

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REDRAFT
2.21.22

Double underlining
denotes changes from
prior draft

DRAFT

LLS NO. 22-0833.01 Jennifer Berman x3286

COMMITTEE BILL

Joint Technology Committee

BILL TOPIC: "Broadband Deployment Board Grant Processes"

A BILL FOR AN ACT

101 **CONCERNING BROADBAND DEPLOYMENT GRANT PROCESSES**
102 **IMPLEMENTED BY THE BROADBAND DEPLOYMENT BOARD.**

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/>.)

Joint Technology Committee. In 2021, the general assembly authorized the broadband deployment board (board) to award money that the state received under the federal "American Rescue Plan Act of 2021" (act) for broadband deployment projects. The bill updates the requirements for awarding grant money pursuant to the act to require that applications comply with finalized federal regulations regarding use of

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

money under the act. The bill also:

- Reduces the notice and comment period for an interested party to review and comment on a grant application from at least 60 days to 30 days;
- Exempts a grantee from the requirement to complete an approved project in 2 years or less if the grantee demonstrates to the board that the project is delayed due to a relevant disruption in the supply chain;
- Requires the board to apply the updated requirements to previous applications that sought grant awards under the act; and
- Establishes a process and remedies for appeals of a board decision regarding a grant application.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-37.5-119, **amend**
3 (9)(a)(IV), (9)(l)(III), (9.5)(a), (9.5)(e), (9.5)(g), and (9.5)(h); and **add**
4 (15.5) as follows:

5 **24-37.5-119. Broadband service - report - broadband**
6 **deployment board - broadband administrative fund - creation - rules**
7 **- legislative declaration - definitions - repeal.** (9) The board shall direct
8 the commission to transfer money, in a manner consistent with this
9 section, from the HCSM account dedicated for broadband deployment
10 pursuant to subsection (3) of this section to approved grant applicants.
11 The board shall develop criteria for awarding money for new projects to
12 deploy broadband in unserved areas, including:

13 (a) (IV) The board shall establish a notice and comment period of
14 ~~at least sixty~~ THIRTY days within which any interested party, including a
15 local entity with jurisdiction over the area proposed to be served, ~~whether~~
16 ~~or not the entity provided a written certification as described in subsection~~
17 ~~(9)(a)(III) of this section~~, may review and comment on the application.

18 <{Committee, this change to subsection (9)(a)(IV) was not covered in

1 *the presentation you received on January 25 regarding the need for this*
2 *bill.*>

3 (I) Establishing reporting and accountability requirements for a
4 project receiving financial support from the HCSM account dedicated to
5 broadband deployment pursuant to subsection (3) of this section,
6 including contractual requirements that:

7 (III) The applicant demonstrate an ability to complete the
8 proposed project within a reasonable time, not to exceed two years, unless
9 delayed:

10 (A) By a government entity; OR

11 (B) DUE TO A DEMONSTRATED RELEVANT DISRUPTION IN THE
12 SUPPLY CHAIN; <*Committee, this change to subsection (9)(I)(III) was*
13 *not covered in the presentation you received on January 25 regarding*
14 *the need for this bill.*>

15 (9.5) (a) (H) The broadband stimulus grant program is hereby
16 created. ~~As part of the grant program, the board, in any grant funding~~
17 ~~cycle in 2021 that occurs after July 7, 2021:~~

18 (A) ~~Is encouraged to award grant money to applicants that applied~~
19 ~~for grants under subsection (9) of this section in the previous five years,~~
20 ~~met all of the award criteria set forth in subsection (9) of this section but~~
21 ~~were denied grants due to the insufficiency of grant money available at~~
22 ~~the time of application, and, as determined by the board, continue to meet~~
23 ~~all of the award criteria set forth in subsection (9) of this section; and~~

24 (B) ~~May also award grant money to new grant applications~~
25 ~~received.~~

26 (H) An applicant seeking a broadband stimulus grant under this
27 subsection (9.5) must meet all of the grant award criteria set forth in

1 ~~subsection (9) of this section and the requirements set forth in this~~
2 ~~subsection (9.5).~~

3 (e) With respect to grants awarded pursuant to this subsection
4 (9.5) and from money transferred to the broadband stimulus account from
5 the economic recovery and relief cash fund created in section 24-75-228
6 (2)(a), grants may ~~only be awarded for broadband projects that, pursuant~~
7 ~~to~~ ONLY IN ACCORDANCE WITH treasury department ~~interim~~ regulations
8 implementing the federal "American Rescue Plan Act of 2021", Pub.L.
9 117-2, ~~provide broadband infrastructure that is designed to provide~~
10 ~~service to unserved or underserved households and businesses and that is~~
11 ~~designed to, upon completion:~~ REFERRED TO IN THIS SUBSECTION (9.5) AS
12 THE "TREASURY DEPARTMENT REGULATIONS". THE BOARD SHALL REVIEW
13 EACH APPLICATION FOR GRANT MONEY PURSUANT TO THIS SUBSECTION
14 (9.5) THAT WAS RECEIVED BETWEEN JULY 1, 2021, AND THE EFFECTIVE
15 DATE OF THIS SUBSECTION (9.5)(e), AS AMENDED, FOR COMPLIANCE WITH
16 THE TREASURY DEPARTMENT REGULATIONS AND, IF THE APPLICATION
17 COMPLIES WITH THE TREASURY DEPARTMENT REGULATIONS, SHALL
18 AWARD GRANT MONEY AS SOON AS PRACTICABLE.

19 ~~(I) Reliably meet or exceed symmetrical one hundred megabits per~~
20 ~~second download and upload speeds; or~~

21 ~~(II) In cases where it is not practicable, because of the excessive~~
22 ~~cost of the project or geography or topography of the area to be served by~~
23 ~~the project, provide service meeting the standards set forth in subsection~~
24 ~~(9.5)(e)(I) of this section that:~~

25 ~~(A) Reliably meets or exceeds one hundred megabits per second~~
26 ~~download speed and is between at least twenty megabits per second and~~
27 ~~one hundred megabits per second upload speed; and~~

1 ~~(B) Is scalable to a minimum of one hundred megabits per second~~
2 ~~download speed and one hundred megabits per second upload speed.~~

3 ~~(g) As used in subsection (9.5)(c) of this section, "unserved or~~
4 ~~underserved households and businesses" means one or more households~~
5 ~~or businesses that are not currently served by a wireline connection that~~
6 ~~reliably delivers at least twenty-five megabits per second downstream and~~
7 ~~three megabits per second upstream. FOR APPLICATIONS SEEKING~~
8 ~~BROADBAND STIMULUS GRANTS PURSUANT TO THIS SUBSECTION (9.5), THE~~
9 ~~BOARD SHALL:~~

10 (I) NOT APPLY THE GRANT REQUIREMENTS SET FORTH IN
11 SUBSECTIONS (9), (11), AND (15) OF THIS SECTION;

12 (II) REVIEW THE APPLICATIONS ONLY FOR COMPLIANCE WITH THE
13 TREASURY DEPARTMENT REGULATIONS; AND

14 (III) IMPLEMENT PROCESSES FOR APPEALS AND FOR EXERCISING
15 RIGHTS OF FIRST REFUSAL THAT ARE SUBSTANTIALLY SIMILAR TO THE
16 PROCESSES SET FORTH IN SUBSECTIONS (9) AND (15.5) OF THIS SECTION,
17 INCLUDING THE PROVISIONS IN SUBSECTION (9) OF THIS SECTION THAT
18 AFFORD RIGHTS TO INCUMBENT PROVIDERS.

19 ~~(h) This subsection (9.5) is repealed, effective September 1, 2023~~
20 ~~FOR ALL GRANTS AWARDED PURSUANT TO THIS SUBSECTION (9.5), THE~~
21 ~~BOARD SHALL REQUIRE GRANTEES TO COMPLY WITH ALL CONTRACTING,~~
22 ~~REPORTING, AND ACCOUNTABILITY REQUIREMENTS SET FORTH IN THE~~
23 ~~TREASURY DEPARTMENT REGULATIONS AND MAY REQUIRE GRANTEES TO~~
24 ~~COMPLY WITH SOME OR ALL OF THE REPORTING AND ACCOUNTABILITY~~
25 ~~REQUIREMENTS SET FORTH IN SUBSECTION (9)(1) OF THIS SECTION.~~

26 (15.5) (a) AN APPEAL OF A BOARD DECISION SHALL BE HEARD IN
27 THE DISTRICT COURT OF THE CITY AND COUNTY OF DENVER AND MUST BE

1 FILED WITHIN THIRTY DAYS AFTER THE BOARD'S PUBLICATION OF THE
2 DECISION.

3 (b) IF AN APPELLANT PREVAILS ON APPEAL, THE COURT MAY ORDER
4 THE BOARD TO AWARD THE APPELLANT THE GRANT MONEY THAT THE
5 APPELLANT REQUESTED IN ITS APPLICATION TO THE BOARD, ALONG WITH
6 THE APPELLANT'S COURT COSTS. IF THERE IS INSUFFICIENT GRANT MONEY
7 AVAILABLE IN THE GRANT CYCLE IN WHICH THE COURT AWARDS THE
8 APPELLANT GRANT MONEY, THE COURT SHALL ORDER THE BOARD TO ROLL
9 FORWARD THE APPELLANT'S APPLICATION INTO THE NEXT GRANT CYCLE
10 AND TO GIVE PRIORITY OF FUNDING TO THE APPELLANT'S APPLICATION TO
11 THE EXTENT THAT THE APPLICATION REMAINS ELIGIBLE FOR FUNDING.
12 THIS SUBSECTION (15.5) SETS FORTH THE EXCLUSIVE REMEDIES
13 AVAILABLE TO AN APPELLANT THAT PREVAILS IN APPEALING A BOARD
14 DECISION. <{Committee, this addition of subsection (15.5) was not
15 covered in the presentation you received on January 25 regarding the
16 need for this bill.}>

17 SECTION 2. Safety clause. The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, or safety. <{Committee
20 members: If you intend to allow the board to update its processes in
21 accordance with this bill as soon as possible, the bill will require a
22 safety clause.}>