

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 18-0060.02 Jennifer Berman x3286

SENATE BILL 18-002

SENATE SPONSORSHIP

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Senate Committees

Business, Labor, & Technology

House Committees

Agriculture, Livestock, & Natural Resources

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.

HOUSE
Amended 2nd Reading
March 15, 2018

SENATE
3rd Reading Unamended
February 12, 2018

SENATE
Recall 3rd Reading
February 9, 2018

SENATE
3rd Reading Unamended
February 8, 2018

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 ~~one or more contiguous census blocks in which a~~
22 ~~majority of the households~~ THAT lack access to at least one provider of a
23 broadband network that uses satellite technology and at least one provider
24 of a broadband network that uses nonsatellite technology.

25 ■ ■

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

1 **40-15-208. High cost support mechanism - Colorado high cost**
2 **administration fund - creation - purpose - operation - rules - report**
3 **-repeal.** (2) (a) (I) The commission is hereby authorized to establish a
4 mechanism for the support of universal service, also referred to in this
5 section as the "high cost support mechanism", which must operate in
6 accordance with rules adopted by the commission. The primary purpose
7 of the high cost support mechanism is to provide financial assistance as
8 a support mechanism to:

9 ~~(A) Local exchange providers in areas without effective~~
10 ~~competition to Help make basic local exchange service affordable and~~
11 ~~allow the FOR REIMBURSEMENT TO providers, to be fully reimbursed for~~
12 ~~the difference between the reasonable costs incurred in making basic~~
13 ~~service available to their customers within a rural, high cost geographic~~
14 ~~support area and a reasonable benchmark rate for basic service, as~~
15 ~~determined by the commission, after taking into account any amounts that~~
16 ~~the providers have received under price support mechanisms established~~
17 ~~by the federal government and by this state, regardless of the~~
18 ~~classification of basic service under part 2, 3, or 4 of this article AS~~
19 ~~SPECIFIED IN SUBSECTIONS (2)(a)(IV) AND (4) OF THIS SECTION; and~~

20 (B) Provide access to broadband service through broadband
21 networks in unserved areas pursuant to THIS SECTION AND section
22 40-15-509.5 only.

23 ~~(II) The commission shall ensure that no local exchange provider~~
24 ~~is receiving funds from this or any other source that, together with local~~
25 ~~exchange service revenues, exceeds the cost of providing local exchange~~
26 ~~service to the provider's customers. The high cost support mechanism~~
27 ~~shall be supported and distributed equitably and on a nondiscriminatory.~~

1 competitively neutral basis through a neutral assessment on all
2 telecommunications providers in Colorado.

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

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

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

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

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

18 (IV) THE COMMISSION SHALL ALLOCATE TO THE HIGH COST
19 SUPPORT MECHANISM ACCOUNT DEDICATED TO BROADBAND DEPLOYMENT,
20 ON A QUARTERLY BASIS AND BY THE END OF THE MONTH FOLLOWING THE
21 PREVIOUS QUARTER, THE FOLLOWING PERCENTAGES OF THE TOTAL
22 QUARTERLY AMOUNT OF HIGH COST SUPPORT MECHANISM MONEY
23 COLLECTED, MINUS ADMINISTRATIVE COSTS AND DISTRIBUTIONS REQUIRED
24 UNDER SUBSECTION (4) OF THIS SECTION:

25 (A) FOR EACH QUARTER IN 2019, SIXTY PERCENT;

26 (B) FOR EACH QUARTER IN 2020, SEVENTY PERCENT;

27 (C) FOR EACH QUARTER IN 2021, EIGHTY PERCENT;

1 (D) FOR EACH QUARTER IN 2022, NINETY PERCENT; AND

2 (E) FOR EACH QUARTER IN 2023, ONE HUNDRED PERCENT.

3 (V) THE NONRURAL INCUMBENT LOCAL EXCHANGE CARRIER WILL
4 RECEIVE, ON A QUARTERLY BASIS AND BY THE END OF THE MONTH
5 FOLLOWING THE PREVIOUS QUARTER, THE BALANCE OF THE REMAINING
6 QUARTERLY HIGH COST SUPPORT MECHANISM COLLECTIONS AFTER THE
7 DISTRIBUTIONS REQUIRED BY SUBSECTIONS (2)(a)(IV) AND (4) OF THIS
8 SECTION HAVE BEEN MADE.

9 (VI) IN ACCORDANCE WITH SUBSECTION (2)(a)(IV) OF THIS
10 SECTION, THE COMMISSION, IN MAKING DISTRIBUTIONS OF HIGH COST
11 SUPPORT MECHANISM MONEY IN THE YEARS 2019 THROUGH 2023, SHALL
12 NEITHER:

13 (A) MAKE EFFECTIVE COMPETITION DETERMINATIONS; NOR

14 (B) APPLY ANY SECTION OF THIS ARTICLE 15 THAT REQUIRES AN
15 EFFECTIVE COMPETITION DETERMINATION BE MADE OR THAT IN ANY WAY
16 CONFLICTS WITH SUBSECTIONS (2)(a)(IV) AND (4) OF THIS SECTION WITH
17 REGARD TO THE DISTRIBUTIONS.

18 (3) (a) There is hereby created, in the state treasury, the Colorado
19 high cost administration fund, referred to in this section as the "fund",
20 which shall be used to reimburse the commission and its contractors for
21 reasonable expenses incurred in the administration of the high cost
22 support mechanism, including administrative costs incurred in association
23 with broadband service, as determined by rules of the commission. The
24 general assembly shall appropriate annually the moneys MONEY in the
25 fund that are IS to be used for the direct and indirect administrative costs
26 incurred by the commission and its contractors. At the end of any fiscal
27 year, all unexpended and unencumbered moneys MONEY in the fund

1 ~~remain~~ REMAINS in the fund and shall not be credited or transferred to the
2 ~~general fund or any other fund. Based upon the high cost support~~
3 ~~mechanism, the balance remaining in the fund, and the amount~~
4 ~~appropriated annually by the general assembly for use by the commission,~~
5 ~~each year the commission shall determine the nondiscriminatory,~~
6 ~~competitively neutral assessment on all telecommunications service~~
7 ~~providers in Colorado that will be necessary to cover the cost of~~
8 ~~implementing and administering the high cost support mechanism. Only~~
9 ~~the moneys~~ MONEY from the assessment IN THE HIGH COST SUPPORT
10 MECHANISM THAT IS NECESSARY for administering the high cost support
11 mechanism shall be transmitted to the state treasurer, who shall credit the
12 same to the fund. All interest derived from the deposit and investment of
13 ~~moneys~~ MONEY in the fund ~~remain~~ REMAINS in the fund and ~~do~~ DOES not
14 ~~revert to the general fund.~~

15 (4) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY
16 IN SECTIONS 40-15-207 AND 40-15-502 OR THIS SECTION, RURAL
17 TELECOMMUNICATIONS PROVIDERS RECEIVING SUPPORT FROM THE HIGH
18 COST SUPPORT MECHANISM AS OF JANUARY 1, 2017, WILL CONTINUE TO
19 RECEIVE SUPPORT, ON A QUARTERLY BASIS AND BY THE END OF THE
20 MONTH FOLLOWING THE PREVIOUS QUARTER, AT THE SAME LEVEL OF
21 REIMBURSEMENT ESTABLISHED BY AVERAGING THE PAYMENTS RECEIVED
22 FOR CALENDAR YEARS 2015 AND 2016, FOR THE PERIOD OF JANUARY 1,
23 2019, THROUGH DECEMBER 1, 2023. THE COMMISSION SHALL ADMINISTER
24 THE HIGH COST SUPPORT MECHANISM TO ENSURE COMPLIANCE WITH THIS
25 SECTION.

26 (5) ON OR BEFORE DECEMBER 31, 2018, THE COMMISSION SHALL
27 ESTABLISH A PLAN TO ELIMINATE, ON AN

1 EXCHANGE-AREA-BY-EXCHANGE-AREA BASIS, OBLIGATIONS IMPOSED
2 PURSUANT TO SECTIONS 40-15-401 (1)(b)(IV) AND 40-15-502 (5)(b) AND
3 (6)(a) CONSISTENT WITH THE REDUCTIONS IN THE HIGH COST SUPPORT
4 MECHANISM DISTRIBUTIONS FOR BASIC SERVICE PURSUANT TO SUBSECTION
5 (2)(a)(IV) OF THIS SECTION.

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

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

13 **40-15-502. Expressions of state policy. (5) Universal service**
14 **support mechanisms. (a) In order to accomplish the goals of universal**
15 **basic service, universal access to advanced service under section**
16 **40-15-509.5, and any revision of the definition of basic service under**
17 **subsection (2) of this section, the commission shall create a system of**
18 **support mechanisms to assist in the provision of basic service AND**
19 **ADVANCED SERVICE in high-cost areas. ~~that are without effective~~**
20 **competition for basic service, applying the factors stated in section**
21 **40-15-207; except that support provided in a particular geographic**
22 **support area is not affected until the commission makes a finding**
23 **applying the factors listed in section 40-15-207. The commission shall**
24 **fund these support mechanisms equitably and on a nondiscriminatory,**
25 **competitively neutral basis through assessments, which may include a rate**
26 **element, on all telecommunications service providers in Colorado. ~~and the~~**
27 **commission shall distribute the funds equitably and on a**

1 ~~nondiscriminatory, competitively neutral basis. For purposes of~~
2 ~~administering the support mechanisms, the commission shall divide the~~
3 ~~state into reasonably compact, competitively neutral geographic support~~
4 ~~areas. A provider's eligibility to receive support FOR BASIC SERVICE under~~
5 ~~the support mechanisms is conditioned upon the provider's offering basic~~
6 ~~service throughout an entire support area. The commission shall review~~
7 ~~the costs of basic service and shall administer the support mechanisms.~~

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

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

19 **40-15-509.5. Broadband service - report - broadband**
20 **deployment board - broadband administrative fund - creation -**
21 **definitions - repeal.** (3) The commission may allocate the Colorado high
22 cost support mechanism, established under section 40-15-208 and
23 referred to in this section as the "HCSM", for the deployment of
24 broadband service in unserved areas of the state pursuant to this section
25 AND SECTION 40-15-208 only. The commission may fund the deployment
26 of broadband service in unserved areas of the state through use of the
27 HCSM surcharge and surcharge rate in effect on ~~May 10, 2014~~ JANUARY

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

15 ~~(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 (b) The board consists of sixteen MEMBERS, FIFTEEN OF WHOM ARE
27 VOTING members. The members of the board shall be selected on the

1 basis of their knowledge of and interest in broadband service and shall
2 serve for four-year terms. except that, of the members first appointed to
3 the board, eight members shall serve for terms of two years and eight
4 members shall serve for terms of four years. A member of the board shall
5 not serve more than two consecutive full four-year terms.

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

- 12 (II) Three voting members representing local entities:
- 13 (C) One of whom is any other representative of a local entity AND
- 14 WHO HAS A BACKGROUND IN BROADBAND SERVICE AND EXPERTISE IN
- 15 RURAL ECONOMIC DEVELOPMENT, EDUCATION, OR TELEMEDICINE, as
- 16 appointed by the minority leader of the senate;

17 (III) ~~Six~~ SEVEN voting members representing the broadband
18 industry:

- 19 (A) One of whom represents a wireless provider, as appointed by
20 the minority leader of the house of representatives;
- 21 (B) One of whom represents a wireline provider, as appointed by
22 the minority leader of the senate;
- 23 (C) One of whom represents a broadband satellite provider, as
24 appointed by the governor;
- 25 (D) One of whom represents a cable provider, as appointed by the
26 president of the senate;
- 27 (E) One of whom represents a rural local exchange carrier, as

1 appointed by the governor; and

2 (F) One of whom represents a competitive local exchange carrier,
3 as appointed by the speaker of the house of representatives; AND

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

6

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~~ SPEAKER OF THE
10 HOUSE OF REPRESENTATIVES; AND

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

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

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

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

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

1 MEMBER REPRESENTS; HOWEVER, IF SUCH APPLICATION IS FILED, THE
2 BOARD MEMBER MAY STILL PARTICIPATE IN DISCUSSIONS ABOUT OTHER
3 APPLICATIONS BEFORE THE BOARD, BUT SHALL NOT VOTE ON THOSE OTHER
4 APPLICATIONS.

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

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

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

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

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

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

12 (c) Minimizing conflicts with, or duplication of, DENYING
13 FUNDING FOR APPLICATIONS THAT OVERBUILD AREAS RECEIVING federal
14 sources of high cost support or federal broadband grants FOR
15 CONSTRUCTION OF A BROADBAND NETWORK THAT WILL BE COMPLETED
16 WITHIN TWENTY-FOUR MONTHS AFTER THE DATE THAT THE APPLICANT
17 FILED THE APPLICATION so as to maximize the total available state and
18 federal support for rural broadband development. AN INCUMBENT
19 BROADBAND PROVIDER RECEIVING FEDERAL FUNDS MUST SUBMIT TO THE
20 BOARD AN AFFIDAVIT FROM A COMPANY OFFICER THAT THE BUILD-OUT
21 WILL BE COMPLETED WITHIN THE TWENTY-FOUR-MONTH PERIOD. UPON
22 COMPLETION OF THE PROJECT, AN INCUMBENT BROADBAND PROVIDER
23 WILL PROVIDE DOCUMENTATION TO THE BOARD THAT DEMONSTRATES
24 THAT THE UNSERVED ADDRESSES MEET THE MINIMUM DOWNLOAD AND
25 UPLOAD SPEEDS ESTABLISHED IN THE FCC'S DEFINITION OF HIGH-SPEED
26 INTERNET ACCESS OR BROADBAND. IF THE INCUMBENT BROADBAND
27 PROVIDER FAILS TO MEET THE COMMITMENT MADE IN THE AFFIDAVIT

1 FILED, THE BOARD MAY AWARD A GRANT TO ANOTHER PROVIDER TO
2 PROVIDE SERVICE FOR THE ADDRESSES THAT REMAIN UNSERVED.

3 (c.5) DENYING FUNDING FOR OVERBUILDING OF EXISTING
4 BROADBAND NETWORKS IN ORDER TO MAXIMIZE THE TOTAL AVAILABLE
5 SUPPORT FOR FINANCING RURAL BROADBAND DEVELOPMENT:

6 (d) Ensuring that a proposed project includes:

7 (I) Access to a broadband network MEASURABLE SPEEDS OF AT
8 LEAST TEN MEGABITS PER SECOND DOWNSTREAM AND ONE MEGABIT PER
9 SECOND UPSTREAM OR MEASURABLE SPEEDS AT LEAST EQUAL TO THE
10 FCC'S DEFINITION OF HIGH-SPEED INTERNET ACCESS OR BROADBAND,
11 WHICHEVER IS FASTER;

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

14 (I) PROPOSED PROJECTS THAT PROVIDE SERVICE TO RESIDENTIAL
15 AND BUSINESS ADDRESSES THAT LACK BROADBAND INTERNET SERVICE AT
16 MEASURABLE SPEEDS OF AT LEAST TEN MEGABITS PER SECOND
17 DOWNSTREAM AND ONE MEGABIT PER SECOND UPSTREAM;

18 (H) (II) Proposed projects that are endorsed by local entities
19 interested in obtaining broadband internet service in unserved areas of the
20 state;

21 (H) (III) Proposed projects that have ~~downstream and upstream~~
22 ~~speeds in excess of the minimum required under this section~~ OF AT LEAST
23 TEN MEGABITS PER SECOND DOWNSTREAM AND ONE MEGABIT PER SECOND
24 UPSTREAM OR MEASURABLE SPEEDS AT LEAST EQUAL TO THE FCC'S
25 DEFINITION OF HIGH-SPEED INTERNET ACCESS OR BROADBAND,
26 WHICHEVER IS FASTER;

27 (HH) (IV) Proposed projects for which the applicant has an

1 established record of operation in the area of the grant application; and
2 ~~(IV)~~ (V) Proposed projects providing last-mile broadband service,
3 which is defined as the portion of broadband service that delivers an
4 internet connection to an end user that lacks access to broadband service
5 at measurable speeds greater than fifty-six kilobits per second; █

6 (j) Establishing a grant award process that:

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

12 (II) Ensures the geographically equitable distribution of grant
13 awards; ~~and~~

14 (III) Provides for an appeals process for any party aggrieved by an
15 award or denial of grant ~~moneys~~ MONEY, WHETHER EXERCISING A RIGHT
16 OF FIRST REFUSAL, HAVING FILED ANY COMMENTS REGARDING THE INITIAL
17 GRANT APPLICATION, OR BOTH. IF A PROVIDER OF BROADBAND SERVICE OR
18 A BROADBAND NETWORK THAT ALLEGES FUNDING PROVIDED PURSUANT
19 TO THIS SECTION WILL OVERBUILD █ THE PROVIDER'S BROADBAND
20 NETWORK, THE PROVIDER IS AN AGGRIEVED PARTY WITH STANDING TO
21 APPEAL UNDER THIS SUBSECTION (8)(j)(III).

22 (IV) REQUIRES THE BOARD TO CONSIDER APPEALS ALLEGING THAT
23 THE APPLICATION AREA IS NO LONGER UNSERVED BECAUSE FEDERAL
24 SUPPORT IMPROVES A BROADBAND NETWORK FOR SERVICE LOCATIONS
25 THAT ARE ADJACENT TO THE AREA RECEIVING THE FEDERAL AWARD AND
26 ARE WITHIN THE APPLICATION AREA.

27 (8.5) (a) THE BOARD SHALL DENY AN APPLICATION THAT CONTAINS

1 AN AREA THAT DOES NOT MEET THE DEFINITION OF UNSERVED AREA AND
2 SHALL GRANT AN APPEAL TO AN INCUMBENT BROADBAND PROVIDER THAT
3 DEMONSTRATES, BY A PREPONDERANCE OF THE EVIDENCE, THAT AN AREA
4 COVERED BY AN APPLICATION DOES NOT MEET THE DEFINITION OF
5 UNSERVED AREA.

6 (b) IF ALL OTHER APPLICATION REQUIREMENTS REMAIN MET, AN
7 APPLICATION MAY BE AMENDED AT ANY TIME TO REMOVE FROM THE
8 APPLICATION COVERAGE OF AN AREA THAT DOES NOT MEET THE CRITERIA
9 ESTABLISHED PURSUANT TO THIS SECTION. ALTERNATIVELY, THE BOARD
10 MAY AWARD A PARTIAL GRANT FOR AN AREA THAT DOES MEET THE
11 CRITERIA.

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

20 (10.5) THE BOARD SHALL MAKE EVERY EFFORT TO ENSURE THAT
21 A PROJECT FUNDED PURSUANT TO THIS SECTION DOES NOT OVERBUILD
22 ANY PROJECT SUPPORTED OR APPROVED BY THE DEPARTMENT OF LOCAL
23 AFFAIRS.

24 (10.7) AS USED IN THIS SECTION:

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

1 (b) "OVERBUILD" OR "OVERBUILDING" MEANS PROVIDING A
2 BROADBAND NETWORK TO A HOUSEHOLD OR HOUSEHOLDS THAT:

3 (I) AT THE TIME OF APPLICATION, EITHER HAVE ACCESS TO A
4 BROADBAND NETWORK OR HAVE RECEIVED FEDERAL SOURCES OF HIGH
5 COST SUPPORT OR FEDERAL BROADBAND GRANTS TO PROVIDE ACCESS TO
6 A BROADBAND NETWORK; AND

7 (II) ACCOUNT FOR TWENTY PERCENT OR MORE OF THE TOTAL
8 HOUSEHOLD OR HOUSEHOLDS TO BE SERVED BY A PROPOSED WIRELESS
9 PROJECT.

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

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

18 **24-34-104. General assembly review of regulatory agencies**
19 **and functions for repeal, continuation, or reestablishment - legislative**
20 **declaration - repeal.** (25) (a) The following agencies, functions, or both,
21 are scheduled for repeal on September 1, 2024:

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

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

1 **SECTION 6. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2018 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.