

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

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

Business, Labor, & Technology
State, Veterans, & Military Affairs
Appropriations

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, AND, IN CONNECTION THEREWITH, MAKING AN
105 APPROPRIATION.

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

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.

SENATE
2nd Reading Unamended
April 25, 2014

HOUSE
3rd Reading Unamended
April 9, 2014

HOUSE
Amended 2nd Reading
April 8, 2014

telecommunications service providers for some of the cost of providing 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 TELEPHONE COOPERATIVE, INCLUDING ITS AFFILIATES AND SUBSIDIARIES,
19 OR A NONPROFIT RURAL ELECTRIC ASSOCIATION THAT EXISTED ON THE
20 EFFECTIVE DATE OF THIS SUBSECTION (6.7) QUALIFIES AS AN "ELIGIBLE
21 APPLICANT". THE TERM IS NOT LIMITED TO A CURRENT RECIPIENT OF HIGH
22 COST SUPPORT MECHANISM FUNDS.

23 (9.5) "INCUMBENT PROVIDER" MEANS A PROVIDER THAT OFFERS
24 BROADBAND INTERNET SERVICE IN AN UNSERVED AREA, BUT THAT IS NOT
25 PROVIDING A BROADBAND NETWORK IN THAT AREA.

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

1 (17.5) "LOCAL ENTITY" MEANS ELECTED MEMBERS OF A COUNTY
2 GOVERNMENT, MUNICIPAL GOVERNMENT, SCHOOL DISTRICT, OR BOARD OF
3 COOPERATIVE EDUCATIONAL SERVICES IN AN UNSERVED AREA.

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

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

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

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

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

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

25 (A) Local exchange providers to help make basic local exchange
26 service affordable and allow ~~such~~ THE providers to be fully reimbursed
27 for the difference between the reasonable costs incurred in making basic

1 service available to their customers within a rural, high cost geographic
2 support area and the price charged for ~~such~~ THE service, after taking into
3 account any amounts THAT THE PROVIDERS HAVE received ~~by such~~
4 ~~providers~~ under price support mechanisms established by the federal
5 government and by this state; AND

6 (B) PROVIDE ACCESS TO BROADBAND SERVICE THROUGH
7 BROADBAND NETWORKS IN UNSERVED AREAS PURSUANT TO SECTION
8 40-15-509.5 ONLY.

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

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

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

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

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

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

27 (e) IN ADDITION TO THE ANNUAL REPORT SUBMITTED UNDER

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

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

1 from the deposit and investment of MONEYS IN the fund ~~shall~~ remain in
2 the fund and ~~shall~~ DO not revert to the general fund.

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

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

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

26 **40-15-509.5. Broadband service - report - broadband**
27 **deployment board - broadband fund - creation - repeal. (1) Short**

1 **title.** THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE
2 "CONNECT COLORADO TO ENHANCE ECONOMIC DEVELOPMENT,
3 TELEHEALTH, EDUCATION, AND SAFETY ACT".

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

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

1 FUND THE HCSM.

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

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

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

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

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

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

23 (II) THREE VOTING MEMBERS REPRESENTING LOCAL ENTITIES:

24 (A) ONE OF WHOM IS A COUNTY COMMISSIONER, AS APPOINTED BY
25 THE PRESIDENT OF THE SENATE IN CONSULTATION WITH COLORADO
26 COUNTIES, INC.;

27 (B) ONE OF WHOM IS A MAYOR OR CITY COUNCILPERSON, AS

1 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES IN
2 CONSULTATION WITH THE COLORADO MUNICIPAL LEAGUE; AND

3 (C) ONE OF WHOM IS ANY OTHER REPRESENTATIVE OF A LOCAL
4 ENTITY, AS APPOINTED BY THE MINORITY LEADER OF THE SENATE;

5 (III) SIX VOTING MEMBERS REPRESENTING THE BROADBAND
6 INDUSTRY:

7 (A) ONE OF WHOM REPRESENTS A WIRELESS PROVIDER, AS
8 APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF
9 REPRESENTATIVES;

10 (B) ONE OF WHOM REPRESENTS A WIRELINE PROVIDER, AS
11 APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND

12 (C) ONE OF WHOM REPRESENTS A BROADBAND SATELLITE
13 PROVIDER, AS APPOINTED BY THE GOVERNOR;

14 (D) ONE OF WHOM REPRESENTS A CABLE PROVIDER, AS APPOINTED
15 BY THE PRESIDENT OF THE SENATE;

16 (E) ONE OF WHOM REPRESENTS A RURAL LOCAL EXCHANGE
17 CARRIER, AS APPOINTED BY THE GOVERNOR; AND

18 (F) ONE OF WHOM REPRESENTS A COMPETITIVE LOCAL EXCHANGE
19 CARRIER, AS APPOINTED BY THE SPEAKER OF THE HOUSE OF
20 REPRESENTATIVES;

21 (IV) THREE VOTING MEMBERS OF THE PUBLIC:

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

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

1 (C) ONE OF WHOM RESIDES IN AN UNSERVED URBAN AREA OF THE
2 STATE, AS APPOINTED BY THE SPEAKER OF THE HOUSE OF
3 REPRESENTATIVES.

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

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

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

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

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

26 (8) THE BOARD SHALL AWARD MONEYS FROM THE FUND, AND, IN
27 CONNECTION THEREWITH, SHALL DEVELOP CRITERIA FOR AWARDING

1 MONEYS FROM THE FUND FOR NEW PROJECTS EXPANDING BROADBAND
2 NETWORKS INTO UNSERVED AREAS, INCLUDING:

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

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 THAT LACKS

18 ACCESS TO BROADBAND SERVICE AT MEASURABLE SPEEDS GREATER THAN

19 FIFTY-SIX KILOBITS PER SECOND;

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

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

22 A LICENSED OR UNLICENSED MEANS OF TRANSMISSION;

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

24 PROPOSED METHOD FOR EXPANDING BROADBAND INTERNET SERVICE INTO

25 UNSERVED AREAS; AND

26 (III) THE RELIABILITY OF THE NETWORK PROVIDING BROADBAND

27 SERVICES;

1 (g) WITH REGARD TO AN APPLICANT THAT HAS SUBMITTED A
2 PROPOSED PROJECT TO THE BOARD, AFFORDING EACH INCUMBENT
3 PROVIDER IN THE AREA THAT IS NOT PROVIDING ACCESS TO A BROADBAND
4 NETWORK IN THE UNSERVED AREA A RIGHT OF FIRST REFUSAL REGARDING
5 THE IMPLEMENTATION OF A PROJECT IN THE UNSERVED AREA. IF AN
6 INCUMBENT PROVIDER PROPOSES A PROJECT FOR THE AREA, THE
7 INCUMBENT PROVIDER COMMITS TO PROVIDING ACCESS TO A BROADBAND
8 NETWORK WITHIN ONE YEAR AFTER THE APPLICANT'S SUBMISSION OF A
9 PROPOSED PROJECT.

10 (h) ENSURING THAT BROADBAND SERVICE GRANT AWARDS ARE
11 NOT PROVIDED IN AREAS OTHER THAN UNSERVED AREAS;

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

16 (j) ESTABLISHING A GRANT AWARD PROCESS THAT:

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

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

21 (III) PROVIDES FOR AN APPEALS PROCESS FOR ANY PARTY
22 AGGRIEVED BY AN AWARD OR DENIAL OF GRANT MONEYS;

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

26 (I) THE APPLICANT SECURE A PERFORMANCE BOND FOR THE
27 PROJECT, AS APPROPRIATE;

1 (II) THE APPLICANT DEMONSTRATE AN ABILITY TO PROVIDE
2 BROADBAND SERVICE AT A REASONABLE COST PER HOUSEHOLD IN THE
3 AREA TO BE SERVED BY THE PROPOSED PROJECT;

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

7 (IV) PROHIBIT AN APPLICANT FROM USING GRANT AWARD MONEYS
8 TO OFFER, PROVIDE, OR SELL BROADBAND SERVICES IN AN AREA NOT
9 MEETING THE DEFINITION OF UNSERVED AREA.

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

18 (I) THE NUMBER OF PROJECTS;

19 (II) THE LOCATION OF EACH PROJECT;

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

21 (IV) A DESCRIPTION OF EACH PROJECT.

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

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

27 (11) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

1 BEFORE THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL
2 REVIEW THE POWERS, DUTIES, AND FUNCTIONS OF THE BOARD REGARDING
3 THE ADMINISTRATION OF THE BROADBAND FUND IN ACCORDANCE WITH
4 SECTION 24-34-104, C.R.S.

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

7 **24-34-104. General assembly review of regulatory agencies**
8 **and functions for termination, continuation, or reestablishment.**

9 (55) The following agencies, functions, or both, terminate on September
10 1, 2024:

11 (f) THE FUNCTIONS OF THE BROADBAND DEPLOYMENT BOARD,
12 CREATED IN SECTION 40-15-509.5, C.R.S., REGARDING THE
13 ADMINISTRATION OF THE BROADBAND FUND, CREATED IN SECTION
14 40-15-509.5, C.R.S.

15 **SECTION 6. Appropriation.** (1) In addition to any other
16 appropriation, there is hereby appropriated, out of any moneys in the
17 Colorado high cost administration fund created in section 40-15-208 (3)
18 (a), Colorado Revised Statutes, not otherwise appropriated, to the
19 department of regulatory agencies, for the fiscal year beginning July 1,
20 2014, the sum of \$86,518 and 0.7 FTE, or so much thereof as may be
21 necessary, to be allocated for the implementation of this act as follows:

22 (a) \$52,733 and 0.7 FTE to the public utilities commission for
23 personal services;

24 (b) \$5,368 to the public utilities commission for operating
25 expenses and capital outlay; and

26 (c) \$28,417 to the executive director's office and administrative
27 services for the purchase of legal services.

1 (2) In addition to any other appropriation, there is hereby
2 appropriated to the department of law, for the fiscal year beginning July
3 1, 2014, the sum of \$28,417 and 0.2 FTE, or so much thereof as may be
4 necessary, for the provision of legal services for the department of
5 regulatory agencies related to the implementation of this act. Said sum is
6 from reappropriated funds received from the department of regulatory
7 agencies out of the appropriation made in paragraph (c) of subsection (1)
8 of this section.

9 (3) In addition to any other appropriation, there is hereby
10 appropriated to the department of law, for the fiscal year beginning July
11 1, 2014, the sum of \$27,324 and 0.2 FTE, or so much thereof as may be
12 necessary, for the provision of legal services for the department of
13 regulatory agencies related to the implementation of this act. Said sum is
14 from cash funds received from the department of regulatory agencies
15 from the broadband fund created in section 40-15-509.5 (4) (a), Colorado
16 Revised Statutes. The moneys in the fund are appropriated to the
17 broadband deployment board pursuant to section 40-15-509.5 (4) (a),
18 Colorado Revised Statutes.

19 **SECTION 7. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.