

**Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 14-0834.01 Jennifer Berman x3286

HOUSE BILL 14-1328

HOUSE SPONSORSHIP

Williams and Coram, Becker, Dore, Hamner, McLachlan, Mitsch Bush, Scott, Tyler, Wilson, Young

SENATE SPONSORSHIP

Nicholson and Crowder, Schwartz

House Committees

Business, Labor, Economic, & Workforce Development

Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE DEPLOYMENT OF BROADBAND INTO UNSERVED**
102 **AREAS OF COLORADO THROUGH GRANT-MAKING FROM MONEYS**
103 **ALLOCATED FROM THE COLORADO HIGH COST SUPPORT**
104 **MECHANISM.**

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://www.leg.state.co.us/billsummaries>.)

The high cost support mechanism (HCSM) reimburses telecommunications service providers for some of the cost of providing

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

telephone services to rural areas. The bill adds broadband service in unserved areas to the services that are reimbursable.

Section 1 of the bill defines terms including "broadband service", "broadband network", and "unserved area". **Section 2** of the bill adds the provision of broadband networks in unserved areas to the purposes served through financial assistance from the HCSM. Section 2 also requires the department of regulatory agencies (department) to include information about the implementation and administration of the HCSM in its presentation to legislative committees.

Section 3 adds universal access to broadband service to the list of goals stated in the current expression of state policy concerning telecommunications policy and planning.

Section 4 creates a broadband fund and a broadband deployment board to facilitate the funding of projects to deploy broadband service into unserved areas of the state through the award of grants from moneys allocated to the provision of broadband service from the HCSM.

Section 5 repeals the functions of the broadband deployment board regarding its administration of the broadband fund on September 1, 2024, subject to a sunset review by the department of regulatory agencies.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-15-102, **add** (3.3),
3 (3.5), (3.7), (6.7), (9.5), (10.5), (17.5), and (32) as follows:

4 **40-15-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (3.3) "BROADBAND" OR "BROADBAND SERVICE" MEANS
7 BROADBAND INTERNET SERVICE PROVIDED OVER A BROADBAND NETWORK.

8 (3.5) "BROADBAND INTERNET SERVICE" MEANS A RETAIL SERVICE
9 THAT TRANSMITS AND RECEIVES DATA FROM THE CUSTOMER'S PROPERTY
10 OR DETERMINED POINT OF PRESENCE TO SUBSTANTIALLY ALL INTERNET
11 ENDPOINTS. THE TERM INCLUDES ANY CAPABILITIES THAT ARE INCIDENTAL
12 TO AND ENABLE THE OPERATION OF THE BROADBAND SERVICE.

13 (3.7) "BROADBAND NETWORK" MEANS THE PLANT, EQUIPMENT,
14 COMPONENTS, FACILITIES, HARDWARE, AND SOFTWARE USED TO PROVIDE

1 BROADBAND INTERNET SERVICE AT MEASURABLE SPEEDS OF AT LEAST
2 FOUR MEGABITS PER SECOND DOWNSTREAM AND ONE MEGABIT PER
3 SECOND UPSTREAM OR AT MEASURABLE SPEEDS AT LEAST EQUAL TO THE
4 FEDERAL COMMUNICATIONS COMMISSION'S DEFINITION OF HIGH-SPEED
5 INTERNET ACCESS OR BROADBAND, WHICHEVER IS FASTER, WITH:

6 (a) SUFFICIENTLY LOW LATENCY TO ENABLE THE USE OF
7 REAL-TIME COMMUNICATIONS, INCLUDING
8 VOICE-OVER-INTERNET-PROTOCOL SERVICE; AND

9 (b) EITHER NO USAGE LIMITS OR USAGE LIMITS THAT ARE
10 REASONABLY COMPARABLE TO THOSE FOUND IN URBAN AREAS FOR THE
11 SAME TECHNOLOGY.

12 (6.7) "ELIGIBLE APPLICANT" MEANS AN APPLICANT SEEKING GRANT
13 FUNDING FOR A PROPOSED BROADBAND PROJECT UNDER SECTION
14 40-15-509.5 WITH A SUFFICIENT BUSINESS TRACK RECORD TO INDICATE
15 THAT THE APPLICANT'S OPERATIONS WILL BE SUSTAINABLE AFTER
16 RECEIVING INFRASTRUCTURE SUPPORT UNDER SECTION 40-15-509.5. THE
17 TERM IS LIMITED TO FOR-PROFIT ENTITIES; EXCEPT THAT A NONPROFIT
18 RURAL ELECTRIC ASSOCIATION THAT EXISTED ON THE EFFECTIVE DATE OF
19 THIS SUBSECTION (6.7) MAY QUALIFY AS AN "ELIGIBLE APPLICANT". THE
20 TERM IS NOT LIMITED TO A CURRENT RECIPIENT OF HIGH COST SUPPORT
21 MECHANISM FUNDS.

22 (9.5) "INCUMBENT PROVIDER" MEANS A PROVIDER OF BROADBAND
23 INTERNET SERVICE THAT IS NOT PROVIDING A BROADBAND NETWORK IN AN
24 UNSERVED AREA.

25 (10.5) "INFRASTRUCTURE" MEANS THE FACILITIES OR EQUIPMENT
26 USED IN THE DEPLOYMENT OF BROADBAND SERVICE.

27 (17.5) "LOCAL ENTITY" MEANS ELECTED MEMBERS OF A COUNTY

1 GOVERNMENT, MUNICIPAL GOVERNMENT, SCHOOL DISTRICT, OR BOARD OF
2 COOPERATIVE EDUCATIONAL SERVICES IN AN UNSERVED AREA.

3 (32) (a) "UNSERVED AREA" MEANS AN AREA OF THE STATE THAT:

4 (I) LIES OUTSIDE OF MUNICIPAL BOUNDARIES OR IS A CITY WITH A
5 POPULATION OF FEWER THAN FIVE THOUSAND INHABITANTS; AND

6 (II) CONSISTS OF ONE OR MORE CONTIGUOUS CENSUS BLOCKS IN
7 WHICH A MAJORITY OF THE HOUSEHOLDS LACK ACCESS TO AT LEAST ONE
8 PROVIDER OF A BROADBAND NETWORK THAT USES SATELLITE
9 TECHNOLOGY AND AT LEAST ONE PROVIDER OF A BROADBAND NETWORK
10 THAT USES NONSATELLITE TECHNOLOGY.

11 (b) "UNSERVED AREA" ALSO MEANS ANY PORTION OF A STATE OR
12 INTERSTATE HIGHWAY CORRIDOR THAT LACKS ACCESS TO A PROVIDER OF
13 A BROADBAND NETWORK.

14 **SECTION 2.** In Colorado Revised Statutes, 40-15-208, **amend**
15 (2) (a) and (3) (a); and **add** (2) (e) as follows:

16 **40-15-208. High cost support mechanism - Colorado high cost**
17 **administration fund - creation - purpose - operation - rules - report**
18 **- repeal.** (2) (a) (I) The commission is hereby authorized to establish a
19 mechanism for the support of universal service, also referred to in this
20 section as the "high cost support mechanism", which shall operate in
21 accordance with rules adopted by the commission. The primary purpose
22 of the high cost support mechanism is to provide financial assistance as
23 a support mechanism to:

24 (A) Local exchange providers to help make basic local exchange
25 service affordable and allow ~~such~~ THE providers to be fully reimbursed
26 for the difference between the reasonable costs incurred in making basic
27 service available to their customers within a rural, high cost geographic

1 support area and the price charged for ~~such~~ THE service, after taking into
2 account any amounts THAT THE PROVIDERS HAVE received ~~by such~~
3 ~~providers~~ under price support mechanisms established by the federal
4 government and by this state; AND

5 (B) PROVIDE ACCESS TO BROADBAND SERVICE THROUGH
6 BROADBAND NETWORKS IN UNSERVED AREAS PURSUANT TO SECTION
7 40-15-509.5 ONLY.

8 (II) The commission shall ensure that no local exchange provider
9 is receiving funds from this or any other source that, together with local
10 exchange service revenues, exceeds the cost of providing local exchange
11 service to THE PROVIDER'S customers. ~~of such provider~~. The high cost
12 support mechanism shall be supported and distributed equitably and on
13 a nondiscriminatory, competitively neutral basis through a neutral
14 assessment on all telecommunications ~~service~~ providers in Colorado.

15 (III) THE COMMISSION, AT ITS REGULARLY SCHEDULED MEETINGS
16 TO ESTABLISH THE HIGH COST SUPPORT MECHANISM SURCHARGE, AND
17 SURCHARGE RATE, SHALL REDUCE THE AMOUNT OF THE HIGH COST
18 SUPPORT MECHANISM SURCHARGE BY THE FOLLOWING PERCENTAGES OF
19 THE NEW BROADBAND FUNDS ALLOCATED IN THAT YEAR PURSUANT TO
20 SECTION 40-15-509.5 (3) FROM THE HIGH COST SUPPORT MECHANISM TO
21 THE BROADBAND FUND, CREATED IN SECTION 40-15-509.5 (4):

22 (A) IN YEARS 2016 AND 2017, FIVE PERCENT;

23 (B) IN YEARS 2018 AND 2019, TEN PERCENT;

24 (C) IN YEARS 2020 AND 2021, FIFTEEN PERCENT; AND

25 (D) IN YEARS 2022 AND 2023, TWENTY PERCENT.

26 (e) IN ADDITION TO THE ANNUAL REPORT SUBMITTED UNDER
27 PARAGRAPH (b) OF THIS SUBSECTION (2) BY THE COMMISSION, THE

1 DEPARTMENT OF REGULATORY AGENCIES SHALL INCLUDE IN ITS
2 PRESENTATION TO THE APPROPRIATE LEGISLATIVE COMMITTEE UNDER THE
3 REQUIREMENTS OF PART 2 OF ARTICLE 7 OF TITLE 2, C.R.S., AN UPDATE ON
4 THE IMPLEMENTATION AND ADMINISTRATION OF THE HIGH COST SUPPORT
5 MECHANISM.

6 (3) (a) There is hereby created, in the state treasury, the Colorado
7 high cost administration fund, referred to in this section as the "fund",
8 which shall be used to reimburse the commission and its contractors for
9 reasonable expenses incurred in the administration of the high cost
10 support mechanism, INCLUDING ADMINISTRATIVE COSTS INCURRED IN
11 ASSOCIATION WITH BROADBAND SERVICE, as determined by rules of the
12 commission. The GENERAL ASSEMBLY SHALL APPROPRIATE ANNUALLY
13 THE moneys in the fund that are to be used for the direct and indirect
14 administrative costs incurred by the commission and its contractors. ~~shall~~
15 ~~be appropriated annually by the general assembly.~~ At the end of any fiscal
16 year, all unexpended and unencumbered moneys in the fund ~~shall~~ remain
17 in the fund and shall not be credited or transferred to the general fund or
18 any other fund. Based upon the high cost support mechanism, the balance
19 remaining in the fund, and the amount appropriated annually by the
20 general assembly for use by the commission, each year the commission
21 shall determine the nondiscriminatory, competitively neutral assessment
22 on all telecommunications service providers in Colorado that will be
23 necessary to cover the cost of implementing and administering the high
24 cost support mechanism. Only the moneys from ~~such~~ THE assessment for
25 administering the high cost support mechanism shall be transmitted to the
26 state treasurer, who shall credit the same to the fund. All interest derived
27 from the deposit and investment of MONEYS IN the fund ~~shall~~ remain in

1 the fund and ~~shall~~ DO not revert to the general fund.

2 **SECTION 3.** In Colorado Revised Statutes, 40-15-502, **amend**
3 (5) (a) as follows:

4 **40-15-502. Expressions of state policy. (5) Universal service**
5 **support mechanisms.** (a) In order to accomplish the goals of universal
6 basic service, universal access to advanced service UNDER SECTION
7 40-15-509.5, and any revision of the definition of basic service under
8 subsection (2) of this section, the commission shall create a system of
9 support mechanisms to assist in the provision of ~~such~~ THESE services in
10 high-cost areas. THE COMMISSION SHALL FUND these support mechanisms
11 ~~shall be funded~~ equitably and on a nondiscriminatory, competitively
12 neutral basis through assessments, which may include a rate element, on
13 all telecommunications service providers in Colorado, and THE
14 COMMISSION shall ~~be distributed~~ DISTRIBUTE THE FUNDS equitably and on
15 a nondiscriminatory, competitively neutral basis. For purposes of
16 administering ~~such~~ THE support mechanisms, the commission shall divide
17 the state into reasonably compact, competitively neutral geographic
18 support areas. A provider's eligibility to receive support under the support
19 mechanisms ~~shall be~~ IS conditioned upon the provider's offering basic
20 service throughout an entire support area. The commission shall review
21 the costs of basic service and shall administer ~~such~~ THE support
22 mechanisms.

23 **SECTION 4.** In Colorado Revised Statutes, **add** 40-15-509.5 as
24 follows:

25 **40-15-509.5. Broadband service - report - broadband**
26 **deployment board - broadband fund - creation - repeal. (1) Short**
27 **title.** THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE

1 "CONNECT COLORADO TO ENHANCE ECONOMIC DEVELOPMENT,
2 TELEHEALTH, EDUCATION, AND SAFETY ACT".

3 (2) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND
4 DECLARES THAT, TO PROMOTE THE STATE POLICY OF PROVIDING
5 UNIVERSAL ACCESS TO BROADBAND SERVICE, AS SET FORTH IN SECTION
6 40-15-502 (4), IT MAY BE NECESSARY TO PROVIDE FINANCIAL ASSISTANCE
7 THROUGH ADDITIONAL SUPPORT MECHANISMS IF COMPETITION FOR LOCAL
8 EXCHANGE SERVICES FAILS TO DELIVER BROADBAND SERVICE
9 THROUGHOUT THE STATE. "ADVANCED SERVICE" INCLUDES "BROADBAND
10 SERVICE" FOR PURPOSES OF THIS SECTION ONLY.

11 (3) THE COMMISSION MAY ALLOCATE THE COLORADO HIGH COST
12 SUPPORT MECHANISM, ESTABLISHED UNDER SECTION 40-15-208 AND
13 REFERRED TO IN THIS SECTION AS THE "HCSM", FOR THE DEPLOYMENT OF
14 BROADBAND SERVICE IN UNSERVED AREAS OF THE STATE PURSUANT TO
15 THIS SECTION ONLY. THE COMMISSION MAY FUND THE DEPLOYMENT OF
16 BROADBAND SERVICE IN UNSERVED AREAS OF THE STATE THROUGH USE OF
17 THE HCSM SURCHARGE AND SURCHARGE RATE IN EFFECT ON THE
18 EFFECTIVE DATE OF THIS SECTION. PURSUANT TO SUBSECTION (4) OF THIS
19 SECTION AND CONSISTENT WITH SECTION 40-15-208 (2) (a) (III), THE
20 COMMISSION MAY TRANSFER TO THE BROADBAND DEPLOYMENT BOARD
21 ONLY THE MONEYS THAT IT DETERMINES ARE NO LONGER REQUIRED BY
22 THE HCSM TO SUPPORT UNIVERSAL BASIC SERVICE THROUGH AN
23 EFFECTIVE COMPETITION DETERMINATION. AFTER EACH TRANSFER TO THE
24 BROADBAND DEPLOYMENT BOARD, THE COMMISSION SHALL USE THE
25 MONEYS REMAINING IN THE HCSM TO SUPPORT BASIC SERVICE. NOTHING
26 IN THIS SECTION INCREASES ANY SURCHARGE RATE CHARGED TO HELP
27 FUND THE HCSM.

1 (4) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
2 BROADBAND FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE
3 FUND CONSISTS OF ALL MONEYS ALLOCATED FROM THE HCSM TO
4 PROVIDE ACCESS TO BROADBAND SERVICES THROUGH BROADBAND
5 NETWORKS IN UNSERVED AREAS PURSUANT TO SECTION 40-15-208 (2) (a)
6 (I) (B), WHICH MONEYS SHALL BE TRANSFERRED TO THE FUND UPON
7 ALLOCATION, AND ALL MONEYS THAT THE GENERAL ASSEMBLY MAY
8 APPROPRIATE TO THE FUND. THE MONEYS IN THE FUND ARE APPROPRIATED
9 TO THE BROADBAND DEPLOYMENT BOARD, CREATED IN SUBSECTION (5) OF
10 THIS SECTION, FOR THE PURPOSES SET FORTH IN THIS SECTION. ALL
11 INTEREST EARNED FROM THE INVESTMENT OF MONEYS IN THE FUND IS
12 CREDITED TO THE FUND. ALL MONEYS NOT EXPENDED AT THE END OF THE
13 FISCAL YEAR REMAIN IN THE FUND AND DO NOT REVERT TO THE GENERAL
14 FUND OR ANY OTHER FUND.

15 (b) THE BROADBAND DEPLOYMENT BOARD SHALL DEDICATE TWO
16 HUNDRED THOUSAND DOLLARS OF THE MONEYS IN THE FUND TO COVER
17 THE DIRECT AND INDIRECT COSTS INCURRED BY THE BOARD, ITS
18 EMPLOYEES, AND ITS CONTRACTORS IN FUNDING THE DEPLOYMENT OF
19 ADVANCED AND BROADBAND SERVICE IN UNSERVED AREAS OF THE STATE.

20 (5) (a) THERE IS HEREBY CREATED IN THE DEPARTMENT OF
21 REGULATORY AGENCIES THE BROADBAND DEPLOYMENT BOARD, REFERRED
22 TO IN THIS SECTION AS THE "BOARD". THE BOARD IS AN INDEPENDENT
23 BOARD CREATED TO IMPLEMENT AND ADMINISTER THE DEPLOYMENT OF
24 BROADBAND SERVICE IN UNSERVED AREAS FROM THE FUND. THE
25 DEPARTMENT OF REGULATORY AGENCIES SHALL STAFF THE BOARD. THE
26 BOARD HAS THE POWERS AND DUTIES SPECIFIED IN THIS SECTION.

27 (b) THE BOARD CONSISTS OF THIRTEEN MEMBERS. THE MEMBERS

1 OF THE BOARD SHALL BE SELECTED ON THE BASIS OF THEIR KNOWLEDGE
2 OF AND INTEREST IN BROADBAND SERVICE AND SHALL SERVE FOR
3 FOUR-YEAR TERMS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED TO
4 THE BOARD, SIX MEMBERS SHALL SERVE FOR TERMS OF TWO YEARS AND
5 SEVEN MEMBERS SHALL SERVE FOR TERMS OF FOUR YEARS. A MEMBER OF
6 THE BOARD SHALL NOT SERVE MORE THAN TWO CONSECUTIVE FULL
7 FOUR-YEAR TERMS.

8 (c) NO MORE THAN SEVEN MEMBERS OF ANY ONE MAJOR POLITICAL
9 PARTY MAY SERVE ON THE BOARD AT THE SAME TIME. MEMBERS OF THE
10 BOARD ARE ENTITLED TO SEVENTY-FIVE DOLLARS PER DIEM FOR
11 ATTENDANCE AT OFFICIAL MEETINGS PLUS ACTUAL AND NECESSARY
12 EXPENSES INCURRED IN THE CONDUCT OF OFFICIAL BUSINESS. MEMBERS
13 OF THE BOARD SHALL BE APPOINTED AS FOLLOWS:

14 (I) AT LEAST ONE MEMBER FROM THE COMMISSION; ONE MEMBER
15 FROM THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND
16 INTERNATIONAL TRADE IN THE OFFICE OF THE GOVERNOR; ONE MEMBER
17 FROM THE DEPARTMENT OF LOCAL AFFAIRS, CREATED IN SECTION
18 24-1-125, C.R.S.; AND ONE MEMBER FROM THE OFFICE OF INFORMATION
19 TECHNOLOGY, CREATED IN SECTION 24-37.5-103, C.R.S., AS APPOINTED
20 BY THE GOVERNOR. THE GOVERNOR SHALL SELECT THREE OF THESE FOUR
21 APPOINTEES TO SERVE AS VOTING MEMBERS OF THE BOARD.

22 (II) THREE VOTING MEMBERS REPRESENTING LOCAL ENTITIES, AS
23 APPOINTED BY THE PRESIDENT OF THE SENATE;

24 (III) THREE VOTING MEMBERS REPRESENTING THE BROADBAND
25 INDUSTRY:

26 (A) ONE OF WHOM REPRESENTS A WIRELESS PROVIDER, AS
27 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

1 (B) ONE OF WHOM REPRESENTS A WIRELINE PROVIDER, AS
2 APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF
3 REPRESENTATIVES; AND

4 (C) ONE OF WHOM REPRESENTS A BROADBAND SATELLITE
5 PROVIDER, AS APPOINTED BY THE SPEAKER OF THE HOUSE OF
6 REPRESENTATIVES;

7 (IV) THREE VOTING MEMBERS OF THE PUBLIC:

8 (A) ONE OF WHOM RESIDES IN AN UNSERVED AREA OF THE
9 WESTERN SLOPE OF THE STATE, AS APPOINTED BY THE PRESIDENT OF THE
10 SENATE;

11 (B) ONE OF WHOM RESIDES IN AN UNSERVED AREA OF THE
12 EASTERN SLOPE OF THE STATE, AS APPOINTED BY THE MINORITY LEADER
13 OF THE SENATE; AND

14 (C) ONE OF WHOM RESIDES IN AN URBAN AREA OF THE STATE, AS
15 APPOINTED BY THE PRESIDENT OF THE SENATE.

16 (d) THE BOARD SHALL MEET AS OFTEN AS NECESSARY TO CARRY
17 OUT ITS DUTIES AS DEFINED IN THIS SECTION.

18 (e) THE TERM OF ANY MEMBER OF THE BOARD WHO MISSES MORE
19 THAN TWO CONSECUTIVE REGULAR BOARD MEETINGS WITHOUT GOOD
20 CAUSE SHALL BE TERMINATED, AND HIS OR HER SUCCESSOR SHALL BE
21 APPOINTED IN THE MANNER PROVIDED FOR APPOINTMENTS UNDER THIS
22 SECTION.

23 (f) IF A BOARD MEMBER HAS A CONFLICT OF INTEREST WITH
24 RESPECT TO ANY MATTER ADDRESSED BY THE BOARD, INCLUDING A
25 FINANCIAL INTEREST IN THE MATTER, THE MEMBER SHALL RECUSE
26 HIMSELF OR HERSELF FROM ANY DISCUSSION OR DECISIONS ON THE
27 MATTER.

1 (6) THE BOARD'S POWERS AND DUTIES COMMENCE THREE MONTHS
2 AFTER MONEYS ARE FIRST ALLOCATED FROM THE HCSM TO THE FUND.

3 (7) FOR A PERIOD OF AT LEAST SIX MONTHS BEFORE ACCEPTING
4 APPLICATIONS FOR PROPOSED PROJECTS, THE BOARD SHALL PROVIDE
5 NOTICE TO AND REQUESTS FOR PROPOSALS FROM INCUMBENT PROVIDERS
6 AND LOCAL ENTITIES ABOUT THE BROADBAND FUND AND ITS PURPOSE TO
7 DEPLOY BROADBAND SERVICE IN UNSERVED AREAS. THE BOARD SHALL
8 ENSURE THAT BOTH THE MANNER AND AMOUNT OF NOTICE PROVIDED
9 UNDER THIS SUBSECTION (7) ARE ADEQUATE AND EQUITABLE FOR ALL
10 POTENTIALLY ELIGIBLE APPLICANTS.

11 (8) THE BOARD SHALL AWARD MONEYS FROM THE FUND, AND, IN
12 CONNECTION THEREWITH, SHALL DEVELOP CRITERIA FOR AWARDING
13 MONEYS FROM THE FUND FOR NEW PROJECTS EXPANDING BROADBAND
14 NETWORKS INTO UNSERVED AREAS, INCLUDING:

15 (a) DEVELOPING A PROJECT APPLICATION PROCESS THAT PLACES
16 THE BURDEN ON AN ELIGIBLE APPLICANT TO DEMONSTRATE THAT ITS
17 PROPOSED PROJECT MEETS THE PROJECT ELIGIBILITY CRITERIA
18 ESTABLISHED IN THIS SUBSECTION (8), INCLUDING A REQUIREMENT THAT
19 THE PROPOSAL CONCERN A NEW PROJECT, AND NOT A PROJECT ALREADY
20 IN PROGRESS, AND A REQUIREMENT TO PROVE THAT THE AREA TO BE
21 SERVED BY THE PROPOSED PROJECT IS AN UNSERVED AREA. TO PROVE
22 THAT THE AREA TO BE SERVED IS AN UNSERVED AREA, THE APPLICANT
23 MUST SUBMIT A MAP DEMONSTRATING THE INSUFFICIENT AVAILABILITY OF
24 BROADBAND SERVICE IN THE AREA. THE APPLICANT MUST SUBMIT THE
25 APPLICATION AND MAP TO THE BOARD; THE BOARD OF COUNTY
26 COMMISSIONERS, CITY COUNCIL, OR OTHER LOCAL ENTITY WITH
27 AUTHORITY OVER THE AREA TO BE SERVED; AND AN INCUMBENT

1 PROVIDER. THE BOARD SHALL ESTABLISH A NOTICE AND COMMENT PERIOD
2 OF AT LEAST SIXTY DAYS WITHIN WHICH THE LOCAL ENTITY MAY REVIEW
3 AND COMMENT ON THE APPLICATION.

4 (b) DEVELOPING A METHODOLOGY FOR DETERMINING WHETHER A
5 PROPOSED PROJECT WILL SERVE UNSERVED AREAS;

6 (c) MINIMIZING CONFLICTS WITH, OR DUPLICATION OF, FEDERAL
7 SOURCES OF HIGH COST SUPPORT OR FEDERAL BROADBAND GRANTS SO AS
8 TO MAXIMIZE THE TOTAL AVAILABLE STATE AND FEDERAL SUPPORT FOR
9 RURAL BROADBAND DEVELOPMENT;

10 (d) ENSURING THAT A PROPOSED PROJECT INCLUDES:

11 (I) ACCESS TO A BROADBAND NETWORK;

12 (II) INDEPENDENT FUNDING SECURED FOR AT LEAST TWENTY-FIVE
13 PERCENT OF THE TOTAL COST OF THE PROPOSED PROJECT; AND

14 (III) A REQUIREMENT TO UTILIZE ANY AWARD GRANTED FROM THE
15 FUND FOR INFRASTRUCTURE PURPOSES ONLY AND NOT FOR OPERATIONS;

16 (e) PROVIDING ADDITIONAL CONSIDERATION FOR PROPOSED
17 PROJECTS THAT INCLUDE AT LEAST SOME OF THE FOLLOWING FACTORS:

18 (I) PROPOSED PROJECTS THAT ARE ENDORSED BY LOCAL ENTITIES
19 INTERESTED IN OBTAINING BROADBAND INTERNET SERVICE IN UNSERVED
20 AREAS OF THE STATE;

21 (II) PROPOSED PROJECTS THAT HAVE DOWNSTREAM AND
22 UPSTREAM SPEEDS IN EXCESS OF THE MINIMUM REQUIRED UNDER THIS
23 SECTION;

24 (III) PROPOSED PROJECTS FOR WHICH THE APPLICANT HAS AN
25 ESTABLISHED RECORD OF OPERATION IN THE AREA OF THE GRANT
26 APPLICATION; AND

27 (IV) PROPOSED PROJECTS PROVIDING LAST-MILE BROADBAND

1 SERVICE, WHICH IS DEFINED AS THE PORTION OF BROADBAND SERVICE
2 THAT DELIVERS AN INTERNET CONNECTION TO AN END USER THAT LACKS
3 ACCESS TO BROADBAND SERVICE AT MEASURABLE SPEEDS GREATER THAN
4 FIFTY-SIX KILOBITS PER SECOND;

5 (f) PROVIDING AN ASSESSMENT OF THE FOLLOWING FACTORS:

6 (I) WHETHER THE PROPOSED PROJECT WILL PROVIDE SERVICES VIA
7 A LICENSED OR UNLICENSED MEANS OF TRANSMISSION;

8 (II) THE COST-EFFECTIVENESS OF THE PROPOSED PROJECT'S
9 PROPOSED METHOD FOR EXPANDING BROADBAND INTERNET SERVICE INTO
10 UNSERVED AREAS; AND

11 (III) THE RELIABILITY OF THE NETWORK PROVIDING BROADBAND
12 SERVICES;

13 (g) WITH REGARD TO AN APPLICANT THAT HAS SUBMITTED A
14 PROPOSED PROJECT TO THE BOARD, AFFORDING EACH INCUMBENT
15 PROVIDER IN THE AREA THAT IS NOT PROVIDING ACCESS TO A BROADBAND
16 NETWORK IN THE UNSERVED AREA A RIGHT OF FIRST REFUSAL REGARDING
17 THE IMPLEMENTATION OF A PROJECT IN THE UNSERVED AREA. IF AN
18 INCUMBENT PROVIDER PROPOSES A PROJECT FOR THE AREA, THE
19 INCUMBENT PROVIDER COMMITS TO PROVIDING ACCESS TO A BROADBAND
20 NETWORK WITHIN ONE YEAR AFTER THE APPLICANT'S SUBMISSION OF A
21 PROPOSED PROJECT.

22 (h) ENSURING THAT BROADBAND SERVICE GRANT AWARDS ARE
23 NOT PROVIDED IN AREAS WHERE EXISTING PROVIDERS ARE PROVIDING
24 ACCESS TO BROADBAND NETWORKS;

25 (i) IN THE CASE OF A FRANCHISE AGREEMENT, ENSURING THAT
26 BROADBAND SERVICE GRANT AWARDS ARE NOT PROVIDED IN AREAS WITH
27 A POPULATION DENSITY LARGE ENOUGH TO REQUIRE SERVICE UNDER AN

1 EXISTING FRANCHISE AGREEMENT;

2 (j) ESTABLISHING A GRANT AWARD PROCESS THAT:

3 (I) ALLOWS FOR ONLY ONE GRANT TO BE AWARDED PER APPLICANT

4 PER YEAR;

5 (II) ENSURES THE GEOGRAPHICALLY EQUITABLE DISTRIBUTION OF

6 GRANT AWARDS; AND

7 (III) PROVIDES FOR AN APPEALS PROCESS FOR APPLICANTS DENIED

8 GRANT MONEYS;

9 (k) ESTABLISHING REPORTING AND ACCOUNTABILITY

10 REQUIREMENTS FOR A PROJECT RECEIVING FINANCIAL SUPPORT FROM THE

11 FUND, INCLUDING CONTRACTUAL REQUIREMENTS THAT:

12 (I) THE APPLICANT SECURE A PERFORMANCE BOND FOR THE

13 PROJECT;

14 (II) THE APPLICANT DEMONSTRATE AN ABILITY TO PROVIDE

15 BROADBAND SERVICE AT A REASONABLE COST PER HOUSEHOLD IN THE

16 AREA TO BE SERVED BY THE PROPOSED PROJECT;

17 (III) THE APPLICANT DEMONSTRATE AN ABILITY TO COMPLETE THE

18 PROPOSED PROJECT WITHIN A REASONABLE TIME, NOT TO EXCEED TWO

19 YEARS, UNLESS DELAYED BY A GOVERNMENT ENTITY; AND

20 (IV) PROHIBIT AN APPLICANT FROM USING GRANT AWARD MONEYS

21 TO OFFER, PROVIDE, OR SELL BROADBAND SERVICES IN AN AREA NOT

22 MEETING THE DEFINITION OF UNSERVED AREA.

23 (9) (a) THE BOARD SHALL REPORT ANNUALLY TO THE

24 TRANSPORTATION AND ENERGY COMMITTEE AND BUSINESS, LABOR, AND

25 THE ECONOMIC AND WORKFORCE DEVELOPMENT COMMITTEE IN THE

26 HOUSE OF REPRESENTATIVES AND TO THE AGRICULTURE, NATURAL

27 RESOURCES, AND ENERGY COMMITTEE AND BUSINESS, LABOR, AND

1 TECHNOLOGY COMMITTEE IN THE SENATE, OR THEIR SUCCESSOR
2 COMMITTEES, ON THE PROJECTS SUPPORTED BY MONEYS FROM THE FUND
3 IN A GIVEN YEAR, INCLUDING INFORMATION ON:

- 4 (I) THE NUMBER OF PROJECTS;
- 5 (II) THE LOCATION OF EACH PROJECT;
- 6 (III) THE AMOUNT OF FUNDING RECEIVED FOR EACH PROJECT; AND
- 7 (IV) A DESCRIPTION OF EACH PROJECT.

8 (b) NOTWITHSTANDING SECTION 24-1-136 (11), C.R.S., THE
9 REPORT REQUIRED UNDER THIS SUBSECTION (9) CONTINUES INDEFINITELY.

10 (10) LOCAL ENTITIES ARE ENCOURAGED TO COOPERATE WITH
11 RESPECT TO TIME LINES AND PERMIT FEES CONCERNING PROJECTS IN THEIR
12 GEOGRAPHIC AREA.

13 (11) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.
14 BEFORE THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL
15 REVIEW THE POWERS, DUTIES, AND FUNCTIONS OF THE BOARD REGARDING
16 THE ADMINISTRATION OF THE BROADBAND FUND IN ACCORDANCE WITH
17 SECTION 24-34-104, C.R.S.

18 **SECTION 5.** In Colorado Revised Statutes, 24-34-104, **add** (55)
19 (f) as follows:

20 **24-34-104. General assembly review of regulatory agencies**
21 **and functions for termination, continuation, or reestablishment.**

22 (55) The following agencies, functions, or both, terminate on September
23 1, 2024:

- 24 (f) THE FUNCTIONS OF THE BROADBAND DEPLOYMENT BOARD,
25 CREATED IN SECTION 40-15-509.5, C.R.S., REGARDING THE
26 ADMINISTRATION OF THE BROADBAND FUND, CREATED IN SECTION
27 40-15-509.5, C.R.S.

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