

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0591.01 Jennifer Berman x3286

SENATE BILL 21-060

SENATE SPONSORSHIP

Donovan,

HOUSE SPONSORSHIP

Roberts,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING BROADBAND DEPLOYMENT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill amends the definition of "broadband network" to increase downstream and upstream speed requirements and adds a definition of "critically unserved", which means a household or area that lacks access to at least one provider of nonsatellite broadband service delivered at measurable speeds of at least 10 megabits per second downstream and one megabit per second upstream.

Section 2 reduces the membership of the broadband deployment board (board) in the department of regulatory agencies from 16 members

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

to 9 members.

The board is required to develop a reimbursement program to reimburse certain households for up to \$600 per year for broadband service. A household is eligible to apply for reimbursement if the household:

- Includes children enrolled in grades K-12 who receive free or reduced-price lunch through a school's lunch program; or
- Has an income that does not exceed the higher of the federal poverty level or 30% of area median income.

The board is also required to develop a request for proposal process through which the board will solicit bids for proposed projects to serve areas of the state that the office of information technology has determined lack access to broadband service at measurable speeds of at least 10 megabits per second downstream and one megabit per second upstream. Each year, the board is required to reserve at least 50% of the money from the high cost support mechanism that is allocated for broadband deployment to award grants to proposed projects solicited through the request for proposal process.

Section 2 also limits the notice and comment period for a local entity's review of an application from 60 days to 30 days and removes provisions requiring the board to apply for specific types of federal funding because the board has completed those applications.

Section 2 further requires the public utilities commission, in consultation with the board, to:

- Adopt rules establishing speed testing protocols by which broadband grant applicants must abide; and
- Consider, on a biennial basis starting in 2023, whether to modify by rule the definitions of "broadband network" and "critically unserved" and certain aspects of the reimbursement program, including eligibility for reimbursement and the maximum amount of money that the board may annually reimburse a household.

Section 3 repeals the current board composition requirements on August 31, 2021.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 40-15-102, **amend**
3 (3.7); and **add** (5.7) as follows:

4 **40-15-102. Definitions.** As used in this article 15, unless the
5 context otherwise requires:

1 (3.7) EXCEPT AS MODIFIED BY THE COMMISSION, BY RULE,
2 PURSUANT TO SECTION 40-15-509.5 (10.8), "broadband network" means
3 the plant, equipment, components, facilities, hardware, and software used
4 to provide broadband internet service at measurable speeds of at least ten
5 TWENTY-FIVE megabits per second downstream and ~~one megabit~~ THREE
6 MEGABITS per second upstream or at measurable speeds at least equal to
7 the federal communications commission's definition of high-speed
8 internet access or broadband, whichever is faster. ~~with:~~

9 ~~(a) Sufficiently low latency to enable the use of real-time~~
10 ~~communications, including voice-over-internet-protocol service; and~~

11 ~~(b) Either no usage limits or usage limits that are reasonably~~
12 ~~comparable to those found in urban areas for the same technology.~~

13 (5.7) EXCEPT AS MODIFIED BY THE COMMISSION, BY RULE,
14 PURSUANT TO SECTION 40-15-509.5 (10.8), "CRITICALLY UNSERVED",
15 WHEN USED TO DESCRIBE A HOUSEHOLD OR AREA, MEANS A HOUSEHOLD
16 OR AREA THAT LACKS ACCESS TO AT LEAST ONE NONSATELLITE PROVIDER
17 OF BROADBAND SERVICE DELIVERED AT MEASURABLE SPEEDS OF AT LEAST
18 TEN MEGABITS PER SECOND DOWNSTREAM AND ONE MEGABIT PER SECOND
19 UPSTREAM.

20 **SECTION 2.** In Colorado Revised Statutes, 40-15-509.5, **amend**
21 (5)(b), (8)(a)(I), (8)(a)(IV), (10.5), and (10.7); **repeal** (10.6); and **add**
22 (5)(c.5), (5)(f)(II)(C), (5)(f)(III), (5)(h), (6.5), (8)(a)(V), and (10.8) as
23 follows:

24 **40-15-509.5. Broadband service - report - broadband**
25 **deployment board - broadband administrative fund - creation -**
26 **definitions - rules - legislative declaration - short title - repeal.**

27 (5) (b) (I) (A) The board consists of sixteen members, fifteen of whom

1 are voting members. The members of the board shall be selected on the
2 basis of their knowledge of and interest in broadband service and shall
3 serve for four-year terms. A member of the board shall not serve more
4 than two consecutive full four-year terms.

5 (B) THIS SUBSECTION (5)(b)(I) IS REPEALED, EFFECTIVE
6 SEPTEMBER 1, 2021.

7 (II) (A) COMMENCING ON SEPTEMBER 1, 2021, THE BOARD
8 CONSISTS OF NINE MEMBERS, EIGHT OF WHOM ARE VOTING MEMBERS AND
9 ONE OF WHOM IS A NONVOTING REPRESENTATIVE OF THE OFFICE OF
10 INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103. THE
11 MEMBERS OF THE BOARD SHALL BE SELECTED ON THE BASIS OF THEIR
12 KNOWLEDGE OF AND INTEREST IN BROADBAND SERVICE AND SHALL SERVE
13 FOR FOUR-YEAR TERMS. A MEMBER OF THE BOARD SHALL NOT SERVE
14 MORE THAN TWO CONSECUTIVE FULL FOUR-YEAR TERMS; EXCEPT THAT
15 THE LIMIT ON TERMS OF OFFICE DOES NOT APPLY TO THE BOARD MEMBER
16 REPRESENTING THE OFFICE OF INFORMATION TECHNOLOGY.

17 (B) THE GOVERNOR MAY APPOINT A BOARD MEMBER SEATED ON
18 THE BOARD ON AUGUST 31, 2021, TO CONTINUE SERVING ON THE BOARD
19 ON AND AFTER SEPTEMBER 1, 2021, FOR THE REMAINDER OF THE BOARD
20 MEMBER'S EXISTING TERM AS OF AUGUST 31, 2021, IF THE BOARD MEMBER
21 MEETS THE BOARD MEMBERSHIP CRITERIA SET FORTH IN SUBSECTION
22 (5)(c.5) OF THIS SECTION AND THE BOARD MEMBER'S CONTINUED
23 MEMBERSHIP ON THE BOARD DOES NOT ENLARGE THE MEMBERSHIP OF THE
24 BOARD AUTHORIZED UNDER SUBSECTION (5)(b)(II)(A) OF THIS SECTION.
25 IF OTHERWISE ELIGIBLE FOR REAPPOINTMENT, THE BOARD MEMBER MAY
26 BE APPOINTED FOR AN ADDITIONAL TERM AFTER SEPTEMBER 1, 2021. THIS
27 SUBSECTION (5)(b)(II)(B) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.

1 (c.5) COMMENCING ON SEPTEMBER 1, 2021, NO MORE THAN FOUR
2 MEMBERS OF ANY ONE MAJOR POLITICAL PARTY MAY SERVE ON THE
3 BOARD AT THE SAME TIME. MEMBERS OF THE BOARD ARE ENTITLED TO
4 SEVENTY-FIVE DOLLARS PER DIEM FOR ATTENDANCE AT OFFICIAL
5 MEETINGS PLUS ACTUAL AND NECESSARY EXPENSES INCURRED IN THE
6 CONDUCT OF OFFICIAL BUSINESS. VOTING MEMBERS OF THE BOARD SHALL
7 BE APPOINTED BY THE GOVERNOR AS FOLLOWS:

8 (I) THREE MEMBERS REPRESENTING GEOGRAPHICALLY DIVERSE
9 LOCAL ENTITIES;

10 (II) THREE MEMBERS REPRESENTING THE BROADBAND INDUSTRY,
11 WHOM THE GOVERNOR SHALL SELECT IN A MANNER THAT ENSURES
12 GEOGRAPHIC, POLITICAL, AND INDUSTRY DIVERSITY; AND

13 (III) TWO MEMBERS OF THE PUBLIC:

14 (A) ONE OF WHOM RESIDES IN AN UNSERVED AREA OF THE
15 WESTERN SLOPE OF THE STATE; AND

16 (B) ONE OF WHOM RESIDES IN AN UNSERVED AREA OF THE
17 EASTERN PLAINS OF THE STATE.

18 (f) (II) (C) THIS SUBSECTION (5)(f)(II) IS REPEALED, EFFECTIVE
19 SEPTEMBER 1, 2021.

20 (III) (A) COMMENCING ON SEPTEMBER 1, 2021, THE BOARD
21 MEMBER REPRESENTING THE OFFICE OF INFORMATION TECHNOLOGY OR A
22 BOARD MEMBER APPOINTED PURSUANT TO SUBSECTION (5)(c.5)(I) OR
23 (5)(c.5)(III) OF THIS SECTION IS NOT DEEMED TO HAVE A CONFLICT OF
24 INTEREST MERELY BY VIRTUE OF RESIDING IN OR REPRESENTING AN
25 UNSERVED AREA, A CRITICALLY UNSERVED AREA, OR AN AREA THAT IS THE
26 SUBJECT OF AN APPLICATION BEFORE THE BOARD.

27 (B) COMMENCING ON SEPTEMBER 1, 2021, A BOARD MEMBER

1 APPOINTED PURSUANT TO SUBSECTION (5)(c.5)(II) OF THIS SECTION IS
2 DEEMED TO HAVE A CONFLICT OF INTEREST WITH RESPECT TO AN
3 APPLICATION FILED BY AN ENTITY THAT THE BOARD MEMBER REPRESENTS.
4 IF SUCH AN APPLICATION IS FILED, THE BOARD MEMBER MAY STILL
5 PARTICIPATE IN DISCUSSIONS ABOUT OTHER APPLICATIONS BEFORE THE
6 BOARD BUT SHALL NOT VOTE ON THOSE OTHER APPLICATIONS.

7 (h) COMMENCING ON SEPTEMBER 1, 2021, FIVE MEMBERS OF THE
8 BOARD CONSTITUTE A QUORUM OF THE BOARD.

9 (6.5) (a) ON OR BEFORE JANUARY 1, 2022, THE BOARD SHALL
10 DEVELOP A PROGRAM TO REIMBURSE COLORADO SUBSCRIBERS, AT UP TO
11 SIX HUNDRED DOLLARS PER HOUSEHOLD PER YEAR, FOR ACCESS TO
12 BROADBAND SERVICE TO HOUSEHOLDS THAT EITHER:

13 (I) INCLUDE ONE OR MORE CHILDREN ENROLLED IN KINDERGARTEN
14 THROUGH TWELFTH GRADE WHO ARE ELIGIBLE FOR FREE OR
15 REDUCED-PRICE LUNCH PURSUANT TO THE FEDERAL "RICHARD B. RUSSELL
16 NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ., AS
17 AMENDED; OR

18 (II) HAVE AN INCOME THAT DOES NOT EXCEED THE HIGHER OF THE
19 FEDERAL POVERTY LEVEL OR THIRTY PERCENT OF AREA MEDIAN INCOME.

20 (b) A HOUSEHOLD MEETING THE CRITERIA DESCRIBED IN
21 SUBSECTION (6.5)(a) OF THIS SECTION MAY APPLY TO THE BOARD
22 ANNUALLY IN THE FORM AND MANNER DETERMINED BY THE BOARD TO
23 REQUEST REIMBURSEMENT TO COVER UP TO ONE-HALF OF THE COST OF
24 BROADBAND SERVICE, NOT TO EXCEED A TOTAL REIMBURSEMENT OF SIX
25 HUNDRED DOLLARS PER YEAR. A HOUSEHOLD THAT HAS RECEIVED
26 REIMBURSEMENT PURSUANT TO THIS SUBSECTION (6.5) MUST
27 DEMONSTRATE THAT IT STILL MEETS THE CRITERIA SET FORTH IN

1 SUBSECTION (6.5)(a) OF THIS SECTION TO RECEIVE REIMBURSEMENT IN A
2 SUBSEQUENT YEAR.

3 (c) A PORTION OF THE HCSM MONEY ALLOCATED FOR
4 BROADBAND DEPLOYMENT SHALL BE RESERVED FOR REIMBURSEMENT
5 PURSUANT TO THIS SUBSECTION (6.5).

6 (8) The board shall direct the commission to transfer money, in a
7 manner consistent with this section, from the account for broadband
8 deployment established in the HCSM to approved grant applicants. The
9 board shall develop criteria for awarding money for new projects to
10 deploy broadband in unserved areas, including:

11 (a) (I) EXCEPT AS SET FORTH IN SUBSECTION (8)(a)(V) OF THIS
12 SECTION, developing a project application process that places the burden
13 on an eligible applicant to demonstrate that its proposed project meets the
14 project eligibility criteria established in this subsection (8), including a
15 requirement that the proposal concern a new project, and not a project
16 already in progress, and a requirement to prove that the area to be served
17 by the proposed project is an unserved area.

18 (IV) The board shall establish a notice and comment period of at
19 least ~~sixty~~ THIRTY days within which any interested party, including a
20 local entity with jurisdiction over the area proposed to be served, whether
21 or not the entity provided a written certification as described in subsection
22 (8)(a)(III) of this section, may review and comment on the application.

23 (V) (A) THE BOARD SHALL DEVELOP A REQUEST FOR PROPOSAL
24 PROCESS UNDER WHICH, EACH YEAR, THE BOARD RESERVES AT LEAST
25 FIFTY PERCENT OF THE HCSM MONEY ALLOCATED FOR BROADBAND
26 DEPLOYMENT TO AWARD GRANTS TO PROPOSED PROJECTS THAT SERVE
27 CRITICALLY UNSERVED AREAS IDENTIFIED BY THE OFFICE OF INFORMATION

1 TECHNOLOGY CREATED IN SECTION 24-37.5-103, INCLUDING ANY
2 CRITICALLY UNSERVED AREAS WITHIN THE BOUNDARIES OF AN INDIAN
3 RESERVATION LOCATED WITHIN THE STATE.

4 (B) ON OR BEFORE NOVEMBER 1, 2021, THE OFFICE OF
5 INFORMATION TECHNOLOGY SHALL DEVELOP AND SUBMIT TO THE BOARD
6 ONE OR MORE MAPS THAT IDENTIFY THE CRITICALLY UNSERVED AREAS
7 DESCRIBED IN SUBSECTION (8)(a)(V)(A) OF THIS SECTION. TO THE EXTENT
8 POSSIBLE, THE OFFICE OF INFORMATION TECHNOLOGY SHALL ALSO
9 DEVELOP AND SUBMIT TO THE BOARD A MAP THAT IDENTIFIES AREAS OF
10 THE STATE SERVED OR PROPOSED TO BE SERVED BY FEDERAL SOURCES OF
11 MONEY. ON OR BEFORE NOVEMBER 1, 2021, THE DEPARTMENT OF
12 TRANSPORTATION SHALL ALSO SUBMIT A MAP OR MAPS TO THE BOARD
13 IDENTIFYING ANY BROADBAND INFRASTRUCTURE OR EXCESS CAPACITY
14 THAT THE DEPARTMENT COULD LEASE FOR THE DEPLOYMENT OF
15 BROADBAND IN THE STATE. BASED ON THE MAPS SUBMITTED, THE BOARD
16 SHALL CHOOSE CRITICALLY UNSERVED AREAS FOR WHICH THE BOARD
17 SHALL SOLICIT PROPOSED PROJECT BIDS TO SERVE THOSE AREAS. IN
18 CHOOSING THE CRITICALLY UNSERVED AREAS FOR WHICH THE BOARD WILL
19 SOLICIT PROPOSED PROJECT BIDS, THE BOARD SHALL STRIVE TO ENSURE
20 GEOGRAPHIC DIVERSITY AMONG THE AREAS CHOSEN.

21 (C) THE BOARD, IN IMPLEMENTING THE REQUEST FOR PROPOSAL
22 PROCESS PURSUANT TO THIS SUBSECTION (8)(a)(V), NEED NOT COMPLY
23 WITH THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24.

24 (10.5) ~~(a)~~ The board may apply for federal funding of broadband
25 deployment projects and programs. The HCSM third-party contractor
26 shall maintain any federal money awarded for broadband deployment in
27 a separate account of the HCSM that is dedicated to allocating federal

1 broadband deployment money. The commission is authorized to disburse
2 any money from the account as directed by the board.

3 ~~(b) (I) Following the model of New York's petition for expedited~~
4 ~~waiver, the board shall immediately petition the FCC for a waiver from~~
5 ~~the auction rules that prohibit a state entity from applying for connect~~
6 ~~America fund phase II auction money to allow the board itself to allocate~~
7 ~~auction money for broadband deployment projects approved by the board.~~

8 ~~(II) After submitting the petition to the FCC, the board may:~~

9 ~~(A) File any additional documentation that the FCC requires of the~~
10 ~~board in considering the board's petition; and~~

11 ~~(B) Coordinate with the FCC to develop any conditions that the~~
12 ~~FCC might require to grant the petition.~~

13 ~~(III) If the FCC grants the board's petition and awards the board~~
14 ~~auction money:~~

15 ~~(A) The HCSM third-party contractor shall maintain any federal~~
16 ~~money awarded from the auction in the separate account of the HCSM~~
17 ~~described in subsection (10.5)(a) of this section; and~~

18 ~~(B) The commission is authorized to disburse the federal money~~
19 ~~in that account for broadband deployment grants as directed by the board.~~

20 ~~(IV) The board may coordinate with the FCC to comply with any~~
21 ~~conditions established by the FCC in granting the petition. If any such~~
22 ~~FCC conditions impose project eligibility, application process, award~~
23 ~~criteria, or other requirements that are distinct from the requirements set~~
24 ~~forth in this section or established by the board pursuant to this section,~~
25 ~~the commission may, by rule and in consultation with the board, establish~~
26 ~~requirements that comply with the FCC's conditions; except that any~~
27 ~~requirements established by the commission by rule pursuant to this~~

1 subsection (10.5)(b) must apply only to broadband deployment projects
2 that are eligible to receive auction money.

3 (c) ~~As used in this subsection (10.5):~~

4 (I) ~~"Auction rules" refers to the FCC's rules in 47 CFR 54.309 to~~
5 ~~54.316, which rules concern the implementation of the connect America~~
6 ~~fund phase II auction.~~

7 (II) ~~"Connect America fund phase II auction" or "auction" refers~~
8 ~~to a ten-year auction of federal money through which the FCC will~~
9 ~~allocate money, by means of a competitive bidding process, to~~
10 ~~telecommunications providers who commit to providing voice and~~
11 ~~broadband service in high-cost areas of the nation in accordance with the~~
12 ~~FCC's auction rules.~~

13 (III) ~~"New York's petition for expedited waiver" refers to a~~
14 ~~petition that the state of New York filed with the FCC seeking a waiver~~
15 ~~from the FCC's auction rules with regard to the rules' limitation~~
16 ~~prohibiting state entities from applying for federal money through the~~
17 ~~auction. The FCC granted the waiver request on January 26, 2017, thus~~
18 ~~authorizing the state of New York to directly receive and allocate auction~~
19 ~~money to broadband projects within the state.~~

20 (10.6) (a) (I) ~~Following the model of New York's petition for~~
21 ~~expedited waiver, the board, on or before January 1, 2019, shall petition~~
22 ~~the FCC for a waiver from the FCC's rules concerning the remote areas~~
23 ~~fund to seek FCC authorization for the board to itself allocate remote~~
24 ~~areas fund money for broadband deployment projects in Colorado.~~

25 (II) ~~After submitting the petition to the FCC, the board may:~~

26 (A) ~~File any additional documentation that the FCC requires of the~~
27 ~~board in considering the board's petition; and~~

1 ~~(B) Coordinate with the FCC to develop any conditions that the~~
2 ~~FCC might require to grant the petition.~~

3 ~~(b) If the FCC denies the board's petition, the board shall not file~~
4 ~~a new petition or otherwise subsequently apply for money from the~~
5 ~~remote areas fund.~~

6 ~~(c) If the FCC grants the board's petition:~~

7 ~~(i) The HCSM third-party contractor shall maintain any federal~~
8 ~~money awarded through the remote areas fund in a separate account of~~
9 ~~the HCSM that is dedicated to allocating the federal money in compliance~~
10 ~~with any conditions established by the FCC in granting the petition;~~

11 ~~(ii) The commission is authorized to disburse the federal money~~
12 ~~in that account for broadband deployment grants as authorized by the~~
13 ~~board and in compliance with any conditions established by the FCC in~~
14 ~~granting the petition; and~~

15 ~~(iii) The board is authorized to coordinate with the FCC to~~
16 ~~comply with any conditions established by the FCC in granting the~~
17 ~~petition. If any such FCC conditions impose project eligibility,~~
18 ~~application process, award criteria, or other requirements that are distinct~~
19 ~~from the requirements set forth in this section or established by the board~~
20 ~~pursuant to this section, the commission may, by rule and in consultation~~
21 ~~with the board, establish requirements that comply with the FCC's~~
22 ~~conditions; except that any requirements established by the commission~~
23 ~~by rule pursuant to this subsection (10.6) must apply only to broadband~~
24 ~~deployment projects that are eligible to receive the federal remote areas~~
25 ~~fund money.~~

26 ~~(d) As used in this subsection (10.6):~~

27 ~~(i) "Auction rules" refers to the FCC's rules in 47 CFR 54.309 to~~

1 54.316, which rules concern the implementation of the connect America
2 fund phase II auction.

3 (II) "Connect America fund" refers to the federal universal service
4 high-cost program that allows eligible telecommunications providers to
5 recover some of their costs from the federal government for providing
6 voice and broadband service in high-cost areas.

7 (III) "Connect America phase II auction" refers to a ten-year
8 auction of federal money through which the FCC will allocate money
9 through a competitive bidding process to telecommunications providers
10 who commit to providing voice and broadband service in high-cost areas
11 of the nation in accordance with the FCC's auction rules.

12 (IV) "New York's petition for expedited waiver" refers to a
13 petition that the state of New York filed with the FCC seeking a waiver
14 from the FCC's auction rules, which waiver the FCC granted on January
15 26, 2017.

16 (V) "Remote areas fund" refers to a fund created by the FCC as
17 part of its connect America fund to facilitate broadband deployment in
18 extremely high-cost areas of the nation.

19 (10.7) The board shall make every effort to ensure that a project
20 funded pursuant to this section does not overbuild any project supported
21 or approved by the department of local affairs. IN FURTHERANCE OF THAT
22 EFFORT, THE DEPARTMENT OF LOCAL AFFAIRS SHALL SUBMIT TO THE
23 BOARD FOR ITS REVIEW AND RECOMMENDATIONS A COPY OF EACH
24 APPLICATION THAT THE DEPARTMENT RECEIVES IN WHICH AN APPLICANT
25 SEEKS GRANT MONEY FOR BROADBAND PLANNING OR INFRASTRUCTURE,
26 WHICH GRANTS THE DEPARTMENT AWARDS FROM THE LOCAL
27 GOVERNMENT MINERAL IMPACT FUND CREATED IN SECTION 34-63-102

1 (5)(a)(I). THE BOARD SHALL REVIEW EACH APPLICATION SUBMITTED, AND
2 PROVIDE THE DEPARTMENT ITS RECOMMENDATIONS REGARDING THE
3 APPLICATION, AS SOON AS PRACTICABLE, BUT NO LATER THAN THIRTY
4 DAYS AFTER THE DEPARTMENT HAS FURNISHED A COPY OF THE
5 APPLICATION TO THE BOARD.

6 (10.8) (a) ON OR BEFORE DECEMBER 31, 2021, THE COMMISSION,
7 IN CONSULTATION WITH THE BOARD, SHALL ESTABLISH BY RULE SPEED
8 TESTING PROTOCOLS BY WHICH APPLICANTS SEEKING BROADBAND GRANTS
9 PURSUANT TO THIS SECTION MUST ABIDE.

10 (b) ON OR BEFORE SEPTEMBER 1, 2023, AND ON OR BEFORE
11 SEPTEMBER 1 EVERY TWO YEARS THEREAFTER, THE COMMISSION, IN
12 CONSULTATION WITH THE BOARD, SHALL CONSIDER WHETHER TO MODIFY
13 THE FOLLOWING BY RULE:

14 (I) THE MEASURABLE DOWNSTREAM AND UPSTREAM SPEEDS IN THE
15 DEFINITION OF "BROADBAND NETWORK" SET FORTH IN SECTION 40-15-102
16 (3.7). THE COMMISSION MAY, BY RULE, ESTABLISH DOWNSTREAM AND
17 UPSTREAM SPEEDS THAT ARE FASTER THAN WHICHEVER OF THE
18 FOLLOWING SPEEDS ARE FASTER:

19 (A) THE SPEEDS SET FORTH IN SECTION 40-15-102 (3.7); OR

20 (B) THE SPEEDS SET FORTH IN THE FCC'S DEFINITION OF
21 HIGH-SPEED INTERNET ACCESS OR BROADBAND.

22 (II) THE DEFINITION OF "CRITICALLY UNSERVED" SET FORTH IN
23 SECTION 40-15-102 (5.7); AND

24 (III) THE REIMBURSEMENT PROGRAM SET FORTH IN SUBSECTION
25 (6.5) OF THIS SECTION, INCLUDING ELIGIBILITY CRITERIA, THE MAXIMUM
26 REIMBURSEMENT AMOUNT, AND THE PORTION OF THE MONEY FROM THE
27 HCSM ALLOCATED FOR BROADBAND DEPLOYMENT PURSUANT TO

1 SUBSECTION (3) OF THIS SECTION THAT IS RESERVED FOR REIMBURSEMENT.

2 (b) NOTHING IN THIS SUBSECTION (10.8) SUBJECTS BROADBAND
3 SERVICE PROVIDERS, INCLUDING INCUMBENT PROVIDERS, TO REGULATION
4 BY THE COMMISSION BEYOND ANY REGULATION THAT IS OTHERWISE
5 REQUIRED IN THIS ARTICLE 15.

6 **SECTION 3.** In Colorado Revised Statutes, 40-15-509.5, **repeal**
7 (5)(c) as follows:

8 **40-15-509.5. Broadband service - report - broadband**
9 **deployment board - broadband administrative fund - creation -**
10 **definitions - rules - repeal.** (5) (c) ~~No more than eight voting members~~
11 ~~of any one major political party may serve on the board at the same time.~~
12 ~~Members of the board are entitled to seventy-five dollars per diem for~~
13 ~~attendance at official meetings plus actual and necessary expenses~~
14 ~~incurred in the conduct of official business. Members of the board shall~~
15 ~~be appointed as follows:~~

16 (I) ~~At least one member from the commission; one member from~~
17 ~~the Colorado office of economic development and international trade in~~
18 ~~the office of the governor; one member from the department of local~~
19 ~~affairs, created in section 24-1-125, C.R.S.; and one member from the~~
20 ~~office of information technology, created in section 24-37.5-103, C.R.S.;~~
21 ~~as appointed by the governor. The governor shall select three of these~~
22 ~~four appointees to serve as voting members of the board.~~

23 (II) ~~Three voting members representing local entities:~~

24 (A) ~~One of whom is a county commissioner, as appointed by the~~
25 ~~president of the senate in consultation with Colorado Counties, Inc.;~~

26 (B) ~~One of whom is a mayor or city councilperson, as appointed~~
27 ~~by the speaker of the house of representatives in consultation with the~~

1 Colorado municipal league; and
2 ~~(C) One of whom is any other representative of a local entity and~~
3 ~~who has a background in broadband service and expertise in rural~~
4 ~~economic development, education, or telemedicine, as appointed by the~~
5 ~~minority leader of the senate;~~
6 ~~(HH) Seven voting members representing the broadband industry:~~
7 ~~(A) One of whom represents a wireless provider, as appointed by~~
8 ~~the minority leader of the house of representatives;~~
9 ~~(B) One of whom represents a wireline provider, as appointed by~~
10 ~~the minority leader of the senate;~~
11 ~~(C) One of whom represents a broadband satellite provider, as~~
12 ~~appointed by the governor;~~
13 ~~(D) One of whom represents a cable provider, as appointed by the~~
14 ~~president of the senate;~~
15 ~~(E) One of whom represents a rural local exchange carrier, as~~
16 ~~appointed by the governor;~~
17 ~~(F) One of whom represents a competitive local exchange carrier,~~
18 ~~as appointed by the speaker of the house of representatives; and~~
19 ~~(G) One of whom represents a cable provider serving rural areas,~~
20 ~~as appointed by the president of the senate; and~~
21 ~~(IV) Two voting members of the public:~~
22 ~~(A) One of whom resides in an unserved area of the western slope~~
23 ~~of the state, as appointed by the speaker of the house of representatives;~~
24 ~~and~~
25 ~~(B) One of whom resides in an unserved area of the eastern slope~~
26 ~~of the state, as appointed by the minority leader of the house of~~
27 ~~representatives.~~

1 ~~(C) (Deleted by amendment, L. 2018.)~~

2 **SECTION 4. Effective date.** This act takes effect upon passage;
3 except that section 3 of this act takes effect August 31, 2021.

4 **SECTION 5. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety.