

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0591.01 Jennifer Berman x3286

SENATE BILL 21-060

SENATE SPONSORSHIP

Donovan,

HOUSE SPONSORSHIP

Roberts,

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING BROADBAND DEPLOYMENT, AND, IN CONNECTION**
102 **THEREWITH, MAKING AN APPROPRIATION.**

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.

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.*

SENATE
Amended 2nd Reading
June 3, 2021

Section 2 reduces the membership of the broadband deployment board (board) in the department of regulatory agencies from 16 members 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, 40-15-509.5, add**

3 **(6.5) and (8)(a)(V) as follows:**

4 **40-15-509.5. Broadband service - report - broadband**

1 deployment board - broadband administrative fund - creation -
2 program to provide reimbursement for broadband service -
3 definitions - rules - repeal. (6.5) (a) ON OR BEFORE JANUARY 1, 2022,
4 THE BOARD SHALL CONTRACT WITH A NONPROFIT ORGANIZATION THAT
5 HAS AN EXISTING PLATFORM OR SYSTEM FOR ADMINISTERING GRANT
6 MONEY AND HAS EXPERIENCE IN ADMINISTERING INCOME-QUALIFIED
7 UTILITY ASSISTANCE PROGRAMS AND IN VERIFYING INCOME FOR
8 STATEWIDE ASSISTANCE PROGRAMS TO DEVELOP A PROGRAM TO
9 REIMBURSE COLORADO SUBSCRIBERS, AT UP TO SIX HUNDRED DOLLARS
10 PER HOUSEHOLD PER YEAR, FOR ACCESS TO BROADBAND SERVICE TO
11 HOUSEHOLDS THAT:

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

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

20 (III) ARE LOCATED IN CRITICALLY UNSERVED AREAS OF THE STATE.
21 A HOUSEHOLD IS ELIGIBLE FOR REIMBURSEMENT UNDER THIS SUBSECTION
22 (6.5)(a)(III) ONLY:

23 (A) FOR BROADBAND SERVICE PROVIDED BY A SATELLITE
24 PROVIDER;

25 (B) WITH RESPECT TO THE HOUSEHOLD'S PRIMARY RESIDENCE;
26 AND

27 (C) IF THE BOARD DETERMINES THAT BUILD-OUT OF BROADBAND

1 SERVICE IS UNLIKELY.

2 (b) A HOUSEHOLD MEETING THE CRITERIA DESCRIBED IN
3 SUBSECTION (6.5)(a) OF THIS SECTION MAY APPLY TO THE PROGRAM
4 ANNUALLY IN THE FORM AND MANNER DETERMINED BY THE BOARD TO
5 REQUEST REIMBURSEMENT TO COVER UP TO ONE-HALF OF THE COST OF
6 BROADBAND SERVICE, NOT TO EXCEED A TOTAL REIMBURSEMENT OF SIX
7 HUNDRED DOLLARS PER YEAR. A HOUSEHOLD THAT HAS RECEIVED
8 REIMBURSEMENT PURSUANT TO THIS SUBSECTION (6.5) MUST
9 DEMONSTRATE THAT IT STILL MEETS THE CRITERIA SET FORTH IN
10 SUBSECTION (6.5)(a) OF THIS SECTION TO RECEIVE REIMBURSEMENT IN A
11 SUBSEQUENT YEAR.

12 (c) WITH REGARD TO THE NONPROFIT ORGANIZATION WITH WHICH
13 THE BOARD CONTRACTS TO ADMINISTER THE REIMBURSEMENT PROGRAM,
14 THE BOARD:

15 (I) SHALL USE MONEY IN THE FUND TO PAY THE NONPROFIT
16 ORGANIZATION'S ADMINISTRATIVE COSTS IN AN AMOUNT NOT TO EXCEED
17 TWO HUNDRED FIFTY THOUSAND DOLLARS PER YEAR. IF THE NONPROFIT
18 ORGANIZATION EXPENDS ALL OF THE MONEY PROVIDED IN A GIVEN YEAR,
19 THE NONPROFIT ORGANIZATION SHALL NOT ADMINISTER ADDITIONAL
20 REIMBURSEMENTS FOR THE REMAINDER OF THE YEAR.

21 (II) SHALL DETERMINE REPORTING REQUIREMENTS FOR THE
22 NONPROFIT ORGANIZATION REGARDING ITS ADMINISTRATION OF THE
23 PROGRAM; AND

24 (III) NEED NOT COMPLY WITH THE "PROCUREMENT CODE",
25 ARTICLES 101 TO 112 OF TITLE 24, IN CHOOSING THE NONPROFIT
26 ORGANIZATION.

27 (d) A PORTION OF THE HCSM MONEY ALLOCATED FOR

1 BROADBAND DEPLOYMENT SHALL BE RESERVED FOR REIMBURSEMENT
2 PURSUANT TO THIS SUBSECTION (6.5).

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

8 (a) (V) ON OR BEFORE NOVEMBER 1, 2021, THE DEPARTMENT OF
9 TRANSPORTATION SHALL SUBMIT A MAP OR MAPS TO THE BOARD
10 IDENTIFYING ANY BROADBAND INFRASTRUCTURE OR EXCESS CAPACITY
11 THAT THE DEPARTMENT COULD LEASE FOR THE DEPLOYMENT OF
12 BROADBAND IN THE STATE.

13 **SECTION 2.** In Colorado Revised Statutes, 24-37.5-119, as
14 **relocated and amended by House Bill 21-1109, add (7.5) and**
15 **(9)(a)(VIII) as follows:**

16 **24-37.5-119. Broadband service - report - broadband**
17 **deployment board - broadband administrative fund - creation - rules**
18 **- program to provide reimbursement for broadband service -**
19 **legislative declaration - definitions - repeal. (7.5) (a) ON OR BEFORE**
20 **JANUARY 1, 2022, THE BOARD SHALL CONTRACT WITH A NONPROFIT**
21 **ORGANIZATION THAT HAS AN EXISTING PLATFORM OR SYSTEM FOR**
22 **ADMINISTERING GRANT MONEY AND HAS EXPERIENCE IN ADMINISTERING**
23 **INCOME-QUALIFIED UTILITY ASSISTANCE PROGRAMS AND IN VERIFYING**
24 **INCOME FOR STATEWIDE ASSISTANCE PROGRAMS TO DEVELOP A PROGRAM**
25 **TO REIMBURSE COLORADO SUBSCRIBERS, AT UP TO SIX HUNDRED DOLLARS**
26 **PER HOUSEHOLD PER YEAR, FOR ACCESS TO BROADBAND SERVICE TO**
27 **HOUSEHOLDS THAT:**

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

6 (II) HAVE AN INCOME THAT DOES NOT EXCEED THE HIGHER OF THE
7 FEDERAL POVERTY LEVEL OR THIRTY PERCENT OF AREA MEDIAN INCOME;

8 OR

9 (III) ARE LOCATED IN CRITICALLY UNSERVED AREAS OF THE STATE.

10 A HOUSEHOLD IS ELIGIBLE FOR REIMBURSEMENT UNDER THIS SUBSECTION
11 (7.5)(a)(III) ONLY:

12 (A) FOR BROADBAND SERVICE PROVIDED BY A SATELLITE
13 PROVIDER;

14 (B) WITH RESPECT TO THE HOUSEHOLD'S PRIMARY RESIDENCE;
15 AND

16 (C) IF THE BOARD DETERMINES THAT BUILD-OUT OF BROADBAND
17 SERVICE IS UNLIKELY.

18 (b) A HOUSEHOLD MEETING THE CRITERIA DESCRIBED IN
19 SUBSECTION (7.5)(a) OF THIS SECTION MAY APPLY TO THE PROGRAM
20 ANNUALLY IN THE FORM AND MANNER DETERMINED BY THE BOARD TO
21 REQUEST REIMBURSEMENT TO COVER UP TO ONE-HALF OF THE COST OF
22 BROADBAND SERVICE, NOT TO EXCEED A TOTAL REIMBURSEMENT OF SIX
23 HUNDRED DOLLARS PER YEAR. A HOUSEHOLD THAT HAS RECEIVED
24 REIMBURSEMENT PURSUANT TO THIS SUBSECTION (7.5) MUST
25 DEMONSTRATE THAT IT STILL MEETS THE CRITERIA SET FORTH IN
26 SUBSECTION (7.5)(a) OF THIS SECTION TO RECEIVE REIMBURSEMENT IN A
27 SUBSEQUENT YEAR.

1 (c) WITH REGARD TO THE NONPROFIT ORGANIZATION WITH WHICH
2 THE BOARD CONTRACTS TO ADMINISTER THE REIMBURSEMENT PROGRAM,
3 THE BOARD:

4 (I) SHALL USE MONEY IN THE FUND TO PAY THE NONPROFIT
5 ORGANIZATION'S ADMINISTRATIVE COSTS IN AN AMOUNT NOT TO EXCEED
6 TWO HUNDRED FIFTY THOUSAND DOLLARS PER YEAR. IF THE NONPROFIT
7 ORGANIZATION EXPENDS ALL OF THE MONEY PROVIDED IN A GIVEN YEAR,
8 THE NONPROFIT ORGANIZATION SHALL NOT ADMINISTER ADDITIONAL
9 REIMBURSEMENTS FOR THE REMAINDER OF THE YEAR.

10 (II) SHALL DETERMINE REPORTING REQUIREMENTS FOR THE
11 NONPROFIT ORGANIZATION REGARDING ITS ADMINISTRATION OF THE
12 PROGRAM; AND

13 (III) NEED NOT COMPLY WITH THE "PROCUREMENT CODE",
14 ARTICLES 101 TO 112 OF THIS TITLE 24, IN CHOOSING THE NONPROFIT
15 ORGANIZATION.

16 (d) A PORTION OF THE HCSM MONEY ALLOCATED FOR
17 BROADBAND DEPLOYMENT SHALL BE RESERVED FOR REIMBURSEMENT
18 PURSUANT TO THIS SUBSECTION (7.5).

19 (9) The board shall direct the commission to transfer money, in a
20 manner consistent with this section, from the HCSM account dedicated
21 for broadband deployment pursuant to subsection (3) of this section to
22 approved grant applicants. The board shall develop criteria for awarding
23 money for new projects to deploy broadband in unserved areas, including:

24 (a) (VIII) ON OR BEFORE NOVEMBER 1, 2021, THE DEPARTMENT
25 OF TRANSPORTATION SHALL SUBMIT A MAP OR MAPS TO THE BOARD
26 IDENTIFYING ANY BROADBAND INFRASTRUCTURE OR EXCESS CAPACITY
27 THAT THE DEPARTMENT COULD LEASE FOR THE DEPLOYMENT OF

1 BROADBAND IN THE STATE.

2 **SECTION 3. Appropriation.** For the 2021-22 state fiscal year,
3 \$298,883 is appropriated to the department of regulatory agencies for use
4 by the executive director's office and administrative services. This
5 appropriation is from the broadband administrative fund created in
6 section 40-15-509.5 (4)(a), C.R.S., and is based on an assumption that the
7 department will require an additional 1.0 FTE. To implement this act, the
8 office may use this appropriation for broadband deployment board
9 administration.

10 **SECTION 4. Appropriation.** For the 2021-22 state fiscal year,
11 \$298,883 is appropriated to the office of the governor for use by the
12 office of information technology. This appropriation is from the
13 broadband administrative fund created in section 24-37.5-119 (4), C.R.S.,
14 and is based on an assumption that the department will require an
15 additional 1.0 FTE. To implement this act, the office may use this
16 appropriation for broadband deployment board administration.

17 **SECTION 5. Effective date.** (1) This act takes effect upon
18 passage except that:

19 (a) Sections 2 and 4 of this act take effect only if House Bill
20 21-1109 becomes law, in which case sections 2 and 4 take effect on the
21 effective date of this act or House Bill 21-1109, whichever is later; and

22 (b) Sections 1 and 3 of this act take effect only if House Bill
23 21-1109 does not become law, in which case sections 1 and 3 take effect
24 on the effective date of this act.

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