

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 18-0060.02 Jennifer Berman x3286

SENATE BILL 18-002

SENATE SPONSORSHIP

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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.

SENATE
Amended 2nd Reading
February 7, 2018

(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); and
4 **repeal (19.3)**, as 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 (19.3) "Nondiscriminatory and competitively neutral basis" means
11 that decisions by the commission concerning the distribution of high cost
12 support mechanism funding to eligible providers shall be made using
13 regulatory principles that are neutral in their effect, that do not favor one
14 class of providers over another, and that do not result in the imposition of
15 regulatory requirements or costs on one class of eligible providers that are
16 not imposed on others.

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

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

21 (II) Consists of ONLY A SINGLE AREA OF one or more contiguous
22 census blocks in which:

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

27 (B) NO INCUMBENT PROVIDER OR INCUMBENT BROADBAND

1 PROVIDER IS RECEIVING OR HAS BEEN AWARDED FEDERAL BROADBAND
2 SUPPORT, WITH RESPECT TO A PROJECT FOR WHICH CONSTRUCTION WILL BE
3 COMPLETED, FOR A BROADBAND NETWORK TO SERVE A MAJORITY OF THE
4 HOUSEHOLDS IN EACH INDIVIDUAL CENSUS BLOCK IN THE SAME AREA.

5 **SECTION 2.** In Colorado Revised Statutes, 40-15-208, **amend**
6 (2)(a) and (3)(a); and add (4), (5), and (6) as follows:

7 **40-15-208. High cost support mechanism - Colorado high cost**
8 **administration fund - creation - purpose - operation - rules - report**
9 **-repeal.** (2) (a) (I) The commission is hereby authorized to establish a
10 mechanism for the support of universal service, also referred to in this
11 section as the "high cost support mechanism", which must operate in
12 accordance with rules adopted by the commission. The primary purpose
13 of the high cost support mechanism is to provide financial assistance as
14 a support mechanism to:

15 (A) ~~Local exchange providers in areas without effective~~
16 ~~competition to Help make basic local exchange service affordable and~~
17 ~~allow the FOR REASONABLE REIMBURSEMENT TO providers to be fully~~
18 ~~reimbursed for the difference between the reasonable IN THE costs~~
19 ~~incurred in making basic service available to their customers within a~~
20 ~~rural, high cost geographic support area and a reasonable benchmark rate~~
21 ~~for basic service, as determined by the commission, after taking into~~
22 ~~account any amounts that the providers have received under price support~~
23 ~~mechanisms established by the federal government and by this state,~~
24 ~~regardless of the classification of basic service under part 2, 3 or 4 of this~~
25 ~~article~~ ARTICLE 15; and

26 (B) Provide access to broadband service through broadband
27 networks in unserved areas pursuant to THIS SECTION AND section

1 40-15-509.5 only.

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. The high cost support mechanism
6 shall be supported and distributed equitably and on a nondiscriminatory,
7 competitively neutral basis through a neutral assessment on all
8 telecommunications providers in Colorado.

9 (III) The commission at its regularly scheduled meetings to
10 establish the high cost support mechanism surcharge and surcharge rate
11 shall reduce MAINTAIN the amount RATE of the high cost support
12 mechanism surcharge by the following percentages of the new broadband
13 funds allocated in that year pursuant to section 40-15-509.5 (3) from the
14 high cost support mechanism to the broadband fund, created in section
15 40-15-509.5 (4): AT THE SURCHARGE RATE ESTABLISHED AS OF JANUARY
16 1, 2018; EXCEPT THAT, ON AND AFTER JULY 1, 2023, THE COMMISSION
17 MAY REDUCE THE SURCHARGE RATE TO ENSURE THAT THE AMOUNT OF
18 MONEY COLLECTED __ DOES NOT EXCEED TWENTY-FIVE MILLION DOLLARS
19 IN CALENDAR YEAR 2024.

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

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

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

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

24 (IV) THE COMMISSION SHALL ALLOCATE TO THE HIGH COST
25 SUPPORT MECHANISM ACCOUNT DEDICATED TO BROADBAND DEPLOYMENT
26 THE FOLLOWING PERCENTAGES OF THE TOTAL YEARLY AMOUNT OF HIGH
27 COST SUPPORT MECHANISM MONEY THAT THE NONRURAL INCUMBENT

1 LOCAL EXCHANGE CARRIER WOULD RECEIVE AND REDUCE THE AMOUNT
2 PAID TO THE NONRURAL INCUMBENT LOCAL EXCHANGE CARRIER BY THE
3 SAME PERCENTAGE:

4 (A) IN 2019, SIXTY PERCENT;

5 (B) IN 2020, SEVENTY PERCENT;

6 (C) IN 2021, EIGHTY PERCENT;

7 (D) IN 2022, NINETY PERCENT; AND

8 (E) IN 2023, ONE HUNDRED PERCENT.

9 (V) THE COMMISSION SHALL MAKE THE ALLOCATIONS REQUIRED
10 BY SUBSECTION (2)(a)(IV) OF THIS SECTION TO THE HIGH COST SUPPORT
11 MECHANISM ACCOUNT DEDICATED TO BROADBAND DEPLOYMENT EACH
12 QUARTER AND AT THE SAME TIME THAT A PAYMENT IS MADE TO THE
13 NONRURAL INCUMBENT EXCHANGE CARRIER.

14 (VI) IN ACCORDANCE WITH SUBSECTION (2)(a)(IV) OF THIS
15 SECTION, THE COMMISSION, IN MAKING DISTRIBUTIONS OF HIGH COST
16 SUPPORT MECHANISM MONEY IN THE YEARS 2019 THROUGH 2023, SHALL
17 NEITHER:

18 (A) MAKE EFFECTIVE COMPETITION DETERMINATIONS; NOR

19 (B) APPLY ANY SECTION OF THIS ARTICLE 15 THAT REQUIRES AN
20 EFFECTIVE COMPETITION DETERMINATION BE MADE OR THAT IN ANY WAY
21 CONFLICTS WITH SUBSECTION (2)(a)(IV) OF THIS SECTION WITH REGARD
22 TO THE DISTRIBUTIONS.

23 (3) (a) There is hereby created, in the state treasury, the Colorado
24 high cost administration fund, referred to in this section as the "fund",
25 which shall be used to reimburse the commission and its contractors for
26 reasonable expenses incurred in the administration of the high cost
27 support mechanism, including administrative costs incurred in association

1 with broadband service, as determined by rules of the commission. The
2 general assembly shall appropriate annually the moneys MONEY in the
3 fund that are IS to be used for the direct and indirect administrative costs
4 incurred by the commission and its contractors. At the end of any fiscal
5 year, all unexpended and unencumbered moneys MONEY in the fund
6 remain REMAINS in the fund and shall not be credited or transferred to the
7 general fund or any other fund. Based upon the high cost support
8 mechanism, the balance remaining in the fund, and the amount
9 appropriated annually by the general assembly for use by the commission,
10 each year the commission shall determine the nondiscriminatory,
11 competitively neutral assessment on all telecommunications service
12 providers in Colorado that will be necessary to cover the cost of
13 implementing and administering the high cost support mechanism. Only
14 the moneys MONEY from the assessment IN THE HIGH COST SUPPORT
15 MECHANISM THAT IS NECESSARY for administering the high cost support
16 mechanism shall be transmitted to the state treasurer, who shall credit the
17 same to the fund. All interest derived from the deposit and investment of
18 moneys MONEY in the fund remain REMAINS in the fund and do DOES not
19 revert to the general fund.

20 (4) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY
21 IN SECTIONS 40-15-207 AND 40-15-502 OR THIS SECTION, RURAL
22 TELECOMMUNICATIONS PROVIDERS RECEIVING SUPPORT FROM THE HIGH
23 COST SUPPORT MECHANISM AS OF JANUARY 1, 2017, WILL CONTINUE TO
24 RECEIVE SUPPORT ON A QUARTERLY BASIS AT THE SAME LEVEL OF
25 REIMBURSEMENT ESTABLISHED FOR THE CALENDAR YEAR 2017, FOR THE
26 PERIOD OF JANUARY 1, 2019, THROUGH DECEMBER 1, 2023. THE
27 COMMISSION SHALL ADMINISTER THE HIGH COST SUPPORT MECHANISM TO

1 ENSURE COMPLIANCE WITH THIS SECTION.

2 (5) ON OR BEFORE DECEMBER 31, 2018, THE COMMISSION SHALL
3 ESTABLISH A PLAN TO ELIMINATE, ON AN
4 EXCHANGE-AREA-BY-EXCHANGE-AREA BASIS, OBLIGATIONS IMPOSED
5 PURSUANT TO SECTIONS 40-15-401 (1)(b)(IV) AND 40-15-502 (5)(b) AND
6 (6)(a) CONSISTENT WITH THE REDUCTIONS IN THE HIGH COST SUPPORT
7 MECHANISM DISTRIBUTIONS FOR BASIC SERVICE PURSUANT TO SUBSECTION
8 (2)(a)(IV) OF THIS SECTION.

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

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

16 **40-15-502. Expressions of state policy. (5) Universal service**
17 **support mechanisms. (a)** In order to accomplish the goals of universal
18 basic service, universal access to advanced service under section
19 40-15-509.5, and any revision of the definition of basic service under
20 subsection (2) of this section, the commission shall create a system of
21 support mechanisms to assist in the provision of basic service in high-cost
22 areas that are without effective competition for basic service, applying the
23 factors stated in section 40-15-207; except that support provided in a
24 particular geographic support area is not affected until the commission
25 makes a finding applying the factors listed in section 40-15-207. The
26 commission shall fund these support mechanisms equitably and on a
27 nondiscriminatory, competitively neutral basis through assessments,

1 which may include a rate element, on all telecommunications service
2 providers in Colorado, and the commission shall distribute the funds.
3 equitably and on a nondiscriminatory, competitively neutral basis. For
4 purposes of administering the support mechanisms, the commission shall
5 divide the state into reasonably compact, competitively neutral
6 geographic support areas. A provider's eligibility to receive support under
7 the support mechanisms is conditioned upon the provider's offering basic
8 service throughout an entire support area. The commission shall review
9 the costs of basic service and shall administer the support mechanisms.

10 (b) A provider that offers basic local exchange service throughout
11 an entire support area through use of its own facilities or on a resale basis
12 may be qualified as a provider of last resort or may be eligible to receive
13 universal service support, as determined by the commission. Resale shall
14 be made available on a nondiscriminatory basis, as determined by the
15 commission.

16 **SECTION 4.** In Colorado Revised Statutes, 40-15-509.5, **amend**
17 (3), (5)(a), (5)(b), (5)(c) introductory portion, (5)(c)(III), (5)(c)(IV),
18 (5)(f), (7), (8)(a), (8)(c), (8)(d)(I), (8)(e)(II), (8)(h); (8)(j), (9)(a)
19 introductory portion, and (11); **repeal** (4)(b) and (6); and **add** (5)(g),
20 (8)(c.5), (8.5), (10.5) and (10.7) as follows:

21 **40-15-509.5. Broadband service - report - broadband**
22 **deployment board - broadband administrative fund - creation -**
23 **definitions - repeal.** (3) The commission may allocate the Colorado high
24 cost support mechanism, established under section 40-15-208 and
25 referred to in this section as the "HCSM", for the deployment of
26 broadband service in unserved areas of the state pursuant to this section
27 AND SECTION 40-15-208 only. The commission may fund the deployment

1 of broadband service in unserved areas of the state through use of the
2 HCSM surcharge and surcharge rate in effect on May 10, 2014 JANUARY
3 1, 2018. Pursuant to subsection (4) of this section and consistent with
4 sections 40-15-207 and 40-15-208, the commission shall determine funds
5 available for broadband deployment and the administration of the board
6 only AS PRESCRIBED IN SECTION 40-15-208 OR from the HCSM money that
7 it determines is no longer required by the HCSM to support universal
8 basic service through an effective competition determination. The money
9 available for broadband deployment shall be maintained by the HCSM
10 third-party contractor and held in a separate account from money used for
11 basic voice service. Money held for broadband deployment shall not be
12 disbursed for basic voice service, and money held for basic voice service
13 shall not be disbursed for broadband deployment. The commission shall
14 only disburse money for broadband deployment grants from the HCSM
15 as directed by the board. Nothing in this section increases any surcharge
16 rate charged to help fund the HCSM.

17 ~~(4) (b) The broadband deployment board shall dedicate two~~
18 ~~hundred thousand dollars of the moneys in the fund to cover the direct~~
19 ~~and indirect costs incurred by the board, its employees, and its contractors~~
20 ~~in funding the deployment of broadband service in unserved areas of the~~
21 ~~state.~~

22 (5) (a) There is hereby created in the department of regulatory
23 agencies the broadband deployment board, referred to in this section as
24 the "board". The board is an independent board created to implement and
25 administer the deployment of broadband service in unserved areas. ~~from~~
26 ~~the fund.~~ The 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~~ SEVENTEEN MEMBERS, SIXTEEN
2 OF WHOM ARE VOTING members. The members of the board shall be
3 selected on the basis of their knowledge of and interest in broadband
4 service and shall serve for four-year terms. ~~except that, of the members~~
5 first appointed to the board, eight members shall serve for terms of two
6 years and eight members shall serve for terms of four years. A member
7 of the board shall not serve more than two consecutive full four-year
8 terms.

9 (c) No more than eight VOTING members of any one major
10 political party may serve on the board at the same time. Members of the
11 board are entitled to seventy-five dollars per diem for attendance at
12 official meetings plus actual and necessary expenses incurred in the
13 conduct of official business. Members of the board shall be appointed as
14 follows:

15 (III) ~~Six~~ EIGHT voting members representing the broadband
16 industry:

17 (A) One of whom represents a wireless provider, as appointed by
18 the minority leader of the house of representatives;

19 (B) One of whom represents a wireline provider, as appointed by
20 the minority leader of the senate;

21 (C) One of whom represents a broadband satellite provider, as
22 appointed by the governor;

23 (D) One of whom represents a cable provider, as appointed by the
24 president of the senate;

25 (E) One of whom represents a rural local exchange carrier, as
26 appointed by the governor; and

27 (F) One of whom represents a competitive local exchange carrier.

1 as appointed by the speaker of the house of representatives;

2 (G) ONE OF WHOM REPRESENTS A CABLE PROVIDER SERVING
3 RURAL AREAS, AS APPOINTED BY THE PRESIDENT OF THE SENATE; AND

4 (H) ONE OF WHOM REPRESENTS ANY OTHER BROADBAND
5 PROVIDER, AS APPOINTED BY THE SPEAKER OF THE HOUSE OF
6 REPRESENTATIVES.

7 (IV) ~~Three~~ TWO voting members of the public:

8 (A) One of whom resides in an unserved area of the western slope
9 of the state, as appointed by the president of the senate; AND

10 (B) One of whom resides in an unserved area of the eastern slope
11 of the state, as appointed by the minority leader of the house of
12 representatives. and

13 (C) ~~One of whom resides in an unserved urban area of the state,~~
14 ~~as appointed by the speaker of the house of representatives.~~

15 (f) (I) If a board member has a conflict of interest with respect to
16 any matter addressed by the board, including a financial interest in the
17 matter, the member shall recuse himself or herself from any discussion or
18 decisions on the matter.

19 (II) (A) A BOARD MEMBER APPOINTED PURSUANT TO SUBSECTION
20 (5)(c)(I), (5)(c)(II), OR (5)(c)(IV) OF THIS SECTION IS NOT DEEMED TO
21 HAVE A CONFLICT OF INTEREST MERELY BY VIRTUE OF RESIDING IN OR
22 REPRESENTING AN UNSERVED AREA OR AN AREA THAT IS THE SUBJECT OF
23 AN APPLICATION BEFORE THE BOARD.

24 (B) A BOARD MEMBER APPOINTED PURSUANT TO SUBSECTION
25 (5)(c)(III) OF THIS SECTION IS DEEMED TO HAVE A CONFLICT OF INTEREST
26 WITH RESPECT TO AN APPLICATION FILED BY AN ENTITY THAT THE BOARD
27 MEMBER REPRESENTS; HOWEVER, IF SUCH APPLICATION IS FILED, THE

1 BOARD MEMBER MAY STILL PARTICIPATE IN DISCUSSIONS ABOUT OTHER
2 APPLICATIONS BEFORE THE BOARD, BUT SHALL NOT VOTE ON THOSE OTHER
3 APPLICATIONS.

4 (g) IN THE EVENT OF A TIE VOTE OF THE BOARD, THE APPLICATION,
5 APPEAL, PROPOSITION, OR OTHER MATTER BEING VOTED UPON FAILS.

6 (6) The board's powers and duties commence three months after
7 moneys are first allocated from the HCSM to the fund.

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

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

21 (a) Developing a project application process that places the burden
22 on an eligible applicant to demonstrate that its proposed project meets the
23 project eligibility criteria established in this subsection (8), including a
24 requirement that the proposal concern a new project, and not a project
25 already in progress, and a requirement to prove that the area to be served
26 by the proposed project is an unserved area. To prove that the area to be
27 served is an unserved area, the applicant must submit a map

1 demonstrating the insufficient availability of broadband service in the
2 area. The applicant must submit the application and map to the board; the
3 board of county commissioners, city council, or other local entity with
4 authority over the area to be served; and ~~an~~ ALL incumbent provider
5 PROVIDERS OR INCUMBENT BROADBAND PROVIDERS THAT PROVIDE
6 BROADBAND INTERNET SERVICE OR BROADBAND SERVICE IN THE AREA
7 PROPOSED TO BE SERVED IN THE APPLICATION. The board shall establish
8 a notice and comment period of at least sixty days within which the local
9 entity may review and comment on the application.

10 (c) ~~Minimizing conflicts with, or duplication of,~~ DENYING
11 FUNDING FOR APPLICATIONS THAT OVERLAP AREAS RECEIVING federal
12 sources of high cost support or federal broadband grants FOR
13 CONSTRUCTION OF A BROADBAND NETWORK so as to maximize the total
14 available state and federal support for rural broadband development;

15 (c.5) DENYING FUNDING FOR OVERBUILDING, IN WHOLE OR IN
16 PART, OF EXISTING BROADBAND NETWORKS IN AREAS THAT DO NOT MEET
17 THE DEFINITION OF UNSERVED AREA IN ORDER TO MAXIMIZE THE TOTAL
18 AVAILABLE SUPPORT FOR FINANCING RURAL BROADBAND DEVELOPMENT;

19 (d) Ensuring that a proposed project includes:

20 (I) ~~Access to a broadband network~~ MEASURABLE SPEEDS OF AT
21 LEAST TEN MEGABITS PER SECOND DOWNSTREAM AND ONE MEGABIT PER
22 SECOND UPSTREAM OR MEASURABLE SPEEDS AT LEAST EQUAL TO THE
23 FCC'S DEFINITION OF HIGH-SPEED INTERNET ACCESS OR BROADBAND,
24 WHICHEVER IS FASTER;

25 (e) Providing additional consideration for proposed projects that
26 include at least some of the following factors:

27 (II) Proposed projects that have ~~downstream and upstream speeds~~

1 in excess of the minimum required under this section OF AT LEAST TEN
2 MEGABITS PER SECOND DOWNSTREAM AND ONE MEGABIT PER SECOND
3 UPSTREAM OR MEASURABLE SPEEDS AT LEAST EQUAL TO THE FCC'S
4 DEFINITION OF HIGH-SPEED INTERNET ACCESS OR BROADBAND,
5 WHICHEVER IS FASTER;

6 (h) Ensuring that broadband service grant awards are not provided
7 in areas other than unserved areas; EXCEPT THAT, NOTWITHSTANDING
8 SECTION 40-15-102 (32)(a)(II), A GRANT APPLICATION MAY CONTAIN UP
9 TO FIVE NONCONTIGUOUS BLOCKS THAT ARE EACH AN UNSERVED AREA IF:

10 (I) THE HOUSEHOLDS INCLUDED IN THE APPLICATION ARE ALL
11 WITHIN A TWENTY-MILE RADIUS;

12 (II) THE APPLICATION DOES NOT INCLUDE ANY CITY OR TOWN WITH
13 MORE THAN FOUR HUNDRED HOUSEHOLDS; AND

14 (III) THE AREA IS NOT SERVED BY MORE THAN ONE INCUMBENT
15 PROVIDER OR INCUMBENT BROADBAND PROVIDER;

16 (j) Establishing a grant award process that:

17 (I) ~~Allows for only one grant to be awarded per applicant per year~~
18 AN APPLICANT TO APPLY FOR GRANTS ON MULTIPLE PROJECTS IN A GIVEN
19 YEAR IF THE APPLICANT MAKES A SEPARATE APPLICATION FOR EACH
20 PROJECT. THE BOARD MAY APPROVE MORE THAN ONE OF THE APPLICANT'S
21 PROJECTS WITHIN A SINGLE YEAR.

22 (II) Ensures the geographically equitable distribution of grant
23 awards; and

24 (III) Provides for an appeals process for any party aggrieved by an
25 award or denial of grant ~~moneys~~ MONEY, WHETHER EXERCISING A RIGHT
26 OF FIRST REFUSAL, HAVING FILED ANY COMMENTS REGARDING THE INITIAL
27 GRANT APPLICATION, OR BOTH. IF A PROVIDER OF BROADBAND SERVICE OR

1 A BROADBAND NETWORK THAT ALLEGES FUNDING PROVIDED PURSUANT
2 TO THIS SECTION WILL OVERBUILD OR DUPLICATE, IN WHOLE OR IN PART,
3 THE PROVIDER'S BROADBAND NETWORK, THE PROVIDER IS AN AGGRIEVED
4 PARTY WITH STANDING TO APPEAL UNDER THIS SUBSECTION (8)(j)(III).

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

10 (8.5) (a) THE BOARD SHALL DENY AN APPLICATION THAT CONTAINS
11 AN AREA THAT DOES NOT MEET THE DEFINITION OF UNSERVED AREA AND
12 SHALL GRANT AN APPEAL TO AN INCUMBENT BROADBAND PROVIDER THAT
13 DEMONSTRATES, BY A PREPONDERANCE OF THE EVIDENCE, THAT AN AREA
14 COVERED BY AN APPLICATION DOES NOT MEET THE DEFINITION OF
15 UNSERVED AREA.

16 (b) IF ALL OTHER APPLICATION REQUIREMENTS, INCLUDING
17 CONTIGUITY, REMAIN MET, AN APPLICATION MAY BE AMENDED AT ANY
18 TIME TO REMOVE FROM THE APPLICATION COVERAGE OF AN AREA THAT
19 DOES NOT MEET THE CRITERIA ESTABLISHED PURSUANT TO THIS SECTION.

20 (9) (a) The board shall report annually to the transportation and
21 energy committee and THE business AFFAIRS AND labor ~~and economic and~~
22 ~~workforce development~~ committee in the house of representatives and to
23 the agriculture, natural resources, and energy committee and business,
24 labor, and technology committee in the senate, or their successor
25 committees, on the projects supported by ~~moneys~~ MONEY from the ~~fund~~
26 HCSM ACCOUNT DEDICATED TO BROADBAND DEPLOYMENT in a given
27 year, including information on:

1 (10.5) THE BOARD SHALL MAKE EVERY EFFORT TO ENSURE THAT
2 A PROJECT FUNDED PURSUANT TO THIS SECTION DOES NOT OVERBUILD
3 ANOTHER BROADBAND PROJECT OR BROADBAND NETWORK, INCLUDING
4 ANY PROJECT SUPPORTED OR APPROVED BY THE DEPARTMENT OF LOCAL
5 AFFAIRS.

6 (10.7) AS USED IN THIS SECTION:

7 (a) "INCUMBENT BROADBAND PROVIDER" MEANS A PROVIDER THAT
8 OFFERS BROADBAND INTERNET SERVICE OVER A BROADBAND NETWORK IN
9 AN AREA COVERED BY AN APPLICATION FILED PURSUANT TO THIS SECTION.

10 (b) "OVERBUILD" OR "OVERBUILDING" MEANS PROVIDING A
11 BROADBAND NETWORK TO RESIDENTIAL OR BUSINESS ADDRESSES THAT:

12 (I) AT THE TIME OF APPLICATION, EITHER HAVE ACCESS TO A
13 BROADBAND NETWORK OR HAVE RECEIVED FEDERAL SOURCES OF HIGH
14 COST SUPPORT OR FEDERAL BROADBAND GRANTS TO PROVIDE ACCESS TO
15 A BROADBAND NETWORK; AND

16 (II) ACCOUNT FOR TEN PERCENT OR MORE OF THE TOTAL
17 RESIDENTIAL AND BUSINESS ADDRESSES TO BE SERVED BY A PROPOSED
18 PROJECT.

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

25 **SECTION 5.** In Colorado Revised Statutes, 24-34-104, **amend**
26 (25)(a)(VI); and **add** (25)(a)(XVII) as follows:

27 **24-34-104. General assembly review of regulatory agencies**

1 **and functions for repeal, continuation, or reestablishment - legislative**
2 **declaration - repeal.** (25) (a) The following agencies, functions, or both,
3 are scheduled for repeal on September 1, 2024:

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

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

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