law and includes
5 provisions establishing a department of energy, sections 4 and 5 of this act shall take effect on July
6 1, 2021, and sections 2 and 3 of this act shall not take effect. If HB 2 does not become law, and/or
7 does not include provisions establishing a department of energy, sections 2 and 3 of this act shall
8 take effect on July 1, 2021, and sections 4 and 5 of this act shall not take effect.

9 123:7 Effective Date.

10 I. Sections 2-5 of this act shall take effect as provided in section 6 of this act.

11 II. The remainder of this act shall take effect on July 1, 2021.

Approved: July 13, 2021

Effective Date:

I. Sections 2-5 shall take effect as provided in section 6.

II. Remainder shall take effect July 1, 2021.

