A BILL FOR AN ACT

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...
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.

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

SECTION 1. In Colorado Revised Statutes, 40-15-102, add (5.7) as follows:

40-15-102. Definitions. As used in this article 15, unless the context otherwise requires:
EXCEPT AS MODIFIED BY THE COMMISSION, BY RULE, PURSUANT TO SECTION 40-15-509.5 (10.8), "CRITICALLY UNSERVED", WHEN USED TO DESCRIBE A HOUSEHOLD OR AREA, MEANS A HOUSEHOLD OR AREA THAT LACKS ACCESS TO AT LEAST ONE NONSATELLITE PROVIDER OF BROADBAND SERVICE DELIVERED AT MEASURABLE SPEEDS OF AT LEAST TEN MEGABITS PER SECOND DOWNSTREAM AND ONE MEGABIT PER SECOND UPSTREAM.

SECTION 2. In Colorado Revised Statutes, 40-15-509.5, amend (10.5); repeal (10.6); and add (6.5) and (8)(a)(V) as follows:


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

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

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

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

A HOUSEHOLD IS ELIGIBLE FOR REIMBURSEMENT UNDER THIS SUBSECTION
(6.5)(a)(III) ONLY:

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

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

AND

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

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

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

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

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

(10.5) (a) The board may apply for federal funding of broadband
deployment projects and programs. The HCSM third-party contractor
shall maintain any federal money awarded for broadband deployment in
a separate account of the HCSM that is dedicated to allocating federal
broadband deployment money. The commission is authorized to disburse
any money from the account as directed by the board.

(b)(I) NOTWITHSTANDING SUBSECTION (10.5)(a) OF THIS SECTION,
THE BOARD SHALL RECEIVE ANY FEDERAL COVID-19 FUNDING AWARDED
TO THE STATE FOR BROADBAND DEPLOYMENT AND SHALL EXPEND THE
MONEY IN ACCORDANCE WITH FEDERAL GUIDELINES FOR USE OF THE
MONEY, EVEN IF SUCH USE OF THE MONEY FALLS OUTSIDE THE
REQUIREMENTS FOR USE OF BROADBAND DEPLOYMENT GRANT MONEY SET
FORTH IN THIS SECTION. THE HCSM THIRD-PARTY CONTRACTOR SHALL
MAINTAIN ANY FEDERAL COVID-19 FUNDING AWARDED FOR BROADBAND
DEPLOYMENT IN A SEPARATE ACCOUNT OF THE HCSM THAT IS DEDICATED
TO ALLOCATING FEDERAL COVID-19 FUNDING FOR BROADBAND
DEPLOYMENT. THE COMMISSION IS AUTHORIZED TO DISBURSE ANY MONEY
FROM THE ACCOUNT AS DIRECTED BY THE BOARD.

(II) AS USED IN THIS SUBSECTION (10.5)(b):
(A) "COVID-19 PANDEMIC" MEANS THE PANDEMIC RESULTING
FROM THE CORONAVIRUS DISEASE 2019 CAUSED BY THE SEVERE ACUTE
RESPIRATORY SYNDROME CORONAVIRUS 2, ALSO KNOWN AS
SARS-CoV-2.

(B) "FEDERAL COVID-19 FUNDING" MEANS FEDERAL MONEY
AWARDED TO THE STATE IN RESPONSE TO, AND FOR THE PURPOSE OF HELPING THE STATE RECOVER FROM, THE COVID-19 PANDEMIC.

(III) This subsection (10.5)(b) is repealed, effective September 1, 2025.

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

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

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

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

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

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

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

(IV) The board may coordinate with the FCC to comply with any conditions established by the FCC in granting the petition. If any such FCC conditions impose project eligibility, application process, award criteria, or other requirements that are distinct from the requirements set forth in this section or established by the board pursuant to this section; the commission may, by rule and in consultation with the board, establish
requirements that comply with the FCC's conditions; except that any
requirements established by the commission by rule pursuant to this
subsection (10.5)(b) must apply only to broadband deployment projects
that are eligible to receive auction money:

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

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

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

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

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

(II) After submitting the petition to the FCC, the board may:
(A) File any additional documentation that the FCC requires of the board in considering the board's petition; and

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

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

(e) If the FCC grants the board's petition:

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

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

(III) The board is authorized to coordinate with the FCC to comply with any conditions established by the FCC in granting the petition. If any such FCC conditions impose project eligibility, application process, award criteria, or other requirements that are distinct from the requirements set forth in this section or established by the board pursuant to this section, the commission may, by rule and in consultation with the board, establish requirements that comply with the FCC's conditions; except that any requirements established by the commission by rule pursuant to this subsection (10.6) must apply only to broadband deployment projects that are eligible to receive the federal remote areas fund money.
As used in this subsection (10.6):

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

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

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

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

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

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.