

**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. 21-0412.01 Jennifer Berman x3286

**HOUSE BILL 21-1109**

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**HOUSE SPONSORSHIP**

**Titone and Soper,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**

Transportation & Local Government  
Finance

**Senate Committees**

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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.**

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**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.

<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.

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

**SECTION 1.** In Colorado Revised Statutes, 24-72-202, **add** (6)(b)(XV) as follows:

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

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

(XV) GRANULAR COVERAGE DATA, AS DEFINED IN AND SUBMITTED TO THE OFFICE OF INFORMATION TECHNOLOGY PURSUANT TO SECTION 40-15-509.5 (8)(1).

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

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

(5.7) "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 EITHER AT LEAST TEN MEGABITS PER SECOND DOWNSTREAM AND ONE MEGABIT PER SECOND UPSTREAM OR AT MEASURABLE SPEEDS AT LEAST EQUAL TO ONE-HALF OF THE MINIMUM MEASURABLE SPEEDS THAT QUALIFY AS BROADBAND UNDER THE FCC DEFINITION AND ROUNDED UP TO THE NEAREST WHOLE NUMBER, WHICHEVER IS FASTER.

(17.5) (a) "Local entity" means elected members of a county or 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 IS A MAYOR OR CITY COUNCILPERSON,  
8 APPOINTED BY THE GOVERNOR;

9 (III) FIVE VOTING MEMBERS REPRESENTING THE BROADBAND  
10 INDUSTRY:

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

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

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

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

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

22 (IV) TWO VOTING MEMBERS OF THE PUBLIC:

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

25 (B) ONE OF WHOM RESIDES IN AN UNSERVED AREA OF THE  
26 EASTERN PLAINS OF THE STATE, APPOINTED BY THE MINORITY LEADER OF  
27 THE HOUSE OF REPRESENTATIVES.

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

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

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

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

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

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

25 (B) May submit to the board EITHER the written certification of a  
26 local entity as described in subsection (8)(a)(III) of this section OR A  
27 SPEED TEST PERFORMED IN ACCORDANCE WITH SUBSECTION (8)(a)(VII) OF

1 THIS SECTION.

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

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

18 (C) THE BOARD, IN IMPLEMENTING THE REQUEST FOR PROPOSAL  
19 PROCESS, NEED NOT COMPLY WITH THE "PROCUREMENT CODE", ARTICLES  
20 101 TO 112 OF TITLE 24.

21 (D) THIS SUBSECTION (8)(a)(V) IS REPEALED, EFFECTIVE JANUARY  
22 1, 2025.

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



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

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

15 (d) Ensuring that a proposed project includes:

16 (II) Independent funding secured for at least twenty-five percent  
17 of the total cost of the proposed project; EXCEPT THAT THE BOARD MAY  
18 AUTHORIZE A PROPOSED PROJECT AWARDED GRANT MONEY PURSUANT TO  
19 SUBSECTION (8)(a)(V) OF THIS SECTION TO SECURE A LESSER AMOUNT OF  
20 INDEPENDENT FUNDING IF THE PROPOSED PROJECT MEETS THE CRITERIA  
21 SET FORTH IN THIS SUBSECTION (8) AND THE AMOUNT OF INDEPENDENT  
22 FUNDING SECURED IS THE HIGHEST AMOUNT OF INDEPENDENT FUNDING  
23 PROPOSED AMONG MULTIPLE PROPOSALS TO SERVE THE AREA TO BE  
24 SERVED BY THE PROPOSED PROJECT; and

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

27 (IV) Proposed projects for which the applicant has an established

1 record of operation in the area of the grant application; ~~and~~

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

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

8 (k) Establishing reporting and accountability requirements for a  
9 project receiving financial support from the fund, including contractual  
10 requirements that:

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

14 (V) THE APPLICANT, ON AN ANNUAL BASIS UNTIL THE GRANT  
15 MONEY HAS BEEN FULLY EXPENDED, REPORT TO THE BOARD ON THE  
16 FOLLOWING:

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

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

22 (C) THE SPEED TIERS, ADVERTISED RATES, AND SERVICES THAT  
23 THE APPLICANT OFFERS TO CUSTOMERS THROUGH THE GRANT-SUPPORTED  
24 BROADBAND NETWORK, INCLUDING SPEED TIERS, RATES, AND OTHER  
25 SERVICES THAT THE APPLICANT OFFERS TO LOW-INCOME HOUSEHOLDS;  
26 AND

27 (VI) THE APPLICANT, AFTER THE GRANT MONEY HAS BEEN FULLY

1 EXPENDED, PROVIDE THIRD-PARTY PERFORMANCE-TESTING  
2 CERTIFICATION, BASED ON FCC-APPROVED PERFORMANCE-TESTING  
3 PROTOCOLS, THAT THE PROJECT MEETS THE ORIGINAL DESIGN OF, AND  
4 PROVIDES THE MEASURABLE SPEEDS, RATES, AND SERVICES SET FORTH IN,  
5 THE APPLICATION.

6 (I) (I) COMMENCING IN THE GRANT FUNDING CYCLE THAT BEGINS  
7 IMMEDIATELY AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (8)(I),  
8 REQUIRING AN APPLICANT, OR AN APPELLANT FILING AN APPEAL PURSUANT  
9 TO SUBSECTION (8)(j)(III) OF THIS SECTION, TO SUBMIT, IN THE FORM AND  
10 MANNER DETERMINED BY THE OFFICE OF INFORMATION TECHNOLOGY OR,  
11 IF THE FCC ADOPTS REGULATIONS REQUIRING THE SUBMISSION OF  
12 GRANULAR COVERAGE DATA, IN THE FORM AND MANNER REQUIRED BY THE  
13 FCC, GRANULAR COVERAGE DATA TO THE OFFICE OF INFORMATION  
14 TECHNOLOGY. UPON REQUEST OF THE BOARD, THE OFFICE SHALL INFORM  
15 THE BOARD IF AN APPLICANT HAS SUBMITTED THE GRANULAR COVERAGE  
16 DATA IN ACCORDANCE WITH THIS SUBSECTION (8)(I).

17 (II) GRANULAR COVERAGE DATA SUBMITTED PURSUANT TO THIS  
18 SUBSECTION (8)(I) IS NOT A PUBLIC RECORD AS DEFINED IN, AND IS NOT  
19 SUBJECT TO PUBLIC DISCLOSURE UNDER, THE "COLORADO OPEN RECORDS  
20 ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

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

24 (A) THE MAXIMUM DOWNLOAD AND UPLOAD SPEEDS AVAILABLE  
25 IN EACH AREA;

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

27 (C) A DIFFERENTIATION AMONG RESIDENTIAL-ONLY,

1 BUSINESS-ONLY, AND RESIDENTIAL-AND-BUSINESS BROADBAND SERVICES.

2 (10.5) (a) The board may apply for OR OTHERWISE RECEIVE federal  
3 funding of broadband deployment projects and programs. IF THE BOARD  
4 RECEIVES ANY FEDERAL FUNDING, THE BOARD SHALL UTILIZE THE  
5 REQUEST FOR PROPOSAL PROCESS ESTABLISHED UNDER SUBSECTION  
6 (8)(a)(V) OF THIS SECTION TO DISTRIBUTE THE FEDERAL FUNDS AS SOON  
7 AS PRACTICABLE, SO LONG AS SUCH PROCESS COMPLIES WITH FEDERAL  
8 REQUIREMENTS FOR USE OF THE FUNDS.

9 (b) The HCSM third-party contractor shall maintain any federal  
10 money awarded for broadband deployment in a separate account of the  
11 HCSM that is dedicated to allocating federal broadband deployment  
12 money. The commission is authorized to disburse any money from the  
13 account as directed by the board.

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

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

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

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

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

26 ~~(A) The HCSM third-party contractor shall maintain any federal~~  
27 ~~money awarded from the auction in the separate account of the HCSM~~

1 described in subsection (10.5)(a) of this section; and

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

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

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

15 (I) ~~"Auction rules" refers to the FCC's rules in 47 CFR 54.309 to~~  
16 ~~54.316, which rules concern the implementation of the connect America~~  
17 ~~fund phase II auction.~~

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

24 (III) ~~"New York's petition for expedited waiver" refers to a~~  
25 ~~petition that the state of New York filed with the FCC seeking a waiver~~  
26 ~~from the FCC's auction rules with regard to the rules' limitation~~  
27 ~~prohibiting state entities from applying for federal money through the~~

1 auction. The FCC granted the waiver request on January 26, 2017, thus  
2 authorizing the state of New York to directly receive and allocate auction  
3 money to broadband projects within the state.

4 (10.6) (a) (I) ~~Following the model of New York's petition for~~  
5 ~~expedited waiver, the board, on or before January 1, 2019, shall petition~~  
6 ~~the FCC for a waiver from the FCC's rules concerning the remote areas~~  
7 ~~fund to seek FCC authorization for the board to itself allocate remote~~  
8 ~~areas fund money for broadband deployment projects in Colorado.~~

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

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

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

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

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

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

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

26 (III) ~~The board is authorized to coordinate with the FCC to~~  
27 ~~comply with any conditions established by the FCC in granting the~~

1 petition. If any such FCC conditions impose project eligibility,  
2 application process, award criteria, or other requirements that are distinct  
3 from the requirements set forth in this section or established by the board  
4 pursuant to this section, the commission may, by rule and in consultation  
5 with the board, establish requirements that comply with the FCC's  
6 conditions; except that any requirements established by the commission  
7 by rule pursuant to this subsection (10.6) must apply only to broadband  
8 deployment projects that are eligible to receive the federal remote areas  
9 fund money.

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

11 (I) ~~"Auction rules" refers to the FCC's rules in 47 CFR 54.309 to~~  
12 ~~54.316, which rules concern the implementation of the connect America~~  
13 ~~fund phase II auction.~~

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

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

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

27 (V) ~~"Remote areas fund" refers to a fund created by the FCC as~~

1 part of its connect America fund to facilitate broadband deployment in  
2 extremely high-cost areas of the nation.

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

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

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

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

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

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

26 (C) ~~One of whom is any other representative of a local entity and~~  
27 ~~who has a background in broadband service and expertise in rural~~



1 ~~economic development, education, or telemedicine, as appointed by the~~  
2 ~~minority leader of the senate;~~

3 ~~(III) Seven voting members representing the broadband industry:~~

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

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

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

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

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

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

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

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

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

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

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

26 **SECTION 5. Effective date - applicability.** This act takes effect  
27 upon passage and applies to applications filed on or after the effective

1 date of this act; except that section 4 of this act takes effect August 31,  
2 2021.

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