

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

REENGROSSED

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

LLS NO. 21-0412.01 Jennifer Berman x3286

HOUSE BILL 21-1109

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A BILL FOR AN ACT

101 **CONCERNING THE BROADBAND DEPLOYMENT BOARD, AND, IN**
102 **CONNECTION THEREWITH, MODIFYING THE COMPOSITION OF**
103 **THE BOARD, REQUIRING THE BOARD TO DEVELOP A REQUEST**
104 **FOR PROPOSAL PROCESS FOR DEPLOYING BROADBAND INTO**
105 **CRITICALLY UNSERVED AREAS IN THE STATE, AND REQUIRING**
106 **THE BOARD TO GIVE ADDITIONAL CONSIDERATION TO PROPOSED**
107 **PROJECTS THAT WOULD INCLUDE DISCOUNTED SERVICE FOR**
108 **LOW-INCOME HOUSEHOLDS.**

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

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.*

HOUSE
3rd Reading Unamended
March 22, 2021

HOUSE
Amended 2nd Reading
March 19, 2021

<http://leg.colorado.gov>.)

Sections 1 and 3 of the bill exempt certain mapping data submitted to the office of information technology (office) from public disclosure under the "Colorado Open Records Act".

Section 2 adds a definition of "critically unserved", which means a household or area that lies outside municipal boundaries and 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, and a definition of "office of information technology".

Section 3 reduces the membership of the broadband deployment board (board) in the department of regulatory agencies from 16 members to 11 members.

The board is 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 has determined lack access to broadband service at measurable speeds of at least 10 megabits per second downstream and one megabit per second upstream. The board is required to reserve at least 75% 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 3 also directs the board to:

- Require an applicant or appellant to submit a speed test performed on an incumbent provider's network and conducted in accordance with industry-standard speed-test protocols;
- Give additional consideration to proposed projects that would give discounted service for low-income households;
- Contractually require an applicant receiving a grant award to:
 - Report annually on the number of homes and businesses served by the grant-supported broadband network, the number of homes and businesses expected to be served in the following year, and the speeds, rates, and services offered to customers through the grant-supported broadband network; and
 - Provide third-party certification, after the grant money has been fully expended, that the project meets the original design of, and provides the measurable speeds, rates, and services set forth in, the application.
- Require an applicant or appellant to submit to the office, in a form and manner determined by the office, certain

granular mapping data.

Section 4 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, 24-72-202, **add**
3 (6)(b)(XV) as follows:

4 **24-72-202. Definitions.** As used in this part 2, unless the context
5 otherwise requires:

6 (6)(b) "Public records" does not include:

7 (XV) GRANULAR COVERAGE DATA, AS DEFINED IN AND SUBMITTED
8 TO THE OFFICE OF INFORMATION TECHNOLOGY PURSUANT TO SECTION
9 40-15-509.5 (8)(I).

10 **SECTION 2.** In Colorado Revised Statutes, 40-15-102, **amend**
11 (17.5); and **add** (5.7) and (19.7) as follows:

12 **40-15-102. Definitions.** As used in this article 15, unless the
13 context otherwise requires:

14 (5.7) "CRITICALLY UNSERVED", WHEN USED TO DESCRIBE A
15 HOUSEHOLD OR AREA, MEANS A HOUSEHOLD OR AREA THAT LACKS ACCESS
16 TO AT LEAST ONE NONSATELLITE PROVIDER OF BROADBAND SERVICE
17 DELIVERED AT MEASURABLE SPEEDS OF EITHER AT LEAST TEN MEGABITS
18 PER SECOND DOWNSTREAM AND ONE MEGABIT PER SECOND UPSTREAM OR
19 AT MEASURABLE SPEEDS AT LEAST EQUAL TO ONE-HALF OF THE MINIMUM
20 MEASURABLE SPEEDS THAT QUALIFY AS BROADBAND UNDER THE FCC
21 DEFINITION AND ROUNDED UP TO THE NEAREST WHOLE NUMBER,
22 WHICHEVER IS FASTER.

23 (17.5) (a) "Local entity" means elected members of a county or
24 municipal government OR THE ELECTED MEMBERS OF A METROPOLITAN

1 DISTRICT THAT LIES WHOLLY WITHIN THE UNINCORPORATED PART OF A
2 COUNTY.

3 (b) For purposes of this subsection (17.5):

4 (I) "METROPOLITAN DISTRICT" HAS THE MEANING SET FORTH IN
5 SECTION 32-1-103 (10); AND

6 (II) "Municipal government" means a home rule or statutory city,
7 town, or city and county or a territorial charter city.

8 (19.7) "OFFICE OF INFORMATION TECHNOLOGY" OR "OFFICE"
9 MEANS THE OFFICE OF INFORMATION TECHNOLOGY CREATED IN SECTION
10 24-37.5-103.

11 **SECTION 3.** In Colorado Revised Statutes, 40-15-509.5, **amend**
12 (5)(b), (8)(a)(II)(B), (8)(d)(II), (8)(e)(IV), (8)(e)(V), (8)(k)(III), and
13 (10.5); **repeal** (10.6); and **add** (5)(c.5), (5)(f)(II)(C), (5)(f)(III), (5)(h),
14 (8)(a)(V), (8)(a)(VI), (8)(a)(VII), (8)(e)(VI), (8)(k)(V), (8)(k)(VI), and
15 (8)(l) as follows:

16 **40-15-509.5. Broadband service - report - broadband**
17 **deployment board - broadband administrative fund - creation -**
18 **definitions - repeal.** (5) (b) (I) (A) The board consists of sixteen
19 members, fifteen of whom are voting members. The members of the
20 board shall be selected on the basis of their knowledge of and interest in
21 broadband service and shall serve for four-year terms. A member of the
22 board shall not serve more than two consecutive full four-year terms.

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

25 (II) (A) COMMENCING ON SEPTEMBER 1, 2021, THE BOARD
26 CONSISTS OF ELEVEN VOTING MEMBERS. THE MEMBERS OF THE BOARD
27 SHALL BE SELECTED ON THE BASIS OF THEIR KNOWLEDGE OF AND INTEREST

1 IN BROADBAND SERVICE AND SHALL SERVE FOR FOUR-YEAR TERMS. A
2 MEMBER OF THE BOARD SHALL NOT SERVE MORE THAN TWO CONSECUTIVE
3 FULL FOUR-YEAR TERMS; EXCEPT THAT THE LIMIT ON TERMS OF OFFICE
4 DOES NOT APPLY TO THE BOARD MEMBER REPRESENTING THE OFFICE OF
5 INFORMATION TECHNOLOGY.

6 (B) AN APPOINTING AUTHORITY MAY APPOINT A BOARD MEMBER
7 SEATED ON THE BOARD ON AUGUST 31, 2021, TO CONTINUE SERVING THE
8 BOARD ON AND AFTER SEPTEMBER 1, 2021, FOR THE REMAINDER OF THE
9 BOARD MEMBER'S EXISTING TERM AS OF AUGUST 31, 2021, IF THE BOARD
10 MEMBER MEETS THE BOARD MEMBERSHIP CRITERIA SET FORTH IN
11 SUBSECTION (5)(c.5) OF THIS SECTION AND THE BOARD MEMBER'S
12 CONTINUED MEMBERSHIP ON THE BOARD DOES NOT ENLARGE THE
13 MEMBERSHIP OF THE BOARD AUTHORIZED UNDER SUBSECTION
14 (5)(b)(II)(A) OF THIS SECTION. IF OTHERWISE ELIGIBLE FOR
15 REAPPOINTMENT, THE BOARD MEMBER MAY BE APPOINTED FOR AN
16 ADDITIONAL TERM AFTER SEPTEMBER 1, 2021. THIS SUBSECTION
17 (5)(b)(II)(B) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.

18 (c.5) COMMENCING ON SEPTEMBER 1, 2021, NO MORE THAN FIVE
19 VOTING MEMBERS OF ANY ONE MAJOR POLITICAL PARTY MAY SERVE ON
20 THE BOARD AT THE SAME TIME. MEMBERS OF THE BOARD ARE ENTITLED
21 TO SEVENTY-FIVE DOLLARS PER DIEM FOR ATTENDANCE AT OFFICIAL
22 MEETINGS PLUS ACTUAL AND NECESSARY EXPENSES INCURRED IN THE
23 CONDUCT OF OFFICIAL BUSINESS. MEMBERS OF THE BOARD SHALL BE
24 APPOINTED AS FOLLOWS:

25 (I) ONE VOTING MEMBER FROM THE OFFICE OF INFORMATION
26 TECHNOLOGY APPOINTED BY THE GOVERNOR;

27 (II) THREE VOTING MEMBERS REPRESENTING LOCAL ENTITIES:

1 (A) ONE OF WHOM IS A COUNTY COMMISSIONER FROM THE
2 EASTERN PLAINS OF THE STATE, APPOINTED BY THE PRESIDENT OF THE
3 SENATE;

4 (B) ONE OF WHOM IS A COUNTY COMMISSIONER FROM THE
5 WESTERN SLOPE OF THE STATE, APPOINTED BY THE SPEAKER OF THE HOUSE
6 OF REPRESENTATIVES; AND

7 (C) ONE OF WHOM REPRESENTS A RURAL CITY OR TOWN AS A
8 MAYOR OR CITY COUNCILPERSON, AS APPOINTED BY THE GOVERNOR. AS
9 USED IN THIS SUBSECTION (5)(c.5)(II)(C), "RURAL" HAS THE MEANING SET
10 FORTH IN SECTION 24-32-3603 (3)(a).

11 (III) FIVE VOTING MEMBERS REPRESENTING THE BROADBAND
12 INDUSTRY:

13 (A) ONE OF WHOM REPRESENTS A WIRELESS PROVIDER, APPOINTED
14 BY THE PRESIDENT OF THE SENATE;

15 (B) ONE OF WHOM REPRESENTS A WIRELINE PROVIDER, APPOINTED
16 BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

17 (C) ONE OF WHOM REPRESENTS A BROADBAND SATELLITE
18 PROVIDER, APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF
19 REPRESENTATIVES;

20 (D) ONE OF WHOM REPRESENTS A CABLE PROVIDER, APPOINTED BY
21 THE MINORITY LEADER OF THE SENATE; AND

22 (E) ONE OF WHOM REPRESENTS A RURAL WIRELINE PROVIDER,
23 APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND

24 (IV) TWO VOTING MEMBERS OF THE PUBLIC:

25 (A) ONE OF WHOM RESIDES IN AN UNSERVED AREA OF THE
26 WESTERN SLOPE OF THE STATE, APPOINTED BY THE GOVERNOR; AND

27 (B) ONE OF WHOM RESIDES IN AN UNSERVED AREA OF THE

1 EASTERN PLAINS OF THE STATE, APPOINTED BY THE MINORITY LEADER OF
2 THE HOUSE OF REPRESENTATIVES.

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

5 (III) (A) COMMENCING ON SEPTEMBER 1, 2021, A BOARD MEMBER
6 APPOINTED PURSUANT TO SUBSECTION (5)(c.5)(I), (5)(c.5)(II), OR
7 (5)(c.5)(IV) OF THIS SECTION IS NOT DEEMED TO HAVE A CONFLICT OF
8 INTEREST MERELY BY VIRTUE OF RESIDING IN OR REPRESENTING AN
9 UNSERVED AREA, A CRITICALLY UNSERVED AREA, OR AN AREA THAT IS THE
10 SUBJECT OF AN APPLICATION BEFORE THE BOARD.

11 (B) COMMENCING ON SEPTEMBER 1, 2021, A BOARD MEMBER
12 APPOINTED PURSUANT TO SUBSECTION (5)(c.5)(III) OF THIS SECTION IS
13 DEEMED TO HAVE A CONFLICT OF INTEREST WITH RESPECT TO AN
14 APPLICATION FILED BY AN ENTITY THAT THE BOARD MEMBER REPRESENTS;
15 HOWEVER, IF SUCH APPLICATION IS FILED, THE BOARD MEMBER MAY STILL
16 PARTICIPATE IN DISCUSSIONS ABOUT OTHER APPLICATIONS BEFORE THE
17 BOARD BUT SHALL NOT VOTE ON THOSE OTHER APPLICATIONS.

18 (h) COMMENCING ON SEPTEMBER 1, 2021, ~~SIX~~ MEMBERS OF THE
19 BOARD CONSTITUTE A QUORUM OF THE BOARD.

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

25 (a) (II) To prove that the area to be served is an unserved area, the
26 applicant:

27 (B) May submit to the board EITHER the written certification of a

1 local entity as described in subsection (8)(a)(III) of this section OR A
2 STATISTICALLY REPRESENTATIVE NUMBER OF SPEED TESTS PERFORMED IN
3 ACCORDANCE WITH SUBSECTION (8)(a)(VII) OF THIS SECTION.

4 (V) (A) THE BOARD SHALL DEVELOP A REQUEST FOR PROPOSAL
5 PROCESS UNDER WHICH, FOR EACH CALENDAR YEAR, THE BOARD RESERVES
6 UP TO SIXTY PERCENT OF THE HCSM MONEY ALLOCATED FOR BROADBAND
7 DEPLOYMENT TO AWARD GRANTS TO PROPOSED PROJECTS THAT SERVE
8 CRITICALLY UNSERVED AREAS IDENTIFIED BY THE OFFICE OF INFORMATION
9 TECHNOLOGY, INCLUDING ANY CRITICALLY UNSERVED AREAS WITHIN THE
10 BOUNDARIES OF AN INDIAN RESERVATION LOCATED WITHIN THE STATE.

11 (B) AT THE END OF EACH CALENDAR YEAR, ANY OF THE RESERVED
12 MONEY NOT AWARDED THROUGH THE REQUEST FOR PROPOSAL PROCESS
13 REMAINS AVAILABLE FOR DISTRIBUTION THROUGH THE EXISTING GRANT
14 APPLICATION PROCESS.

15 (C) ALL APPLICATION AND APPEAL PROCESSES AND CRITERIA SET
16 FORTH IN THIS SUBSECTION (8) APPLY TO THE REQUEST FOR PROPOSAL
17 PROCESS; EXCEPT THAT THE REQUIREMENT TO PROVE THAT AN AREA TO BE
18 SERVED BY A PROPOSED PROJECT IS AN UNSERVED AREA AS SET FORTH IN
19 SUBSECTION (8)(a)(I) OF THIS SECTION DOES NOT APPLY AND SUBSECTIONS
20 (8)(a)(II), (8)(a)(III), (8)(b), AND (8)(c.5) OF THIS SECTION DO NOT APPLY.
21 SUBSECTION (8)(d)(II) OF THIS SECTION ONLY APPLIES TO THE REQUEST
22 FOR PROPOSAL PROCESS IN THE LIMITED MANNER INDICATED IN THAT
23 SUBSECTION.

24 (D) THE BOARD, IN IMPLEMENTING THE REQUEST FOR PROPOSAL
25 PROCESS, NEED NOT COMPLY WITH THE "PROCUREMENT CODE", ARTICLES
26 101 TO 112 OF TITLE 24.

27 (E) THIS SUBSECTION (8)(a)(V) IS REPEALED, EFFECTIVE JANUARY

1 1, 2025.

2 (VI) (A) ON OR BEFORE NOVEMBER 1, 2021, THE OFFICE OF
3 INFORMATION TECHNOLOGY SHALL DEVELOP AND SUBMIT TO THE BOARD
4 ONE OR MORE MAPS IDENTIFYING THE CRITICALLY UNSERVED AREAS IN
5 THE STATE. THE BOARD SHALL UTILIZE THE MAPS SUBMITTED WHEN
6 REVIEWING ANY APPLICATION OR APPEAL PURSUANT TO THIS SECTION.

7 (B) WITH REGARD TO THE REQUEST FOR PROPOSAL PROCESS SET
8 FORTH IN SUBSECTION (8)(a)(V) OF THIS SECTION, BASED ON THE MAPS
9 SUBMITTED, THE BOARD SHALL CHOOSE CRITICALLY UNSERVED AREAS FOR
10 WHICH THE BOARD SHALL SOLICIT PROPOSED PROJECT BIDS TO SERVE
11 THOSE AREAS. IN CHOOSING THE CRITICALLY UNSERVED AREAS FOR WHICH
12 THE BOARD WILL SOLICIT PROPOSED PROJECT BIDS, THE BOARD SHALL
13 STRIVE TO ENSURE GEOGRAPHIC DIVERSITY AMONG THE AREAS CHOSEN.

14
15 (VII) IF AN APPLICANT FILING AN APPLICATION OR AN APPELLANT
16 FILING AN APPEAL PURSUANT TO SUBSECTION (8)(j)(III) OF THIS SECTION
17 SUBMITS, AS PART OF THE APPLICATION OR APPEAL, A SPEED TEST
18 PERFORMED ON AN INCUMBENT PROVIDER'S NETWORK, THE SPEED TEST
19 SHALL BE PERFORMED IN ACCORDANCE WITH INDUSTRY-STANDARD
20 SPEED-TEST PROTOCOLS AS IDENTIFIED BY THE FCC.

21 (d) Ensuring that a proposed project includes:

22 (II) Independent funding secured for at least twenty-five percent
23 of the total cost of the proposed project; EXCEPT THAT THE BOARD MAY
24 AUTHORIZE A PROPOSED PROJECT AWARDED GRANT MONEY PURSUANT TO
25 SUBSECTION (8)(a)(V) OF THIS SECTION TO SECURE A LESSER AMOUNT OF
26 INDEPENDENT FUNDING IF THE PROPOSED PROJECT MEETS THE CRITERIA
27 SET FORTH IN THIS SUBSECTION (8) AND THE AMOUNT OF INDEPENDENT

1 FUNDING SECURED IS THE HIGHEST AMOUNT OF INDEPENDENT FUNDING
2 PROPOSED AMONG MULTIPLE PROPOSALS TO SERVE THE AREA TO BE
3 SERVED BY THE PROPOSED PROJECT; and

4 (e) Providing additional consideration for proposed projects that
5 include at least some of the following factors:

6 (IV) Proposed projects for which the applicant has an established
7 record of operation in the area of the grant application; and

8 (V) Proposed projects providing last-mile broadband service,
9 which is defined as the portion of broadband service that delivers an
10 internet connection to an end user that lacks access to broadband service
11 at measurable speeds greater than fifty-six kilobits per second; AND

12 (VI) PROPOSED PROJECTS THAT PROVIDE DISCOUNTED BROADBAND
13 SERVICE TO LOW-INCOME HOUSEHOLDS.

14 (k) Establishing reporting and accountability requirements for a
15 project receiving financial support from the fund, including contractual
16 requirements that:

17 (III) The applicant demonstrate an ability to complete the
18 proposed project within a reasonable time, not to exceed two years, unless
19 delayed by a government entity; and

20 (V) THE APPLICANT, ON AN ANNUAL BASIS UNTIL THE GRANT
21 MONEY HAS BEEN FULLY EXPENDED, REPORT TO THE BOARD ON THE
22 FOLLOWING:

23 (A) THE NUMBER OF HOMES AND BUSINESSES THAT THE
24 APPLICANT'S GRANT-SUPPORTED BROADBAND NETWORK SERVES;

25 (B) THE NUMBER OF ADDITIONAL HOMES AND BUSINESSES THAT
26 THE APPLICANT EXPECTS TO SERVE THROUGH THE GRANT-SUPPORTED
27 BROADBAND NETWORK WITHIN THE FOLLOWING YEAR; AND

1 (C) THE SPEED TIERS, ADVERTISED RATES, AND SERVICES THAT
2 THE APPLICANT OFFERS TO CUSTOMERS THROUGH THE GRANT-SUPPORTED
3 BROADBAND NETWORK, INCLUDING SPEED TIERS, RATES, AND OTHER
4 SERVICES THAT THE APPLICANT OFFERS TO LOW-INCOME HOUSEHOLDS;
5 AND

6 (VI) THE APPLICANT, AFTER THE GRANT MONEY HAS BEEN FULLY
7 EXPENDED, PROVIDE THIRD-PARTY PERFORMANCE-TESTING
8 CERTIFICATION, BASED ON FCC-APPROVED PERFORMANCE-TESTING
9 PROTOCOLS, THAT THE PROJECT MEETS THE ORIGINAL DESIGN OF, AND
10 PROVIDES THE MEASURABLE SPEEDS, RATES, AND SERVICES SET FORTH IN,
11 THE APPLICATION.

12 (I) (I) COMMENCING IN THE GRANT FUNDING CYCLE THAT BEGINS
13 IMMEDIATELY AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (8)(I),
14 REQUIRING AN APPLICANT, OR AN APPELLANT FILING AN APPEAL PURSUANT
15 TO SUBSECTION (8)(j)(III) OF THIS SECTION, TO SUBMIT, IN THE FORM AND
16 MANNER DETERMINED BY THE OFFICE OF INFORMATION TECHNOLOGY OR,
17 IF THE FCC ADOPTS REGULATIONS REQUIRING THE SUBMISSION OF
18 GRANULAR COVERAGE DATA, IN THE FORM AND MANNER REQUIRED BY THE
19 FCC, GRANULAR COVERAGE DATA TO THE OFFICE OF INFORMATION
20 TECHNOLOGY. IF THE FCC ADOPTS SUCH REGULATIONS, THE OFFICE SHALL
21 NOT IMPOSE ANY GRANULAR COVERAGE DATA SUBMISSION REQUIREMENTS
22 THAT ARE MORE ONEROUS THAN THE REQUIREMENTS SET FORTH IN THE
23 FCC'S REGULATIONS. UPON REQUEST OF THE BOARD, THE OFFICE SHALL
24 INFORM THE BOARD IF AN APPLICANT HAS SUBMITTED THE GRANULAR
25 COVERAGE DATA IN ACCORDANCE WITH THIS SUBSECTION (8)(I).

26 (II) GRANULAR COVERAGE DATA SUBMITTED PURSUANT TO THIS
27 SUBSECTION (8)(I) IS NOT A PUBLIC RECORD AS DEFINED IN, AND IS NOT

1 SUBJECT TO PUBLIC DISCLOSURE UNDER, THE "COLORADO OPEN RECORDS
2 ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

3 (III) AS USED IN THIS SUBSECTION (8)(I), "GRANULAR COVERAGE
4 DATA" MEANS MAPPING DATA PRESENTED IN THE FORM OF A COVERAGE
5 POLYGON OR LOCATION COORDINATES THAT REFLECTS:

6 (A) THE MAXIMUM DOWNLOAD AND UPLOAD SPEEDS AVAILABLE
7 IN EACH AREA;

8 (B) THE TECHNOLOGY USED TO PROVIDE THE SERVICE; AND

9 (C) A DIFFERENTIATION AMONG RESIDENTIAL-ONLY,
10 BUSINESS-ONLY, AND RESIDENTIAL-AND-BUSINESS BROADBAND SERVICES.

11 (10.5)(a) The board may apply for OR OTHERWISE RECEIVE federal
12 funding of broadband deployment projects and programs. IF THE BOARD
13 RECEIVES ANY FEDERAL FUNDING, THE BOARD SHALL UTILIZE THE
14 REQUEST FOR PROPOSAL PROCESS ESTABLISHED UNDER SUBSECTION
15 (8)(a)(V) OF THIS SECTION TO DISTRIBUTE THE FEDERAL FUNDS AS SOON
16 AS PRACTICABLE, SO LONG AS SUCH PROCESS COMPLIES WITH FEDERAL
17 REQUIREMENTS FOR USE OF THE FUNDS.

18 (b) The HCSM third-party contractor shall maintain any federal
19 money awarded for broadband deployment in a separate account of the
20 HCSM that is dedicated to allocating federal broadband deployment
21 money. The commission is authorized to disburse any money from the
22 account as directed by the board.

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

1 ~~(H) After submitting the petition to the FCC, the board may:~~

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

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

6 ~~(HH) If the FCC grants the board's petition and awards the board~~
7 ~~auction money:~~

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

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

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

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

24 ~~(I) "Auction rules" refers to the FCC's rules in 47 CFR 54.309 to~~
25 ~~54.316, which rules concern the implementation of the connect America~~
26 ~~fund phase II auction.~~

27 ~~(H) "Connect America fund phase II auction" or "auction" refers~~

1 to a ten-year auction of federal money through which the FCC will
2 allocate money, by means of a competitive bidding process, to
3 telecommunications providers who commit to providing voice and
4 broadband service in high-cost areas of the nation in accordance with the
5 FCC's auction rules.

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

13 (10.6) (a) (I) Following the model of New York's petition for
14 expedited waiver, the board, on or before January 1, 2019, shall petition
15 the FCC for a waiver from the FCC's rules concerning the remote areas
16 fund to seek FCC authorization for the board to itself allocate remote
17 areas fund money for broadband deployment projects in Colorado.

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

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

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

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

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

27 (I) The HCSM third-party contractor shall maintain any federal

1 money awarded through the remote areas fund in a separate account of
2 the HCSM that is dedicated to allocating the federal money in compliance
3 with any conditions established by the FCC in granting the petition;

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

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

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

20 (I) ~~"Auction rules" refers to the FCC's rules in 47 CFR 54.309 to~~
21 ~~54.316, which rules concern the implementation of the connect America~~
22 ~~fund phase II auction.~~

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

27 (HH) ~~"Connect America phase II auction" refers to a ten-year~~

1 ~~auction of federal money through which the FCC will allocate money~~
2 ~~through a competitive bidding process to telecommunications providers~~
3 ~~who commit to providing voice and broadband service in high-cost areas~~
4 ~~of the nation in accordance with the FCC's auction rules.~~

5 ~~(IV) "New York's petition for expedited waiver" refers to a~~
6 ~~petition that the state of New York filed with the FCC seeking a waiver~~
7 ~~from the FCC's auction rules, which waiver the FCC granted on January~~
8 ~~26, 2017.~~

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

12 **SECTION 4.** In Colorado Revised Statutes, 40-15-509.5, **repeal**
13 **(5)(c)** as follows:

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

22 ~~(I) At least one member from the commission; one member from~~
23 ~~the Colorado office of economic development and international trade in~~
24 ~~the office of the governor; one member from the department of local~~
25 ~~affairs, created in section 24-1-125, C.R.S.; and one member from the~~
26 ~~office of information technology, created in section 24-37.5-103, C.R.S.;~~
27 ~~as appointed by the governor. The governor shall select three of these~~

1 four appointees to serve as voting members of the board.

2 (H) ~~Three voting members representing local entities:~~

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

5 (B) ~~One of whom is a mayor or city councilperson, as appointed~~
6 ~~by the speaker of the house of representatives in consultation with the~~
7 ~~Colorado municipal league; and~~

8 (C) ~~One of whom is any other representative of a local entity and~~
9 ~~who has a background in broadband service and expertise in rural~~
10 ~~economic development, education, or telemedicine, as appointed by the~~
11 ~~minority leader of the senate;~~

12 (HH) ~~Seven voting members representing the broadband industry:~~

13 (A) ~~One of whom represents a wireless provider, as appointed by~~
14 ~~the minority leader of the house of representatives;~~

15 (B) ~~One of whom represents a wireline provider, as appointed by~~
16 ~~the minority leader of the senate;~~

17 (C) ~~One of whom represents a broadband satellite provider, as~~
18 ~~appointed by the governor;~~

19 (D) ~~One of whom represents a cable provider, as appointed by the~~
20 ~~president of the senate;~~

21 (E) ~~One of whom represents a rural local exchange carrier, as~~
22 ~~appointed by the governor;~~

23 (F) ~~One of whom represents a competitive local exchange carrier,~~
24 ~~as appointed by the speaker of the house of representatives; and~~

25 (G) ~~One of whom represents a cable provider serving rural areas,~~
26 ~~as appointed by the president of the senate; and~~

27 (IV) ~~Two voting members of the public:~~

1 ~~(A) One of whom resides in an unserved area of the western slope~~
2 ~~of the state, as appointed by the speaker of the house of representatives;~~
3 ~~and~~

4 ~~(B) One of whom resides in an unserved area of the eastern slope~~
5 ~~of the state, as appointed by the minority leader of the house of~~
6 ~~representatives.~~

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

8 **SECTION 5. Effective date - applicability.** This act takes effect
9 upon passage and applies to applications filed on or after the effective
10 date of this act; except that section 4 of this act takes effect August 31,
11 2021.

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