

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0591.01 Jennifer Berman x3286

SENATE BILL 21-060

SENATE SPONSORSHIP

Donovan, Bridges, Buckner, Danielson, Fenberg, Fields, Garcia, Jaquez Lewis, Moreno, Pettersen, Story

HOUSE SPONSORSHIP

Roberts,

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING BROADBAND DEPLOYMENT, AND, IN CONNECTION**
102 **THEREWITH, IMPLEMENTING A PROGRAM TO PROVIDE**
103 **FINANCIAL ASSISTANCE FOR INCOME-ELIGIBLE HOUSEHOLDS TO**
104 **ACCESS BROADBAND SERVICE.**

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

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
3rd Reading Unamended
June 4, 2021

SENATE
Amended 2nd Reading
June 3, 2021

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.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly

1 hereby finds and declares that, pursuant to 31 CFR 35.6 (b)(8), providing
2 financial assistance for broadband service to low-income households
3 affected by the COVID-19 public health emergency is an eligible use of
4 money received by the state under the federal "American Rescue Plan Act
5 of 2021", Pub.L. 117-2. For this purpose, Senate Bill 21-291 creates the
6 economic recovery and relief cash fund to appropriate money to
7 departments or transfer money to another cash fund for uses to address
8 the negative impacts of COVID-19, including using the money for
9 assistance to individuals and households.

10 (2) The general assembly further finds and declares that, pursuant
11 to subsection (1) of this section, the general assembly may appropriate
12 money from the economic recovery and relief cash fund created in section
13 24-75-228 (2)(a) to the office of the governor for use by the office of
14 information technology to provide financial assistance to income-eligible
15 households for broadband service.

16 **SECTION 2.** In Colorado Revised Statutes, 24-37.5-904, as
17 added by House Bill 21-1289, amend (1)(b)(II); and add (1.5) as
18 follows:

19 **24-37.5-904. Digital inclusion grant program - income-eligible**
20 **household reimbursement program - creation - award criteria -**
21 **digital inclusion grant program fund - definition - reporting - repeal.**

22 (1) (b) The Colorado broadband office shall implement the grant
23 program. During the 2020-21 state fiscal year, the broadband office shall
24 award:

25 (II) Grants totaling up to ~~fifteen~~ TEN million dollars to one or
26 more providers of telehealth services; EXCEPT THAT, IF PURSUANT TO
27 SUBSECTION (1.5)(e) OF THIS SECTION, THE BROADBAND OFFICE DOES NOT

1 IMPLEMENT THE REIMBURSEMENT PROGRAM CREATED IN SUBSECTION (1.5)
2 OF THIS SECTION, THE BROADBAND OFFICE SHALL AWARD GRANTS
3 TOTALING UP TO FIFTEEN MILLION DOLLARS TO ONE OR MORE PROVIDERS
4 OF TELEHEALTH SERVICES.

5 (1.5) (a) ON OR BEFORE JANUARY 1, 2022, AND SUBJECT TO
6 SUBSECTIONS (1.5)(d) AND (1.5)(e) OF THIS SECTION, THE BROADBAND
7 OFFICE SHALL CONTRACT WITH A NONPROFIT ORGANIZATION, PREFERABLY
8 A NONPROFIT ORGANIZATION THAT HAS AN EXISTING PLATFORM OR
9 SYSTEM FOR ADMINISTERING GRANT MONEY, HAS EXPERIENCE IN
10 ADMINISTERING INCOME-QUALIFIED UTILITY ASSISTANCE PROGRAMS, AND
11 HAS EXPERIENCE IN VERIFYING INCOME FOR STATEWIDE ASSISTANCE
12 PROGRAMS, TO DEVELOP A PROGRAM, REFERRED TO IN THIS SUBSECTION
13 (1.5) AS THE "PROGRAM", TO MAKE ACCESS TO BROADBAND SERVICE MORE
14 AFFORDABLE BY REIMBURSING COLORADO SUBSCRIBERS FOR COSTS
15 INCURRED IN ACCESSING BROADBAND SERVICE. IN CHOOSING A NONPROFIT
16 ORGANIZATION WITH WHICH TO CONTRACT, THE BROADBAND OFFICE NEED
17 NOT COMPLY WITH THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF
18 THIS TITLE 24. HOUSEHOLDS THAT ARE INCOME ELIGIBLE TO PARTICIPATE
19 IN THE PROGRAM ARE THOSE HOUSEHOLDS THAT:

20 (I) HAVE A HOUSEHOLD INCOME THAT DOES NOT EXCEED THE
21 HIGHER OF TWO HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL OR
22 EIGHTY PERCENT OF THE AREA MEDIAN INCOME; OR

23 (II) ARE LOCATED IN CRITICALLY UNSERVED AREAS OF THE STATE.
24 A HOUSEHOLD IS ELIGIBLE FOR REIMBURSEMENT UNDER THIS SUBSECTION
25 (1.5)(a)(II) ONLY:

26 (A) FOR BROADBAND SERVICE PROVIDED BY A SATELLITE
27 PROVIDER; AND

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

2 (b) A HOUSEHOLD MEETING THE CRITERIA SET FORTH IN
3 SUBSECTION (1.5)(a) OF THIS SECTION MAY APPLY TO THE PROGRAM
4 ANNUALLY IN THE FORM AND MANNER DETERMINED BY THE BROADBAND
5 OFFICE TO REQUEST REIMBURSEMENT TO COVER UP TO ONE-HALF OF THE
6 COST OF BROADBAND SERVICE, NOT TO EXCEED A TOTAL REIMBURSEMENT
7 OF SIX HUNDRED DOLLARS PER YEAR. A HOUSEHOLD THAT RECEIVES
8 REIMBURSEMENT PURSUANT TO THIS SUBSECTION (1.5)(b) MUST
9 DEMONSTRATE THAT IT STILL MEETS THE CRITERIA SET FORTH IN
10 SUBSECTION (1.5)(a) OF THIS SECTION TO RECEIVE REIMBURSEMENT IN A
11 SUBSEQUENT YEAR.

12 (c) WITH REGARD TO THE NONPROFIT ORGANIZATION WITH WHICH
13 THE BROADBAND OFFICE CONTRACTS TO ADMINISTER THE PROGRAM, THE
14 BROADBAND OFFICE SHALL DIRECT THAT THE NONPROFIT ORGANIZATION:

15 (I) USE A PORTION OF THE MONEY TRANSMITTED TO THE
16 NONPROFIT ORGANIZATION FOR IMPLEMENTING THE PROGRAM TO COVER
17 ITS DIRECT AND INDIRECT COSTS IN ADMINISTERING THE PROGRAM; AND

18 (II) PERIODICALLY REPORT TO THE BROADBAND OFFICE, IN A FORM
19 AND MANNER DETERMINED BY THE BROADBAND OFFICE, REGARDING ITS
20 ADMINISTRATION OF THE PROGRAM.

21 (d) THE BROADBAND OFFICE, IN CONSULTATION WITH THE
22 NONPROFIT ORGANIZATION WITH WHICH IT CONTRACTS TO IMPLEMENT THE
23 PROGRAM, MAY EXPLORE ALTERNATIVE MECHANISMS FOR PAYMENT
24 ASSISTANCE FOR INCOME-ELIGIBLE HOUSEHOLDS IF THE BROADBAND
25 OFFICE DETERMINES THAT A REIMBURSEMENT PROGRAM IS NOT
26 COST-EFFECTIVE. IF THE BROADBAND OFFICE ADOPTS AN ALTERNATIVE
27 MECHANISM FOR PROVIDING PAYMENT ASSISTANCE UNDER THIS

1 SUBSECTION (1.5)(d), THE BROADBAND OFFICE SHALL INCLUDE A
2 DESCRIPTION OF THE MECHANISM CHOSEN AS PART OF ITS REPORTING
3 REQUIREMENTS UNDER SUBSECTION (1.5)(g) OF THIS SECTION.

4 (e) IF THE BROADBAND OFFICE DOES NOT FIND A NONPROFIT
5 ORGANIZATION WITH WHICH TO CONTRACT TO IMPLEMENT THE PROGRAM,
6 THE PROGRAM SHALL NOT BE IMPLEMENTED AND THE BROADBAND OFFICE
7 SHALL USE THE MONEY ALLOCATED FOR IMPLEMENTATION OF THE
8 PROGRAM TO AWARD ADDITIONAL GRANTS FOR TELEHEALTH SERVICES
9 UNDER SUBSECTION (1)(b)(II) OF THIS SECTION.

10 (f) (I) THE BROADBAND OFFICE AND THE NONPROFIT WITH WHICH
11 IT CONTRACTS MAY USE UP TO FIVE MILLION DOLLARS OF THE MONEY
12 TRANSFERRED PURSUANT TO SUBSECTION (1)(e) OF THIS SECTION TO THE
13 DIGITAL INCLUSION GRANT PROGRAM FUND FROM THE ECONOMIC
14 RECOVERY AND RELIEF CASH FUND CREATED IN SECTION 24-75-228 (2)(a)
15 TO IMPLEMENT THE PROGRAM, INCLUDING THE MONEY REQUIRED TO
16 COVER THE BROADBAND OFFICE'S AND THE NONPROFIT ORGANIZATION'S
17 ADMINISTRATIVE COSTS INCURRED IN IMPLEMENTING THE PROGRAM. THE
18 BROADBAND OFFICE AND THE NONPROFIT ORGANIZATION MAY USE UP TO
19 FIVE HUNDRED THOUSAND DOLLARS PER YEAR TO COVER THEIR DIRECT
20 AND INDIRECT COSTS IN ADMINISTERING THE PROGRAM.

21 (II) ALL MONEY USED FOR IMPLEMENTATION OF THE PROGRAM
22 MUST BE OBLIGATED BY DECEMBER 31, 2024.

23 (g) ON OR BEFORE FEBRUARY 1, 2022, AND ON OR BEFORE
24 FEBRUARY 1 EACH YEAR THEREAFTER, THE BROADBAND OFFICE SHALL
25 SUBMIT A WRITTEN REPORT TO THE GOVERNOR AND THE GENERAL
26 ASSEMBLY'S JOINT BUDGET COMMITTEE AND JOINT TECHNOLOGY
27 COMMITTEE REGARDING THE BROADBAND OFFICE'S IMPLEMENTATION OF

1 THE PROGRAM. REPORTS SUBMITTED PURSUANT TO THIS SUBSECTION
2 (1.5)(g) MUST INCLUDE:

3 (I) THE NUMBER OF HOUSEHOLDS RECEIVING ASSISTANCE UNDER
4 THE PROGRAM IN THE PREVIOUS CALENDAR YEAR; AND

5 (II) RECOMMENDATIONS ON HOW TO MAKE THE PROGRAM MORE
6 SUCCESSFUL, INCLUDING ANY LEGISLATIVE CHANGES NEEDED TO IMPROVE
7 THE SUCCESS OF THE PROGRAM.

8 (h) THIS SUBSECTION (1.5) IS REPEALED, EFFECTIVE SEPTEMBER 1,
9 2026.

10 **SECTION 3. Effective date.** This act takes effect only if House
11 Bill 21-1289 and Senate Bill 21-291 become law, and, in which case, this
12 act takes effect one day after the passage of House Bill 21-1289 or one
13 day after the passage of SB21-291, whichever occurs latest.

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