

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REENGROSSED

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

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

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/bills summaries>.)

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.

HOUSE
3rd Reading Unamended
April 9, 2014

HOUSE
Amended 2nd Reading
April 8, 2014

The high cost support mechanism (HCSM) reimburses 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,

1 COMPONENTS, FACILITIES, HARDWARE, AND SOFTWARE USED TO PROVIDE
2 BROADBAND INTERNET SERVICE AT MEASURABLE SPEEDS OF AT LEAST
3 FOUR MEGABITS PER SECOND DOWNSTREAM AND ONE MEGABIT PER
4 SECOND UPSTREAM OR AT MEASURABLE SPEEDS AT LEAST EQUAL TO THE
5 FEDERAL COMMUNICATIONS COMMISSION'S DEFINITION OF HIGH-SPEED
6 INTERNET ACCESS OR BROADBAND, WHICHEVER IS FASTER, WITH:

7 (a) SUFFICIENTLY LOW LATENCY TO ENABLE THE USE OF
8 REAL-TIME COMMUNICATIONS, INCLUDING
9 VOICE-OVER-INTERNET-PROTOCOL SERVICE; AND

10 (b) EITHER NO USAGE LIMITS OR USAGE LIMITS THAT ARE
11 REASONABLY COMPARABLE TO THOSE FOUND IN URBAN AREAS FOR THE
12 SAME TECHNOLOGY.

13 (6.7) "ELIGIBLE APPLICANT" MEANS AN APPLICANT SEEKING GRANT
14 FUNDING FOR A PROPOSED BROADBAND PROJECT UNDER SECTION
15 40-15-509.5 WITH A SUFFICIENT BUSINESS TRACK RECORD TO INDICATE
16 THAT THE APPLICANT'S OPERATIONS WILL BE SUSTAINABLE AFTER
17 RECEIVING INFRASTRUCTURE SUPPORT UNDER SECTION 40-15-509.5. THE
18 TERM IS LIMITED TO FOR-PROFIT ENTITIES; EXCEPT THAT A NONPROFIT
19 TELEPHONE COOPERATIVE, INCLUDING ITS AFFILIATES AND SUBSIDIARIES,
20 OR A NONPROFIT RURAL ELECTRIC ASSOCIATION THAT EXISTED ON THE
21 EFFECTIVE DATE OF THIS SUBSECTION (6.7) QUALIFIES AS AN "ELIGIBLE
22 APPLICANT". THE TERM IS NOT LIMITED TO A CURRENT RECIPIENT OF HIGH
23 COST SUPPORT MECHANISM FUNDS.

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

27 (10.5) "INFRASTRUCTURE" MEANS THE FACILITIES OR EQUIPMENT

1 USED IN THE DEPLOYMENT OF BROADBAND SERVICE.

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

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

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

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

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

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

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

26 (A) Local exchange providers to help make basic local exchange
27 service affordable and allow ~~such~~ THE providers to be fully reimbursed

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

7 (B) PROVIDE ACCESS TO BROADBAND SERVICE THROUGH
8 BROADBAND NETWORKS IN UNSERVED AREAS PURSUANT TO SECTION
9 40-15-509.5 ONLY.

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

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

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

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

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

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

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

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

1 state treasurer, who shall credit the same to the fund. All interest derived
2 from the deposit and investment of MONEYS IN the fund shall remain in
3 the fund and shall DO not revert to the general fund.

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

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

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

27 **40-15-509.5. Broadband service - report - broadband**

1 **deployment board - broadband fund - creation - repeal. (1) Short**
2 **title.** THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE
3 "CONNECT COLORADO TO ENHANCE ECONOMIC DEVELOPMENT,
4 TELEHEALTH, EDUCATION, AND SAFETY ACT".

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

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

1 IN THIS SECTION INCREASES ANY SURCHARGE RATE CHARGED TO HELP
2 FUND THE HCSM.

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

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

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

1 BOARD HAS THE POWERS AND DUTIES SPECIFIED IN THIS SECTION.

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

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

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

24 (II) THREE VOTING MEMBERS REPRESENTING LOCAL ENTITIES:

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

1 (B) ONE OF WHOM IS A MAYOR OR CITY COUNCILPERSON, AS
2 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES IN
3 CONSULTATION WITH THE COLORADO MUNICIPAL LEAGUE; AND

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

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

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

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

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

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

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

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

22 (IV) THREE VOTING MEMBERS OF THE PUBLIC:

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

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

1 OF THE HOUSE OF REPRESENTATIVES; AND

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

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

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

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

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

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

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

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

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

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

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

26 (d) ENSURING THAT A PROPOSED PROJECT INCLUDES:

27 (I) ACCESS TO A BROADBAND NETWORK;

1 (II) INDEPENDENT FUNDING SECURED FOR AT LEAST TWENTY-FIVE
2 PERCENT OF THE TOTAL COST OF THE PROPOSED PROJECT; AND

3 (III) A REQUIREMENT TO UTILIZE ANY AWARD GRANTED FROM THE
4 FUND FOR INFRASTRUCTURE PURPOSES ONLY AND NOT FOR OPERATIONS;

5 (e) PROVIDING ADDITIONAL CONSIDERATION FOR PROPOSED
6 PROJECTS THAT INCLUDE AT LEAST SOME OF THE FOLLOWING FACTORS:

7 (I) PROPOSED PROJECTS THAT ARE ENDORSED BY LOCAL ENTITIES
8 INTERESTED IN OBTAINING BROADBAND INTERNET SERVICE IN UNSERVED
9 AREAS OF THE STATE;

10 (II) PROPOSED PROJECTS THAT HAVE DOWNSTREAM AND
11 UPSTREAM SPEEDS IN EXCESS OF THE MINIMUM REQUIRED UNDER THIS
12 SECTION;

13 (III) PROPOSED PROJECTS FOR WHICH THE APPLICANT HAS AN
14 ESTABLISHED RECORD OF OPERATION IN THE AREA OF THE GRANT
15 APPLICATION; AND

16 (IV) PROPOSED PROJECTS PROVIDING LAST-MILE BROADBAND
17 SERVICE, WHICH IS DEFINED AS THE PORTION OF BROADBAND SERVICE
18 THAT DELIVERS AN INTERNET CONNECTION TO AN END USER THAT LACKS
19 ACCESS TO BROADBAND SERVICE AT MEASURABLE SPEEDS GREATER THAN
20 FIFTY-SIX KILOBITS PER SECOND;

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

22 (I) WHETHER THE PROPOSED PROJECT WILL PROVIDE SERVICES VIA
23 A LICENSED OR UNLICENSED MEANS OF TRANSMISSION;

24 (II) THE COST-EFFECTIVENESS OF THE PROPOSED PROJECT'S
25 PROPOSED METHOD FOR EXPANDING BROADBAND INTERNET SERVICE INTO
26 UNSERVED AREAS; AND

27 (III) THE RELIABILITY OF THE NETWORK PROVIDING BROADBAND

1 SERVICES;

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

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

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

17 (j) ESTABLISHING A GRANT AWARD PROCESS THAT:

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

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

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

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

27 (I) THE APPLICANT SECURE A PERFORMANCE BOND FOR THE

1 PROJECT, AS APPROPRIATE;

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

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

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

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

19 (I) THE NUMBER OF PROJECTS;

20 (II) THE LOCATION OF EACH PROJECT;

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

22 (IV) A DESCRIPTION OF EACH PROJECT.

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

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

1 (11) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.
2 BEFORE THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL
3 REVIEW THE POWERS, DUTIES, AND FUNCTIONS OF THE BOARD REGARDING
4 THE ADMINISTRATION OF THE BROADBAND FUND IN ACCORDANCE WITH
5 SECTION 24-34-104, C.R.S.

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

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

10 (55) The following agencies, functions, or both, terminate on September
11 1, 2024:

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

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

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

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

27 (c) \$28,417 to the executive director's office and administrative

1 services for the purchase of legal services.

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

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

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