

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0834.01 Jennifer Berman x3286

HOUSE BILL 14-1328

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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), (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, 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 (17.5) "LOCAL ENTITY" MEANS ELECTED MEMBERS OF A COUNTY
23 GOVERNMENT, MUNICIPAL GOVERNMENT, SCHOOL DISTRICT, OR BOARD OF
24 COOPERATIVE EDUCATIONAL SERVICES IN AN UNSERVED AREA.

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

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

1 (II) CONSISTS OF ONE OR MORE CONTIGUOUS CENSUS BLOCKS IN
2 WHICH A MAJORITY OF THE HOUSEHOLDS LACK ACCESS TO AT LEAST ONE
3 PROVIDER OF A BROADBAND NETWORK THAT USES SATELLITE
4 TECHNOLOGY AND AT LEAST ONE PROVIDER OF A BROADBAND NETWORK
5 THAT USES NONSATELLITE TECHNOLOGY.

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

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

11 **40-15-208. High cost support mechanism - Colorado high cost**
12 **administration fund - creation - purpose - operation - rules - report**
13 **- repeal.** (2) (a) (I) The commission is hereby authorized to establish a
14 mechanism for the support of universal service, also referred to in this
15 section as the "high cost support mechanism", which shall operate in
16 accordance with rules adopted by the commission. The primary purpose
17 of the high cost support mechanism is to provide financial assistance as
18 a support mechanism to:

19 (A) Local exchange providers to help make basic local exchange
20 service affordable and allow ~~such~~ THE providers to be fully reimbursed
21 for the difference between the reasonable costs incurred in making basic
22 service available to their customers within a rural, high cost geographic
23 support area and the price charged for ~~such~~ THE service, after taking into
24 account any amounts THAT THE PROVIDERS HAVE received ~~by such~~
25 ~~providers~~ under price support mechanisms established by the federal
26 government and by this state; AND

27 (B) PROVIDE ACCESS TO BROADBAND SERVICE TO BUILD

1 BROADBAND NETWORKS IN UNSERVED AREAS.

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

9 (III) THE COMMISSION, AT ITS REGULARLY SCHEDULED MEETINGS
10 TO ESTABLISH THE HIGH COST SUPPORT MECHANISM SURCHARGE, AND
11 SURCHARGE RATE, SHALL REDUCE THE AMOUNT OF THE HIGH COST
12 SUPPORT MECHANISM SURCHARGE BY THE FOLLOWING PERCENTAGES OF
13 THE NEW BROADBAND FUNDS ALLOCATED IN THAT YEAR PURSUANT TO
14 SECTION 40-15-509.5 (3) FROM THE HIGH COST SUPPORT MECHANISM TO
15 THE BROADBAND FUND, CREATED IN SECTION 40-15-509.5 (4):

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

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

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

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

20 (e) IN ADDITION TO THE ANNUAL REPORT SUBMITTED UNDER
21 PARAGRAPH (b) OF THIS SUBSECTION (2) BY THE COMMISSION, THE
22 DEPARTMENT OF REGULATORY AGENCIES SHALL INCLUDE IN ITS
23 PRESENTATION TO THE APPROPRIATE LEGISLATIVE COMMITTEE UNDER THE
24 REQUIREMENTS OF PART 2 OF ARTICLE 7 OF TITLE 2, C.R.S., AN UPDATE ON
25 THE IMPLEMENTATION AND ADMINISTRATION OF THE HIGH COST SUPPORT
26 MECHANISM.

27 (3) (a) There is hereby created, in the state treasury, the Colorado

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

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

25 **40-15-502. Expressions of state policy. (5) Universal service**
26 **support mechanisms.** (a) In order to accomplish the goals of universal
27 basic service, universal access to advanced service UNDER SECTION

1 40-15-509.5, and any revision of the definition of basic service under
2 subsection (2) of this section, the commission shall create a system of
3 support mechanisms to assist in the provision of ~~such~~ THESE services in
4 high-cost areas. ~~THE COMMISSION SHALL FUND~~ these support mechanisms
5 ~~shall be funded~~ equitably and on a nondiscriminatory, competitively
6 neutral basis through assessments, which may include a rate element, on
7 all telecommunications service providers in Colorado, and ~~THE~~
8 ~~COMMISSION shall be distributed~~ ~~DISTRIBUTE THE FUNDS~~ equitably and on
9 a nondiscriminatory, competitively neutral basis. For purposes of
10 administering ~~such~~ THE support mechanisms, the commission shall divide
11 the state into reasonably compact, competitively neutral geographic
12 support areas. A provider's eligibility to receive support under the support
13 mechanisms ~~shall be~~ IS conditioned upon the provider's offering basic
14 service throughout an entire support area. The commission shall review
15 the costs of basic service and shall administer ~~such~~ THE support
16 mechanisms.

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

19 **40-15-509.5. Broadband service - report - broadband**
20 **deployment board - broadband fund - creation - repeal.** (1) **Short**
21 **title.** THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE
22 "CONNECT COLORADO TO ENHANCE ECONOMIC DEVELOPMENT,
23 TELEHEALTH, EDUCATION, AND SAFETY ACT".

24 (2) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND
25 DECLARES THAT, TO PROMOTE THE STATE POLICY OF PROVIDING
26 UNIVERSAL ACCESS TO BROADBAND SERVICE, AS SET FORTH IN SECTION
27 40-15-502 (4), IT MAY BE NECESSARY TO PROVIDE FINANCIAL ASSISTANCE

1 THROUGH ADDITIONAL SUPPORT MECHANISMS IF COMPETITION FOR LOCAL
2 EXCHANGE SERVICES FAILS TO DELIVER BROADBAND SERVICE
3 THROUGHOUT THE STATE. "ADVANCED SERVICE" MEANS "BROADBAND
4 SERVICE" FOR PURPOSES OF THIS SECTION ONLY.

5 (3) THE COMMISSION MAY USE THE COLORADO HIGH COST
6 SUPPORT MECHANISM, ESTABLISHED UNDER SECTION 40-15-208 AND
7 REFERRED TO IN THIS SECTION AS THE "HCSM", FOR THE DEPLOYMENT OF
8 BROADBAND SERVICE IN UNSERVED AREAS OF THE STATE. THE
9 COMMISSION MAY FUND THE DEPLOYMENT OF BROADBAND SERVICE IN
10 UNSERVED AREAS OF THE STATE THROUGH USE OF THE HCSM SURCHARGE
11 AND SURCHARGE RATE IN EFFECT ON THE EFFECTIVE DATE OF THIS
12 SECTION. THE COMMISSION MAY UTILIZE ONLY THE MONEYS THAT IT
13 DETERMINES ARE NO LONGER REQUIRED BY THE HCSM TO SUPPORT
14 UNIVERSAL BASIC SERVICE THROUGH AN EFFECTIVE COMPETITION
15 DETERMINATION. NOTHING IN THIS SECTION INCREASES ANY SURCHARGE
16 RATE CHARGED TO HELP FUND THE HCSM.

17 (4) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
18 BROADBAND FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE
19 FUND CONSISTS OF ALL MONEYS ALLOCATED FROM THE HCSM TO
20 PROVIDE ACCESS TO BROADBAND SERVICES TO BUILD BROADBAND
21 NETWORKS IN UNSERVED AREAS PURSUANT TO SECTION 40-15-208 (2) (a)
22 (I) (B), WHICH MONEYS SHALL BE TRANSFERRED TO THE FUND UPON
23 ALLOCATION, AND ALL MONEYS THAT THE GENERAL ASSEMBLY MAY
24 APPROPRIATE TO THE FUND. THE MONEYS IN THE FUND ARE APPROPRIATED
25 TO THE BROADBAND DEPLOYMENT BOARD, CREATED IN SUBSECTION (5) OF
26 THIS SECTION, FOR THE PURPOSES SET FORTH IN THIS SECTION. ALL
27 INTEREST EARNED FROM THE INVESTMENT OF MONEYS IN THE FUND IS

1 CREDITED TO THE FUND. ALL MONEYS NOT EXPENDED AT THE END OF THE
2 FISCAL YEAR REMAIN IN THE FUND AND DO NOT REVERT TO THE GENERAL
3 FUND OR ANY OTHER FUND.

4 (b) THE BROADBAND DEPLOYMENT BOARD SHALL DEDICATE TWO
5 HUNDRED THOUSAND DOLLARS OF THE MONEYS IN THE FUND TO COVER
6 THE DIRECT AND INDIRECT COSTS INCURRED BY THE BOARD, ITS
7 EMPLOYEES, AND ITS CONTRACTORS IN FUNDING THE DEPLOYMENT OF
8 ADVANCED AND BROADBAND SERVICE IN UNSERVED AREAS OF THE STATE.

9 (5) (a) THERE IS HEREBY CREATED IN THE DEPARTMENT OF
10 REGULATORY AGENCIES THE BROADBAND DEPLOYMENT BOARD, REFERRED
11 TO IN THIS SECTION AS THE "BOARD". THE BOARD IS AN INDEPENDENT
12 BOARD CREATED TO IMPLEMENT AND ADMINISTER THE DEPLOYMENT OF
13 ADVANCED AND BROADBAND SERVICE IN UNSERVED AREAS FROM THE
14 FUND. THE DEPARTMENT OF REGULATORY AGENCIES SHALL STAFF THE
15 BOARD. THE BOARD HAS THE POWERS AND DUTIES SPECIFIED IN THIS
16 SECTION.

17 (b) THE BOARD CONSISTS OF THIRTEEN MEMBERS. THE MEMBERS
18 OF THE BOARD SHALL BE SELECTED ON THE BASIS OF THEIR KNOWLEDGE
19 OF AND INTEREST IN BROADBAND SERVICE AND SHALL SERVE FOR
20 FOUR-YEAR TERMS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED TO
21 THE BOARD, SIX MEMBERS SHALL SERVE FOR TERMS OF TWO YEARS AND
22 SEVEN MEMBERS SHALL SERVE FOR TERMS OF FOUR YEARS. A MEMBER OF
23 THE BOARD SHALL NOT SERVE MORE THAN TWO CONSECUTIVE FULL
24 FOUR-YEAR TERMS.

25 (c) NO MORE THAN SEVEN MEMBERS OF ANY ONE MAJOR POLITICAL
26 PARTY MAY SERVE ON THE BOARD AT THE SAME TIME. MEMBERS OF THE
27 BOARD ARE ENTITLED TO SEVENTY-FIVE DOLLARS PER DIEM FOR

1 ATTENDANCE AT OFFICIAL MEETINGS PLUS ACTUAL AND NECESSARY
2 EXPENSES INCURRED IN THE CONDUCT OF OFFICIAL BUSINESS. MEMBERS
3 OF THE BOARD SHALL BE APPOINTED AS FOLLOWS:

4 (I) AT LEAST ONE MEMBER FROM THE COMMISSION; ONE MEMBER
5 FROM THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND
6 INTERNATIONAL TRADE IN THE OFFICE OF THE GOVERNOR; ONE MEMBER
7 FROM THE DEPARTMENT OF LOCAL AFFAIRS, CREATED IN SECTION
8 24-1-125, C.R.S.; AND ONE MEMBER FROM THE OFFICE OF INFORMATION
9 TECHNOLOGY, CREATED IN SECTION 24-37.5-103, C.R.S., AS APPOINTED
10 BY THE GOVERNOR. THE GOVERNOR SHALL SELECT THREE OF THESE FOUR
11 APPOINTEES TO SERVE AS VOTING MEMBERS OF THE BOARD.

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

14 (III) THREE VOTING MEMBERS REPRESENTING THE BROADBAND
15 INDUSTRY:

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

18 (B) ONE OF WHOM REPRESENTS A WIRELINE PROVIDER, AS
19 APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF
20 REPRESENTATIVES; AND

21 (C) ONE OF WHOM REPRESENTS A SATELLITE PROVIDER, AS
22 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

23 (IV) THREE VOTING MEMBERS OF THE PUBLIC:

24 (A) ONE OF WHOM RESIDES IN AN UNSERVED AREA OF THE
25 WESTERN SLOPE OF THE STATE, AS APPOINTED BY THE PRESIDENT OF THE
26 SENATE;

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

1 EASTERN SLOPE OF THE STATE, AS APPOINTED BY THE MINORITY LEADER
2 OF THE SENATE; AND

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

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

7 (e) THE TERM OF ANY MEMBER OF THE BOARD WHO MISSES MORE
8 THAN TWO CONSECUTIVE REGULAR BOARD MEETINGS WITHOUT GOOD
9 CAUSE SHALL BE TERMINATED, AND HIS OR HER SUCCESSOR SHALL BE
10 APPOINTED IN THE MANNER PROVIDED FOR APPOINTMENTS UNDER THIS
11 SECTION.

12 (f) IF A BOARD MEMBER HAS A CONFLICT OF INTEREST WITH
13 RESPECT TO ANY MATTER ADDRESSED BY THE BOARD, INCLUDING A
14 FINANCIAL INTEREST IN THE MATTER, THE MEMBER SHALL RECUSE
15 HIMSELF OR HERSELF FROM ANY DISCUSSION OR DECISIONS ON THE
16 MATTER.

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

19 (7) FOR A PERIOD OF AT LEAST SIX MONTHS BEFORE ACCEPTING
20 APPLICATIONS FOR PROPOSED PROJECTS, THE BOARD SHALL PROVIDE
21 NOTICE TO AND REQUESTS FOR PROPOSALS FROM INCUMBENT PROVIDERS
22 AND LOCAL ENTITIES ABOUT THE BROADBAND FUND AND ITS PURPOSE TO
23 DEPLOY ADVANCED AND BROADBAND SERVICE IN UNSERVED AREAS. THE
24 BOARD SHALL ENSURE THAT BOTH THE MANNER AND AMOUNT OF NOTICE
25 PROVIDED UNDER THIS SUBSECTION (7) ARE ADEQUATE AND EQUITABLE
26 FOR ALL POTENTIALLY ELIGIBLE APPLICANTS.

27 (8) THE BOARD SHALL AWARD MONEYS FROM THE FUND, AND, IN

1 CONNECTION THEREWITH, SHALL DEVELOP CRITERIA FOR AWARDING
2 MONEYS FROM THE FUND FOR NEW PROJECTS EXPANDING BROADBAND
3 NETWORKS INTO UNSERVED AREAS, INCLUDING:

4 (a) DEVELOPING A PROJECT APPLICATION PROCESS THAT PLACES
5 THE BURDEN ON AN ELIGIBLE APPLICANT TO DEMONSTRATE THAT ITS
6 PROPOSED PROJECT MEETS THE PROJECT ELIGIBILITY CRITERIA
7 ESTABLISHED IN THIS SUBSECTION (8), INCLUDING A REQUIREMENT THAT
8 THE PROPOSAL CONCERN A NEW PROJECT, AND NOT A PROJECT ALREADY
9 IN PROGRESS, AND A REQUIREMENT TO PROVE THAT THE AREA TO BE
10 SERVED BY THE PROPOSED PROJECT IS AN UNSERVED AREA. TO PROVE
11 THAT THE AREA TO BE SERVED IS AN UNSERVED AREA, THE APPLICANT
12 MUST SUBMIT A MAP DEMONSTRATING THE INSUFFICIENT AVAILABILITY OF
13 BROADBAND SERVICE IN THE AREA. THE APPLICANT MUST SUBMIT THE
14 APPLICATION AND MAP TO BOTH THE BOARD AND THE BOARD OF COUNTY
15 COMMISSIONERS, CITY COUNCIL, OR OTHER LOCAL ENTITY WITH
16 AUTHORITY OVER THE AREA TO BE SERVED. THE BOARD SHALL ESTABLISH
17 A NOTICE AND COMMENT PERIOD OF AT LEAST SIXTY DAYS WITHIN WHICH
18 THE LOCAL ENTITY MAY REVIEW AND COMMENT ON THE APPLICATION.

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

21 (c) MINIMIZING CONFLICTS WITH, OR DUPLICATION OF, FEDERAL
22 SOURCES OF HIGH COST SUPPORT OR FEDERAL BROADBAND GRANTS SO AS
23 TO MAXIMIZE THE TOTAL AVAILABLE STATE AND FEDERAL SUPPORT FOR
24 RURAL BROADBAND DEVELOPMENT;

25 (d) ENSURING THAT A PROPOSED PROJECT INCLUDES:

26 (I) ACCESS TO A BROADBAND NETWORK;

27 (II) INDEPENDENT FUNDING SECURED FOR AT LEAST TWENTY-FIVE

1 PERCENT OF THE TOTAL COST OF THE PROPOSED PROJECT; AND

2 (III) A REQUIREMENT TO UTILIZE ANY AWARD GRANTED FROM THE

3 FUND FOR CAPITAL DEVELOPMENT PURPOSES ONLY;

4 (e) PROVIDING ADDITIONAL CONSIDERATION FOR PROPOSED

5 PROJECTS THAT INCLUDE AT LEAST SOME OF THE FOLLOWING FACTORS:

6 (I) PROPOSED PROJECTS THAT ARE ENDORSED BY LOCAL ENTITIES

7 INTERESTED IN OBTAINING BROADBAND INTERNET SERVICE IN UNSERVED

8 AREAS OF THE STATE;

9 (II) PROPOSED PROJECTS THAT HAVE DOWNSTREAM AND

10 UPSTREAM SPEEDS IN EXCESS OF THE MINIMUM REQUIRED UNDER THIS

11 SECTION;

12 (III) PROPOSED PROJECTS FOR WHICH THE APPLICANT HAS AN

13 ESTABLISHED RECORD OF OPERATION IN THE AREA OF THE GRANT

14 APPLICATION; AND

15 (IV) PROPOSED PROJECTS PROVIDING LAST-MILE BROADBAND

16 SERVICE, WHICH IS DEFINED AS THE PORTION OF BROADBAND SERVICE

17 THAT DELIVERS AN INTERNET CONNECTION TO AN END USER;

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

19 (I) WHETHER THE PROPOSED PROJECT WILL PROVIDE SERVICES VIA

20 A LICENSED OR UNLICENSED MEANS OF TRANSMISSION;

21 (II) THE COST-EFFECTIVENESS OF THE PROPOSED PROJECT'S

22 PROPOSED METHOD FOR EXPANDING BROADBAND INTERNET SERVICE INTO

23 UNSERVED AREAS; AND

24 (III) THE RELIABILITY OF THE NETWORK PROVIDING BROADBAND

25 SERVICES;

26 (g) WITH REGARD TO AN APPLICANT THAT HAS SUBMITTED A

27 PROPOSED PROJECT TO THE BOARD, AFFORDING EACH INCUMBENT

1 PROVIDER IN THE AREA THAT IS NOT PROVIDING ACCESS TO A BROADBAND
2 NETWORK IN THE UNSERVED AREA A RIGHT OF FIRST REFUSAL REGARDING
3 THE IMPLEMENTATION OF A PROJECT IN THE UNSERVED AREA. IF AN
4 INCUMBENT PROVIDER PROPOSES A PROJECT FOR THE AREA, THE
5 INCUMBENT PROVIDER COMMITS TO PROVIDING ACCESS TO A BROADBAND
6 NETWORK WITHIN ONE YEAR AFTER THE APPLICANT'S SUBMISSION OF A
7 PROPOSED PROJECT.

8 (h) ENSURING THAT BROADBAND SERVICE GRANT AWARDS ARE
9 NOT PROVIDED IN AREAS WHERE EXISTING PROVIDERS ARE PROVIDING
10 ACCESS TO BROADBAND NETWORKS;

11 (i) IN THE CASE OF A FRANCHISE AGREEMENT, ENSURING THAT
12 BROADBAND SERVICE GRANT AWARDS ARE NOT PROVIDED IN AREAS WITH
13 A POPULATION DENSITY LARGE ENOUGH TO REQUIRE SERVICE UNDER AN
14 EXISTING FRANCHISE AGREEMENT;

15 (j) ESTABLISHING A GRANT AWARD PROCESS THAT:

16 (I) ALLOWS FOR ONLY ONE GRANT TO BE AWARDED PER APPLICANT
17 PER YEAR;

18 (II) ENSURES THE GEOGRAPHICALLY EQUITABLE DISTRIBUTION OF
19 GRANT AWARDS; AND

20 (III) PROVIDES FOR AN APPEALS PROCESS FOR APPLICANTS DENIED
21 GRANT MONEYS;

22 (k) ESTABLISHING REPORTING AND ACCOUNTABILITY
23 REQUIREMENTS FOR A PROJECT RECEIVING FINANCIAL SUPPORT FROM THE
24 FUND, INCLUDING CONTRACTUAL REQUIREMENTS THAT:

25 (I) THE APPLICANT SECURE A PERFORMANCE BOND FOR THE
26 PROJECT;

27 (II) THE APPLICANT DEMONSTRATE AN ABILITY TO PROVIDE

1 BROADBAND SERVICE AT A REASONABLE COST PER HOUSEHOLD IN THE
2 AREA TO BE SERVED BY THE PROPOSED PROJECT;

3 (III) THE APPLICANT DEMONSTRATE AN ABILITY TO COMPLETE THE
4 PROPOSED PROJECT WITHIN A REASONABLE TIME, NOT TO EXCEED TWO
5 YEARS, UNLESS DELAYED BY A GOVERNMENT ENTITY; AND

6 (IV) THE APPLICANT AGREE NOT TO SELL BROADBAND SERVICE.

7 (9) (a) THE BOARD SHALL REPORT ANNUALLY TO THE
8 TRANSPORTATION AND ENERGY COMMITTEE AND BUSINESS, LABOR, AND
9 THE ECONOMIC AND WORKFORCE DEVELOPMENT COMMITTEE IN THE
10 HOUSE OF REPRESENTATIVES AND TO THE AGRICULTURE, NATURAL
11 RESOURCES, AND ENERGY COMMITTEE AND BUSINESS, LABOR, AND
12 TECHNOLOGY COMMITTEE IN THE SENATE, OR THEIR SUCCESSOR
13 COMMITTEES, ON THE PROJECTS SUPPORTED BY MONEYS FROM THE FUND
14 IN A GIVEN YEAR, INCLUDING INFORMATION ON:

15 (I) THE NUMBER OF PROJECTS;

16 (II) THE LOCATION OF EACH PROJECT;

17 (III) THE AMOUNT OF FUNDING RECEIVED FOR EACH PROJECT; AND

18 (IV) A DESCRIPTION OF EACH PROJECT.

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

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

24 (11) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.
25 BEFORE THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL
26 REVIEW THE POWERS, DUTIES, AND FUNCTIONS OF THE BOARD REGARDING
27 THE ADMINISTRATION OF THE BROADBAND FUND IN ACCORDANCE WITH

1 SECTION 24-34-104, C.R.S.

2 **SECTION 5.** In Colorado Revised Statutes, 24-34-104, **add** (55)

3 (f) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for termination, continuation, or reestablishment.**

6 (55) The following agencies, functions, or both, terminate on September
7 1, 2024:

8 (f) THE FUNCTIONS OF THE BROADBAND DEPLOYMENT BOARD,
9 CREATED IN SECTION 40-15-509.5, C.R.S., REGARDING THE
10 ADMINISTRATION OF THE BROADBAND FUND, CREATED IN SECTION
11 40-15-509.5, C.R.S.

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, and safety.