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State of Minnesota

HOUSE OF REPRESENTATIVES

SECOND SPECIAL SESSION

H. F. No. 12

07/13/2020 Authored by Ecklund and Masin
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to telecommunications; establishing a funding program for distance learning
1.3 equipment; establishing a grant program for telemedicine equipment purchased
1.4 to deal with COVID-19; requiring reports; appropriating money.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. DISTANCE LEARNING BROADBAND ACCESS GRANT PROGRAM.

1.7 Subdivision 1. Definition. For the purposes of this section, "commissioner" means the
1.8 commissioner of education.

1.9 Subd. 2. Establishment. A distance learning broadband access grant program is
1.10 established in the Department of Education to provide wireless or wire-line broadband
1.11 access for a limited duration to students currently lacking Internet access so that the students
1.12 may participate in distance learning offered by school districts and charter schools during
1.13 the peacetime public health emergency period that relates to the infectious disease known
1.14 as COVID-19.

1.15 Subd. 3. Eligible expenditures. A grant awarded under this section may be used to:

1.16 (1) provide a student with the equipment necessary for the student to use a broadband
1.17 connection to access learning materials available on the Internet through a mobile wireless
1.18 or wire-line broadband connection;

1.19 (2) reimburse a school district or charter school for actual costs incurred to provide
1.20 emergency distance learning wireless or wire-line broadband access during the 2019-2020
1.21 and 2020-2021 school years; and

2.1 (3) reimburse a school district or charter school for the cost of wireless or wire-line
2.2 broadband Internet access for households with students that did not otherwise have Internet
2.3 access before March 13, 2020, for the 2019-2020 and 2020-2021 school years.

2.4 Subd. 4. **Eligible applicants.** A Minnesota school district or charter school may apply
2.5 for a grant award under this section.

2.6 Subd. 5. **Application review.** (a) An applicant for a grant under this section must file
2.7 an application with the commissioner on a form developed by the commissioner. The
2.8 commissioner may consult with the commissioner of employment and economic development
2.9 when developing the form.

2.10 (b) An application for a grant under this subdivision must describe a school district's or
2.11 charter school's approach to identify and prioritize access for students unable to access the
2.12 Internet for distance learning and may include a description of local or private matching
2.13 grants or in-kind contributions.

2.14 (c) A school district or charter school may develop its application in cooperation with
2.15 the school district's or charter school's community education department, the school district's
2.16 or charter school's adult basic education program provider, a public library, an Internet
2.17 service provider, or other community partner.

2.18 (d) The commissioner must prioritize applicants based on an evaluation of the following
2.19 factors: (1) the location of a school in or near an unserved area of the state, (2) the percent
2.20 of students that live in a household without wired or wireless broadband service, and (3)
2.21 the percent of students that were provided Internet access by the district or charter school
2.22 under subdivision 3, clause (3).

2.23 (e) The commissioner must develop administrative procedures governing the application
2.24 and grant award process.

2.25 Subd. 6. **Grant amount.** The commissioner must establish a minimum and maximum
2.26 per-pupil amount for grants awarded under this section based on (1) the number of districts
2.27 and charter schools that apply for a grant, (2) the total amount of money requested in the
2.28 applications, and (3) the availability of federal money for a similar purpose.

2.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.30 Sec. 2. **TELEMEDICINE EQUIPMENT REIMBURSEMENT GRANT PROGRAM.**

2.31 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
2.32 the meanings given.

3.1 (b) "Commissioner" means the commissioner of employment and economic development.

3.2 (c) "Telemedicine" has the meaning given in Minnesota Statutes, section 62A.671,
3.3 subdivision 9.

3.4 (d) "Telemedicine equipment" means multimedia communications equipment and
3.5 software that facilitates the delivery of telemedicine by a licensed health care provider.

3.6 Subd. 2. **Establishment.** A grant program is established in the Department of
3.7 Employment and Economic Development to award grants to reimburse grantees for the
3.8 purchase and installation of telemedicine equipment needed to provide health care services
3.9 through telemedicine during the COVID-19 pandemic and to ensure necessary health care
3.10 services are accessible to patients during the pandemic.

3.11 Subd. 3. **Eligible applicants.** Eligible applicants include the following:

3.12 (1) community health clinics defined under Minnesota Statutes, section 145.9268, clause
3.13 (1);

3.14 (2) critical access hospitals described in Minnesota Statutes, section 144.1483, clause
3.15 (9);

3.16 (3) local public health departments as defined in Minnesota Statutes, chapter 145A;

3.17 (4) county boards as defined in Minnesota Statutes, chapter 375;

3.18 (5) individual or small group physician practices that are primarily focused on primary
3.19 care; and

3.20 (6) nursing facilities licensed under Minnesota Statutes, chapter 144A.

3.21 Subd. 4. **Eligible expenditures.** A grant may be used to reimburse the cost incurred by
3.22 a grantee to purchase and install telemedicine equipment that enables the grantee to provide
3.23 health care services through telemedicine in response to the COVID-19 pandemic, including
3.24 the diagnosis and evaluation of patients for the COVID-19 disease during the COVID-19
3.25 pandemic.

3.26 Subd. 5. **Application; review.** (a) An eligible applicant must submit a grant application
3.27 to the commissioner on a form prescribed by the commissioner. The application must
3.28 include, at a minimum:

3.29 (1) the amount of the grant requested and a description of the telemedicine equipment
3.30 for which the applicant is seeking reimbursement; and

3.31 (2) a description of the intended use of the telemedicine equipment.

4.1 (b) When developing the application, the commissioner must consult with the
 4.2 commissioner of health.

4.3 (c) The commissioner may award grants on a first-come, first-served basis, and, to the
 4.4 extent practicable, priority must be given to applicants:

4.5 (1) serving uninsured, underinsured, and medically underserved individuals in either
 4.6 rural or urban areas; or

4.7 (2) located in areas of the state where the commissioner of health has determined that
 4.8 increasing telemedicine service capabilities would improve the quality of care, access,
 4.9 patient safety, or community health during the COVID-19 pandemic.

4.10 Subd. 6. **Limitation.** The commissioner may establish a maximum amount for a grant
 4.11 awarded under this section based on the number of applications received and the total
 4.12 reimbursement amount requested.

4.13 Subd. 7. **Assistance from other federal coronavirus-related sources.** If a grantee
 4.14 receives funds from a federal source related to coronavirus for telemedicine equipment
 4.15 described in this section, the grantee must notify the commissioner of the amount received
 4.16 from the federal source. If the commissioner determines that the total amount the grantee
 4.17 received under this section and from the federal source exceeds the costs of the telemedicine
 4.18 equipment, the commissioner must reduce the grant amount in this section so that the total
 4.19 amount received does not exceed the cost of the equipment.

4.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.21 Sec. 3. **SUPPLEMENTAL BROADBAND DEVELOPMENT PROGRAM.**

4.22 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
 4.23 the meanings given.

4.24 (b) "Commissioner" means the commissioner of employment and economic development.

4.25 (c) "Broadband infrastructure" has the meaning given in Minnesota Statutes, section
 4.26 116J.394.

4.27 (d) "Unserved areas" has the meaning given in Minnesota Statutes, section 116J.394.

4.28 (e) "Underserved areas" has the meaning given in Minnesota Statutes, section 116J.394.

4.29 (f) "Last-mile infrastructure" has the meaning given in Minnesota Statutes, section
 4.30 116J.394.

5.1 (g) "Middle-mile infrastructure" has the meaning given in Minnesota Statutes, section
5.2 116J.394.

5.3 Subd. 2. **Establishment.** A supplemental broadband access grant program is established
5.4 under the Department of Employment and Economic Development to provide new or
5.5 expanded wireless or wire-line broadband access to unserved or underserved areas of the
5.6 state where necessary for the peacetime public health emergency period that relates to the
5.7 infectious disease known as COVID-19.

5.8 Subd. 3. **Eligible expenditures.** Grants may be awarded under this section to fund the
5.9 acquisition and installation of middle-mile and last-mile infrastructure that support broadband
5.10 service scalable to speeds of at least 100 megabits per second download and 100 megabits
5.11 per second upload, in unserved areas of the state where increased broadband service is
5.12 necessary for:

5.13 (1) student access to distance learning during the 2019-2020 and 2020-2021 school
5.14 years;

5.15 (2) providing expanded telemedicine services during the peacetime public health
5.16 emergency period that relates to the infectious disease known as COVID-19;

5.17 (3) businesses to remain open during the peacetime public health emergency period that
5.18 relates to the infectious disease known as COVID-19; and

5.19 (4) telecommuting during the peacetime public health emergency period that relates to
5.20 the infectious disease known as COVID-19.

5.21 Subd. 4. **Eligible applicants.** Eligible applicants for grants awarded under this section
5.22 include:

5.23 (1) an incorporated business or a partnership;

5.24 (2) a political subdivision;

5.25 (3) an Indian tribe;

5.26 (4) a Minnesota nonprofit organization organized under Minnesota Statutes, chapter
5.27 317A; or

5.28 (5) a Minnesota cooperative association organized under Minnesota Statutes, chapter
5.29 308A or 308B.

5.30 Subd. 5. **Application process.** An eligible applicant must submit an application to the
5.31 commissioner on a form prescribed by the commissioner with the initial request for
5.32 applications published within 15 days of the enactment of this section. The commissioner

6.1 shall consult with the Office of Broadband Development to develop administrative procedures
6.2 governing the application and grant award process that conforms with federal guidance for
6.3 spending coronavirus relief federal funds. The commissioner shall act as fiscal agent for
6.4 the grant program and shall be responsible for receiving and reviewing grant applications
6.5 and awarding grants under this section.

6.6 Subd. 6. **Application contents.** An applicant for a grant under this section shall provide
6.7 the following information on the application:

6.8 (1) the location of the project;

6.9 (2) the kind and amount of broadband infrastructure to be purchased for the project;

6.10 (3) evidence regarding the unserved or underserved nature of the community in which
6.11 the project is to be located;

6.12 (4) the number of households passed that will have access to broadband service as a
6.13 result of the project, or whose broadband service will be upgraded as a result of the project;

6.14 (5) the total cost of the project;

6.15 (6) sources of funding or in-kind contributions for the project that will supplement any
6.16 grant award; and

6.17 (7) any additional information requested by the commissioner.

6.18 Subd. 7. **Challenge process.** (a) Within three days of the close of the grant application
6.19 process, the office shall publish on its website the proposed geographic broadband service
6.20 area and the proposed broadband service speeds for each application submitted.

6.21 (b) An existing broadband service provider in or proximate to the proposed project area
6.22 may, within ten days of publication of the information under paragraph (a), submit in writing
6.23 to the commissioner a challenge to an application. A challenge must contain information
6.24 demonstrating that:

6.25 (1) the provider currently provides or has begun construction to provide broadband
6.26 service to the proposed project area at speeds equal to or greater than the state speed goal
6.27 contained in Minnesota Statutes, section 237.012, subdivision 1; or

6.28 (2) the provider commits to complete construction of broadband infrastructure and
6.29 provide broadband service in the proposed project area at speeds equal to or greater than
6.30 the state speed goal contained in Minnesota Statutes, section 237.012, subdivision 1, no
6.31 later than 18 months after the date grant awards are made under this section for the grant
6.32 cycle under which the application was submitted.

7.1 (c) The commissioner must evaluate the information submitted in a provider's challenge
7.2 under this section, and is prohibited from funding a project if the commissioner determines
7.3 that the provider's commitment to provide broadband service that meets the requirements
7.4 of paragraph (b) in the proposed project area is credible.

7.5 (d) If the commissioner denies funding to an applicant as a result of a broadband service
7.6 provider's challenge made under this section, and the broadband service provider does not
7.7 fulfill the provider's commitment to provide broadband service in the project area, the
7.8 commissioner is prohibited from denying funding to an applicant as a result of a challenge
7.9 by the same broadband service provider for the following two grant cycles, unless the
7.10 commissioner determines that the broadband service provider's failure to fulfill the provider's
7.11 commitment was the result of factors beyond the broadband service provider's control.

7.12 Subd. 8. **Awarding grants.** (a) In evaluating applications and awarding grants, the
7.13 commissioner shall give priority to applications that are constructed in areas identified by
7.14 the director of the Office of Broadband Development as unserved.

7.15 (b) In evaluating applications and awarding grants, the commissioner may give priority
7.16 to applications that:

7.17 (1) are constructed in areas identified by the director of the Office of Broadband
7.18 Development as underserved;

7.19 (2) facilitate the use of telemedicine and electronic health records;

7.20 (3) serve economically distressed areas of the state, as measured by indices of
7.21 unemployment, poverty, or population loss that are significantly greater than the statewide
7.22 average; and

7.23 (4) provide access to broadband service to a greater number of unserved or underserved
7.24 households and businesses.

7.25 (c) The commissioner shall endeavor to award grants under this section to qualified
7.26 applicants in all regions of the state.

7.27 Subd. 9. **Grant amount.** (a) The commissioner must establish an amount for grants
7.28 awarded under this section based on:

7.29 (1) the number of applicants;

7.30 (2) the total amount of money requested in the applications; and

7.31 (3) the availability of federal money for a similar purpose.

8.1 (b) No grants awarded under this section may fund more than 75 percent of the total
8.2 cost of a project.

8.3 (c) Grants awarded to a single project must not exceed \$500,000.

8.4 Subd. 10. **Reissue grant application.** If the total grant requests based on the number of
8.5 applications received under subdivision 4 are less than the amount of money available for
8.6 this program, the commissioner may accept additional applications beyond the initial
8.7 deadline, and award grants that may exceed the amount established in subdivision 9,
8.8 paragraph (c).

8.9 Subd. 11. **Grant agreement.** Notwithstanding Minnesota Statutes, sections 16B.98,
8.10 subdivisions 5 and 7, and 16C.05, subdivision 2, and any other provision of law, the
8.11 commissioner may allow an applicant that was awarded a grant under this section to begin
8.12 construction of a project and may encumber the amount of the grant before the commissioner
8.13 has finalized a grant agreement.

8.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.15 Sec. 4. **APPROPRIATION.**

8.16 (a) \$15,000,000 in fiscal year 2021 is appropriated from the coronavirus relief federal
8.17 fund to the commissioner of employment and economic development for transfer to the
8.18 commissioner of education for emergency distance learning wireless or wire-line broadband
8.19 access for student grants for school districts and charter schools under section 1. Up to five
8.20 percent of the appropriation under this paragraph may be used to reimburse reasonable costs
8.21 incurred by the Department of Education to administer section 1. This is a onetime
8.22 appropriation. Any funds that remain unexpended on December 15, 2020, are canceled. By
8.23 January 15, 2021, the commissioner of education must report to the legislature regarding
8.24 the districts and charter schools that received grants under section 1, the per-pupil amount
8.25 for each grant, and the number of students that were provided Internet access. The report
8.26 must also identify the costs to administer the grant program and the amount canceled. Money
8.27 appropriated under this paragraph must not be spent until the commissioner of management
8.28 and budget determines that the appropriation in this paragraph is an eligible use of the
8.29 coronavirus relief federal fund.

8.30 (b) \$2,000,000 in fiscal year 2021 is appropriated from the coronavirus relief federal
8.31 fund to the commissioner of employment and economic development to award grants for
8.32 the purchase of telemedicine equipment under section 2. Up to five percent of the
8.33 appropriation under this paragraph may be used to reimburse the reasonable costs incurred

9.1 by the Department of Employment and Economic Development to administer section 2.
9.2 This is a onetime appropriation. Any funds that remain unexpended on December 15, 2020,
9.3 are canceled. By January 15, 2021, the commissioner of employment and economic
9.4 development must report to the legislature regarding the number of applications received
9.5 under section 2, the number of grants awarded, the maximum and minimum grant amounts
9.6 awarded, and the mean and median grant amounts awarded. The report must also identify
9.7 the costs to administer the grant program and the amount canceled. Money appropriated
9.8 under this paragraph must not be spent until the commissioner of management and budget
9.9 determines that the appropriation in this paragraph is an eligible use of the coronavirus relief
9.10 federal fund.

9.11 (c) \$10,000,000 in fiscal year 2021 is appropriated from the coronavirus relief federal
9.12 fund to the commissioner of employment and economic development for supplemental
9.13 broadband development grants under section 3. This appropriation is available until December
9.14 15, 2020. The appropriation must be used only to provide broadband service in unserved
9.15 areas, except that broadband infrastructure, as defined in Minnesota Statutes, section
9.16 116J.394, for that purpose may be placed in underserved areas. By January 31, 2021, the
9.17 commissioner of employment and economic development must report to the legislature
9.18 regarding the number of applications received under section 3, the number of grants awarded,
9.19 the grant amounts, and the costs to administer the grant program. This is a onetime
9.20 appropriation. Money appropriated under this paragraph must not be spent until the
9.21 commissioner of management and budget determines that the appropriation in this paragraph
9.22 is an eligible use of the coronavirus relief federal fund.

9.23 (d) If the commissioner of management and budget determines the appropriation in
9.24 paragraph (c) is not an allowable use of the funds under federal law, the appropriation in
9.25 paragraph (c) is canceled. If the commissioner of management and budget determines at
9.26 any date before December 15, 2020, that an amount less than the amount appropriated in
9.27 paragraph (c) can be spent by December 15, 2020, the commissioner may cancel the balance
9.28 of the appropriation that has been estimated will not be spent. Funds canceled under this
9.29 paragraph remain available for other uses permitted under federal law.

9.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.