

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0060.02 Jennifer Berman x3286

SENATE BILL 18-002

---

SENATE SPONSORSHIP

Coram and Sonnenberg, Baumgardner, Cooke, Grantham, Holbert

HOUSE SPONSORSHIP

Becker K. and Duran,

---

Senate Committees

Business, Labor, & Technology

House Committees

---

A BILL FOR AN ACT

101 CONCERNING THE FINANCING OF BROADBAND DEPLOYMENT.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

**Section 1** of the bill amends the definition of "broadband network" to increase the speed of downstream broadband internet service from at least 4 megabits per second to at least 10 megabits per second and the definition of "unserved area" to refer to areas that are unincorporated, or within a city with a population of fewer than 7,500 inhabitants, and that are not receiving federal broadband support.

**Section 2** requires the public utilities commission, on January 1, 2019, to allocate 20% of the total amount of high cost support mechanism

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

(HCSM) money that nonrural incumbent local exchange carriers would otherwise receive to the HCSM account dedicated to broadband deployment, and to allocate an additional 20% of the total money that nonrural incumbent local exchange carriers would otherwise receive on January 1 of each subsequent year until, on January 1, 2023, all of the money that nonrural incumbent local exchange carriers would otherwise receive is allocated to the HCSM account dedicated to broadband deployment. Section 2 also removes a requirement that the commission reduce the amount of the HCSM surcharge by a certain percentage of the money transferred from the HCSM to the broadband fund for the deployment of broadband into rural areas. Section 2 requires that the HCSM surcharge amount that existed on January 1, 2019, be maintained as the surcharge amount; except that, on and after July 1, 2023, the commission may reduce the rate to ensure that the amount of money collected by the surcharge does not exceed \$25 million per year. Finally, for the period of January 1, 2019, through January 1, 2023, section 2 maintains the amount of support received by rural telecommunications providers for basic service at the level of support they received on January 1, 2016.

**Section 3** updates language regarding the use of money from the HCSM for broadband deployment grant applications approved by the broadband deployment board (board) to have money transferred directly from the HCSM to approved broadband deployment grant applicants. Section 3 also allows a grant applicant to apply for grants for multiple projects in a single year; however, the broadband deployment board may only award an applicant grants for more than one project if money is available for broadband deployment grants after the first round of broadband deployment grants have been awarded and disbursed in that year. Section 3 also prohibits the department of local affairs from implementing a broadband deployment program or approving a grant application concerning broadband deployment unless the board has determined that the program or application does not involve the same or a duplicate of any projects approved and funded.

**Section 4** repeals the public utilities commission's functions of administering the high cost support mechanism on September 1, 2024, subject to the department of regulatory agencies' review of the functions through its sunset review process.

---

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

2           **SECTION 1.** In Colorado Revised Statutes, 40-15-102, **amend**  
3 the introductory portion, (3.7) introductory portion, and (32)(a) as  
4 follows:

1           **40-15-102. Definitions.** As used in this ~~article~~ ARTICLE 15, unless  
2 the context otherwise requires:

3           (3.7) "Broadband network" means the plant, equipment,  
4 components, facilities, hardware, and software used to provide broadband  
5 internet service at measurable speeds of at least ~~four~~ TEN megabits per  
6 second downstream and one megabit per second upstream or at  
7 measurable speeds at least equal to the federal communications  
8 commission's definition of high-speed internet access or broadband,  
9 whichever is faster, with:

10           (32) (a) "Unserved area" means an area of the state that:

11           (I) Lies outside of municipal boundaries or is a city with a  
12 population of fewer than ~~five~~ SEVEN thousand FIVE HUNDRED inhabitants;  
13 and

14           (II) Consists of ~~one or more contiguous census blocks~~ AN AREA in  
15 which:

16           (A) A majority of the households IN EACH INDIVIDUAL CENSUS  
17 BLOCK IN THAT AREA lack access to at least one provider of a broadband  
18 network that uses satellite technology and at least one provider of a  
19 broadband network that uses nonsatellite technology; AND

20           (B) NO PROVIDER IS RECEIVING FEDERAL BROADBAND SUPPORT  
21 FOR A BROADBAND NETWORK.

22           **SECTION 2.** In Colorado Revised Statutes, 40-15-208, **amend**  
23 (2)(a)(III); and **add** (2)(a)(IV), (4), and (5) as follows:

24           **40-15-208. High cost support mechanism - Colorado high cost**  
25 **administration fund - creation - purpose - operation - rules - report**  
26 **- repeal.** (2) (a) (III) The commission at its regularly scheduled meetings  
27 to establish the high cost support mechanism surcharge and surcharge rate

1 shall ~~reduce~~ MAINTAIN the amount of the high cost support mechanism  
2 surcharge by the following percentages of the new broadband funds  
3 allocated in that year pursuant to section ~~40-15-509.5 (3)~~ from the high  
4 cost support mechanism to the broadband fund, created in section  
5 ~~40-15-509.5 (4)~~: AT THE AMOUNT ESTABLISHED AS OF JANUARY 1, 2016;  
6 EXCEPT THAT, ON AND AFTER JULY 1, 2023, THE COMMISSION MAY REDUCE  
7 THE HIGH COST SUPPORT MECHANISM RATE TO ENSURE THAT THE AMOUNT  
8 OF MONEY COLLECTED BY THE SURCHARGE DOES NOT EXCEED  
9 TWENTY-FIVE MILLION DOLLARS PER YEAR.

10 ~~(A) In years 2016 and 2017, five percent;~~

11 ~~(B) In years 2018 and 2019, ten percent;~~

12 ~~(C) In years 2020 and 2021, fifteen percent; and~~

13 ~~(D) In years 2022 and 2023, twenty percent.~~

14 (IV) THE COMMISSION SHALL ALLOCATE TO THE HIGH COST  
15 SUPPORT MECHANISM ACCOUNT DEDICATED TO BROADBAND DEPLOYMENT  
16 THE FOLLOWING PERCENTAGES OF THE TOTAL AMOUNT OF HIGH COST  
17 SUPPORT MECHANISM MONEY THAT NONRURAL INCUMBENT LOCAL  
18 EXCHANGE CARRIERS WOULD OTHERWISE RECEIVE:

19 (A) ON JANUARY 1, 2019, TWENTY PERCENT;

20 (B) ON JANUARY 1, 2020, FORTY PERCENT;

21 (C) ON JANUARY 1, 2021, SIXTY PERCENT;

22 (D) ON JANUARY 1, 2022, EIGHTY PERCENT; AND

23 (E) ON JANUARY 1, 2023, ONE HUNDRED PERCENT.

24 (4) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY  
25 IN SECTIONS 40-15-207 AND 40-15-502 OR THIS SECTION, RURAL  
26 TELECOMMUNICATIONS PROVIDERS RECEIVING SUPPORT FROM THE HIGH  
27 COST SUPPORT MECHANISM AS OF JANUARY 1, 2016, WILL CONTINUE TO

1 RECEIVE SUPPORT AT THE SAME LEVEL OF REIMBURSEMENT ESTABLISHED  
2 AS OF JANUARY 1, 2016, FOR THE PERIOD OF JANUARY 1, 2019, THROUGH  
3 SEPTEMBER 1, 2023. THE COMMISSION SHALL ADMINISTER THE HIGH COST  
4 SUPPORT MECHANISM TO ENSURE COMPLIANCE WITH THIS SECTION.

5 (5) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.  
6 BEFORE THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL,  
7 IN ACCORDANCE WITH SECTION 24-34-104, REVIEW THE POWERS, DUTIES,  
8 AND FUNCTIONS OF THE COMMISSION REGARDING THE ADMINISTRATION OF  
9 THE HIGH COST SUPPORT MECHANISM.

10 **SECTION 3.** In Colorado Revised Statutes, 40-15-509.5, **amend**  
11 (5)(a), (6), (7), (8)(j), (9)(a) introductory portion, and (11); **repeal** (4)(b);  
12 and **add** (10.5) as follows:

13 **40-15-509.5. Broadband service - report - broadband**  
14 **deployment board - broadband administrative fund - creation -**  
15 **repeal.** (4) (b) ~~The broadband deployment board shall dedicate two~~  
16 ~~hundred thousand dollars of the moneys in the fund to cover the direct~~  
17 ~~and indirect costs incurred by the board, its employees, and its contractors~~  
18 ~~in funding the deployment of broadband service in unserved areas of the~~  
19 ~~state.~~

20 (5) (a) There is hereby created in the department of regulatory  
21 agencies the broadband deployment board, referred to in this section as  
22 the "board". The board is an independent board created to implement and  
23 administer the deployment of broadband service in unserved areas. ~~from~~  
24 ~~the fund.~~ The department of regulatory agencies shall staff the board. The  
25 board has the powers and duties specified in this section.

26 (6) The board's powers and duties commence three months after  
27 ~~moneys are~~ MONEY IS first allocated from the HCSM ACCOUNT

1 DEDICATED TO BASIC SERVICE to the ~~fund~~ HCSM ACCOUNT DEDICATED TO  
2 BROADBAND DEPLOYMENT.

3 (7) For a period of at least six months before accepting  
4 applications for proposed projects, the board shall provide notice to and  
5 requests for proposals from incumbent providers and local entities about  
6 ~~the broadband fund and its~~ THE BOARD'S purpose to deploy broadband  
7 service in unserved areas. The board shall ensure that both the manner  
8 and amount of notice provided under this subsection (7) are adequate and  
9 equitable for all potentially eligible applicants.

10 (8) The board shall direct the commission to transfer money, in a  
11 manner consistent with this section, from the account for broadband  
12 deployment established in the HCSM to approved grant applicants. The  
13 board shall develop criteria for awarding money for new projects  
14 expanding broadband networks into unserved areas, including:

15 (j) Establishing a grant award process that:

16 (I) ~~Allows for only one grant to be awarded per applicant per year~~  
17 AN APPLICANT TO APPLY FOR GRANTS ON MULTIPLE PROJECTS IN A GIVEN  
18 YEAR IF THE APPLICANT MAKES A SEPARATE APPLICATION FOR EACH  
19 PROJECT; EXCEPT THAT THE BOARD MAY NOT APPROVE A SECOND OR  
20 SUBSEQUENT APPLICATION FROM AN APPLICANT IN A GIVEN YEAR UNLESS  
21 MONEY FOR BROADBAND DEPLOYMENT GRANTS IS AVAILABLE AFTER THE  
22 FIRST ROUND OF BROADBAND DEPLOYMENT GRANTS HAVE BEEN AWARDED  
23 AND DISBURSED IN THAT YEAR;

24 (II) Ensures the geographically equitable distribution of grant  
25 awards; ~~and~~

26 (III) Provides for an appeals process for any party aggrieved by an  
27 award or denial of grant ~~moneys~~ MONEY, WHETHER EXERCISING A RIGHT

1 OF FIRST REFUSAL, HAVING FILED ANY COMMENTS REGARDING THE INITIAL  
2 GRANT APPLICATION, OR BOTH; AND

3 (IV) REQUIRES THE BOARD TO CONSIDER APPEALS ALLEGING THAT  
4 THE APPLICATION AREA IS NO LONGER UNSERVED BECAUSE FEDERAL  
5 SUPPORT IMPROVES A BROADBAND NETWORK FOR SERVICE LOCATIONS  
6 THAT ARE ADJACENT TO THE AREA RECEIVING THE FEDERAL AWARD AND  
7 ARE WITHIN THE APPLICATION AREA.

8 (9) (a) The board shall report annually to the transportation and  
9 energy committee and THE business AFFAIRS AND labor and economic and  
10 workforce development committee in the house of representatives and to  
11 the agriculture, natural resources, and energy committee and business,  
12 labor, and technology committee in the senate, or their successor  
13 committees, on the projects supported by ~~moneys~~ MONEY from the fund  
14 HCSM ACCOUNT DEDICATED TO BROADBAND DEPLOYMENT in a given  
15 year, including information on:

16 (10.5) (a) THE DEPARTMENT OF LOCAL AFFAIRS, CREATED IN  
17 SECTION 24-1-125, UPON RECEIVING A GRANT APPLICATION FOR A  
18 PROPOSED OR EXISTING BROADBAND DEPLOYMENT PROJECT, AND BEFORE  
19 DETERMINING WHETHER TO AWARD MONEY FOR THE PROJECT, SHALL  
20 SUBMIT A COPY OF THE APPLICATION TO THE BOARD FOR THE BOARD'S  
21 REVIEW.

22 (b) UPON RECEIVING A COPY OF AN APPLICATION FROM THE  
23 DEPARTMENT OF LOCAL AFFAIRS PURSUANT TO SUBSECTION (10.5)(a) OF  
24 THIS SECTION, THE BOARD SHALL, AS SOON AS PRACTICAL BUT NOT LATER  
25 THAN THIRTY DAYS AFTER RECEIVING THE APPLICATION, REVIEW THE  
26 APPLICATION TO DETERMINE IF THE PROPOSED OR EXISTING BROADBAND  
27 DEPLOYMENT PROJECT FOR WHICH GRANT MONEY IS SOUGHT IS THE SAME

1 PROJECT OR A PROJECT THAT DUPLICATES ANY PROJECT APPROVED BY THE  
2 BOARD THAT, AT THE TIME THE BOARD REVIEWS THE APPLICATION, IS  
3 RECEIVING FUNDING FROM THE BOARD. UPON COMPLETING ITS REVIEW,  
4 THE BOARD SHALL NOTIFY THE DEPARTMENT OF LOCAL AFFAIRS WHETHER  
5 THE APPLICATION CONCERNS THE SAME PROJECT OR A PROJECT THAT  
6 DUPLICATES ANY PROJECT THAT THE BOARD HAS APPROVED AND IS  
7 FUNDING.

8 (c) IF THE BOARD NOTIFIES THE DEPARTMENT OF LOCAL AFFAIRS  
9 THAT A GRANT APPLICATION SUBMITTED TO THE BOARD PURSUANT TO  
10 SUBSECTION (10.5)(b) OF THIS SECTION CONCERNS THE SAME PROJECT OR  
11 A DUPLICATE OF A PROJECT THAT THE BOARD HAS APPROVED AND IS  
12 FUNDING, THE DEPARTMENT OF LOCAL AFFAIRS SHALL NOT APPROVE THE  
13 GRANT APPLICATION.

14 (11) This section is repealed, effective September 1, 2024. Before  
15 ~~the ITS repeal, the department of regulatory agencies shall review the~~  
16 ~~powers, duties, and functions of the board regarding the administration~~  
17 ~~DEPLOYMENT of the broadband fund SERVICES INTO UNSERVED AREAS~~  
18 ~~ARE SCHEDULED FOR REVIEW in accordance with section 24-34-104.~~  
19 ~~C.R.S.~~

20 **SECTION 4.** In Colorado Revised Statutes, 24-34-104, **amend**  
21 **(25)(a)(VI); and add (25)(a)(XVII) as follows:**

22 **24-34-104. General assembly review of regulatory agencies**  
23 **and functions for repeal, continuation, or reestablishment - legislative**  
24 **declaration - repeal.** (25) (a) The following agencies, functions, or both,  
25 are scheduled for repeal on September 1, 2024:

26 (VI) The functions of the broadband deployment board created in  
27 section 40-15-509.5; ~~regarding the administration of the broadband fund~~



1 ~~created in section 40-15-509.5;~~

2 (XVII) THE FUNCTIONS OF THE PUBLIC UTILITIES COMMISSION  
3 WITH REGARD TO THE ADMINISTRATION OF THE HIGH COST SUPPORT  
4 MECHANISM CREATED IN SECTION 40-15-208.

5 **SECTION 5. Act subject to petition - effective date.** This act  
6 takes effect at 12:01 a.m. on the day following the expiration of the  
7 ninety-day period after final adjournment of the general assembly (August  
8 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
9 referendum petition is filed pursuant to section 1 (3) of article V of the  
10 state constitution against this act or an item, section, or part of this act  
11 within such period, then the act, item, section, or part will not take effect  
12 unless approved by the people at the general election to be held in  
13 November 2018 and, in such case, will take effect on the date of the  
14 official declaration of the vote thereon by the governor.