

1 broadband service throughout the state. "Advanced service" includes
2 "broadband service" for purposes of this section only.

3 (3) The commission may allocate the ~~Colorado~~ high cost support
4 mechanism ~~established under section 40-15-208 and referred to in this~~
5 ~~section as the "HCSM"~~, for the deployment of broadband service in
6 unserved areas of the state pursuant to this section and section 40-15-208
7 only. The commission may fund the deployment of broadband service in
8 unserved areas of the state through use of the HCSM surcharge and
9 surcharge rate in effect on January 1, 2018. Pursuant to subsection (4) of
10 this section and consistent with sections 40-15-207 and 40-15-208, the
11 commission shall determine funds available for broadband deployment
12 and the administration of the board as prescribed in section 40-15-208 or
13 from the HCSM money that it determines is no longer required by the
14 HCSM to support universal basic service, AS THAT TERM IS DEFINED IN
15 SECTION 40-15-102 (3), through an effective competition determination.
16 ~~The AN HCSM THIRD-PARTY CONTRACTOR SHALL MAINTAIN AND HOLD~~
17 ~~THE money available for broadband deployment shall be maintained by~~
18 ~~the HCSM third-party contractor and held~~ in a separate account from
19 money used for basic voice service. Money held for broadband
20 deployment shall not be disbursed for basic voice service, and money held
21 for basic voice service shall not be disbursed for broadband deployment.
22 The commission shall only disburse money for broadband deployment
23 grants from the HCSM as directed by the board. Nothing in this section
24 increases any surcharge rate charged to help fund the HCSM.

25 (4) ~~(a)~~ There is hereby created in the state treasury the broadband
26 administrative fund, referred to in this section as the "fund". The fund
27 consists of all money allocated from the HCSM for the administration of
28 the board and all money that the general assembly may appropriate to the
29 fund. The money in the fund is subject to annual appropriation by the
30 general assembly for the purposes set forth in this section. All interest
31 earned from the investment of money in the fund is credited to the fund.
32 All money not expended at the end of ~~the~~ ANY STATE fiscal year remains
33 in the fund and does not revert to the general fund or any other fund.

34 ~~(b) Repealed.~~

35 (5) (a) There is hereby created in the ~~department of regulatory~~
36 ~~agencies~~ OFFICE the broadband deployment board, referred to in this
37 section as the "board". The board is an independent board created to
38 implement and administer the deployment of broadband service in
39 unserved areas. The ~~department of regulatory agencies~~ OFFICE shall staff
40 the board. The board has the powers and duties specified in this section.

41 (b) (I) (A) The board consists of sixteen members, fifteen of

1 whom are voting members. The members of the board shall be selected
2 on the basis of their knowledge of and interest in broadband service and
3 shall serve for four-year terms. A member of the board shall not serve
4 more than two consecutive full four-year terms.

5 (B) THIS SUBSECTION (5)(b)(I) IS REPEALED, EFFECTIVE
6 SEPTEMBER 1, 2021.

7 (II) (A) COMMENCING ON SEPTEMBER 1, 2021, THE BOARD
8 CONSISTS OF ELEVEN VOTING MEMBERS. THE MEMBERS OF THE BOARD
9 SHALL BE SELECTED ON THE BASIS OF THEIR KNOWLEDGE OF AND INTEREST
10 IN BROADBAND SERVICE AND SHALL SERVE FOR FOUR-YEAR TERMS. A
11 MEMBER OF THE BOARD SHALL NOT SERVE MORE THAN TWO CONSECUTIVE
12 FULL FOUR-YEAR TERMS; EXCEPT THAT THE LIMIT ON TERMS OF OFFICE
13 DOES NOT APPLY TO THE BOARD MEMBER REPRESENTING THE OFFICE.

14 (B) AN APPOINTING AUTHORITY MAY APPOINT A BOARD MEMBER
15 SEATED ON THE BOARD ON AUGUST 31, 2021, TO CONTINUE SERVING ON
16 THE BOARD ON AND AFTER SEPTEMBER 1, 2021, FOR THE REMAINDER OF
17 THE BOARD MEMBER'S EXISTING TERM AS OF AUGUST 31, 2021, IF THE
18 BOARD MEMBER MEETS THE BOARD MEMBERSHIP CRITERIA SET FORTH IN
19 SUBSECTION (7)(d) OF THIS SECTION AND THE BOARD MEMBER'S
20 CONTINUED MEMBERSHIP ON THE BOARD DOES NOT ENLARGE THE
21 MEMBERSHIP OF THE BOARD AUTHORIZED UNDER SUBSECTION
22 (5)(b)(II)(A) OF THIS SECTION. IF OTHERWISE ELIGIBLE FOR
23 REAPPOINTMENT, THE BOARD MEMBER MAY BE APPOINTED FOR AN
24 ADDITIONAL TERM AFTER SEPTEMBER 1, 2021. THIS SUBSECTION
25 (5)(b)(II)(B) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

26 (↔) (6) (a) No more than eight voting members of any one major
27 political party may serve on the board at the same time. Members of the
28 board are entitled to seventy-five dollars per diem for attendance at
29 official meetings plus actual and necessary expenses incurred in the
30 conduct of official business. Members of the board shall be appointed as
31 follows:

32 (I) At least one member from the commission; one member from
33 the Colorado office of economic development and international trade in
34 the office of the governor; one member from the department of local
35 affairs, created in section 24-1-125; ~~C.R.S.~~; and one member from the
36 office, ~~of information technology, created in section 24-37.5-103, C.R.S.~~,
37 as appointed by the governor. The governor shall select three of these
38 four appointees to serve as voting members of the board.

39 (II) Three voting members representing local entities:

40 (A) One of whom is a county commissioner, as appointed by the
41 president of the senate in consultation with Colorado Counties, Inc.;

1 (B) One of whom is a mayor or city councilperson, as appointed
2 by the speaker of the house of representatives in consultation with the
3 Colorado Municipal League; and
4 (C) One of whom is any other representative of a local entity and
5 who has a background in broadband service and expertise in rural
6 economic development, education, or telemedicine, as appointed by the
7 minority leader of the senate;
8 (III) Seven voting members representing the broadband industry:
9 (A) One of whom represents a wireless provider, as appointed by
10 the minority leader of the house of representatives;
11 (B) One of whom represents a wireline provider, as appointed by
12 the minority leader of the senate;
13 (C) One of whom represents a broadband satellite provider, as
14 appointed by the governor;
15 (D) One of whom represents a cable provider, as appointed by the
16 president of the senate;
17 (E) One of whom represents a rural local exchange carrier, as
18 appointed by the governor;
19 (F) One of whom represents a competitive local exchange carrier,
20 as appointed by the speaker of the house of representatives; and
21 (G) One of whom represents a cable provider serving rural areas,
22 as appointed by the president of the senate; and
23 (IV) Two voting members of the public:
24 (A) One of whom resides in an unserved area of the western slope
25 of the state, as appointed by the speaker of the house of representatives;
26 and
27 (B) One of whom resides in an unserved area of the eastern slope
28 of the state, as appointed by the minority leader of the house of
29 representatives.
30 ~~(C) (Deleted by amendment, L. 2018.)~~
31 (b) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE SEPTEMBER 1,
32 2021.
33 ~~(d)~~ (7) (a) The board shall meet as often as necessary to carry out
34 its duties as defined in this section.
35 ~~(e)~~ (b) The term of any member of the board who misses more
36 than two consecutive regular board meetings without good cause shall be
37 terminated, and ~~his or her~~ THE MEMBER'S successor shall be appointed in
38 the manner provided for appointments under this section.
39 ~~(f)~~ (c) (I) If a board member has a conflict of interest with respect
40 to any matter addressed by the board, including a financial interest in the
41 matter, the member shall recuse himself or herself from any discussion or

1 decisions on the matter.

2 (II) (A) A board member appointed pursuant to subsection
3 ~~(5)(c)(I), (5)(c)(II), or (5)(c)(IV)~~ (6)(a)(I), (6)(a)(II), OR (6)(a)(IV) of this
4 section is not deemed to have a conflict of interest merely by virtue of
5 residing in or representing an unserved area or an area that is the subject
6 of an application before the board.

7 (B) A board member appointed pursuant to subsection ~~(5)(c)(III)~~
8 (6)(a)(III) of this section is deemed to have a conflict of interest with
9 respect to an application filed by an entity that the board member
10 represents; however, if such application is filed, the board member may
11 still participate in discussions about other applications before the board,
12 but shall not vote on those other applications.

13 (III) THIS SUBSECTION (7)(c) IS REPEALED, EFFECTIVE SEPTEMBER
14 1, 2021.

15 (d) COMMENCING ON SEPTEMBER 1, 2021, AT LEAST THREE
16 MEMBERS OF THE BOARD MUST BE AFFILIATED WITH ONE OF THE TWO
17 MAJOR POLITICAL PARTIES AND AT LEAST THREE MEMBERS MUST BE
18 AFFILIATED WITH THE OTHER MAJOR POLITICAL PARTY, WITH EACH
19 MEMBER HAVING BEEN REGISTERED WITH THEIR POLITICAL PARTY FOR AT
20 LEAST ONE YEAR. AT LEAST THREE MEMBERS OF THE BOARD MUST BE
21 UNAFFILIATED WITH EITHER OF THE MAJOR POLITICAL PARTIES, HAVING
22 BEEN UNAFFILIATED FOR AT LEAST ONE YEAR. MEMBERS OF THE BOARD
23 ARE ENTITLED TO SEVENTY-FIVE DOLLARS PER DIEM FOR ATTENDANCE AT
24 OFFICIAL MEETINGS PLUS ACTUAL AND NECESSARY EXPENSES INCURRED
25 IN THE CONDUCT OF OFFICIAL BUSINESS. MEMBERS OF THE BOARD SHALL
26 BE APPOINTED AS FOLLOWS:

27 (I) ONE VOTING MEMBER FROM THE OFFICE, APPOINTED BY THE
28 GOVERNOR;

29 (II) THREE VOTING MEMBERS REPRESENTING LOCAL ENTITIES:

30 (A) ONE OF WHOM IS A COUNTY COMMISSIONER FROM THE
31 EASTERN PLAINS OF THE STATE, APPOINTED BY THE PRESIDENT OF THE
32 SENATE;

33 (B) ONE OF WHOM IS A COUNTY COMMISSIONER FROM THE
34 WESTERN SLOPE OF THE STATE, APPOINTED BY THE SPEAKER OF THE HOUSE
35 OF REPRESENTATIVES; AND

36 (C) ONE OF WHOM REPRESENTS A RURAL CITY OR TOWN AS A
37 MAYOR OR CITY COUNCILPERSON, AS APPOINTED BY THE GOVERNOR. AS
38 USED IN THIS SUBSECTION (7)(d)(II)(C), "RURAL" HAS THE MEANING SET
39 FORTH IN SECTION 24-32-3603 (3)(a).

40 (III) FIVE VOTING MEMBERS REPRESENTING THE BROADBAND
41 INDUSTRY:

1 (A) ONE OF WHOM REPRESENTS A WIRELESS PROVIDER, APPOINTED
2 BY THE PRESIDENT OF THE SENATE;
3 (B) ONE OF WHOM REPRESENTS A WIRELINE PROVIDER, APPOINTED
4 BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;
5 (C) ONE OF WHOM REPRESENTS A BROADBAND SATELLITE
6 PROVIDER, APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF
7 REPRESENTATIVES;
8 (D) ONE OF WHOM REPRESENTS A CABLE PROVIDER, APPOINTED BY
9 THE MINORITY LEADER OF THE SENATE; AND
10 (E) ONE OF WHOM REPRESENTS A RURAL WIRELINE PROVIDER,
11 APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND
12 (IV) TWO VOTING MEMBERS OF THE PUBLIC:
13 (A) ONE OF WHOM RESIDES IN AN UNSERVED AREA OF THE
14 WESTERN SLOPE OF THE STATE, APPOINTED BY THE GOVERNOR; AND
15 (B) ONE OF WHOM RESIDES IN AN UNSERVED AREA OF THE
16 EASTERN PLAINS OF THE STATE, APPOINTED BY THE MINORITY LEADER OF
17 THE HOUSE OF REPRESENTATIVES.
18 (e) COMMENCING ON SEPTEMBER 1, 2021:
19 (I) IF A BOARD MEMBER HAS A CONFLICT OF INTEREST WITH
20 RESPECT TO ANY MATTER ADDRESSED BY THE BOARD, INCLUDING A
21 FINANCIAL INTEREST IN THE MATTER, THE MEMBER SHALL RECUSE
22 HIMSELF OR HERSELF FROM ANY DISCUSSION OR DECISIONS ON THE
23 MATTER;
24 (II) A BOARD MEMBER APPOINTED PURSUANT TO SUBSECTION
25 (7)(d)(I), (7)(d)(II), OR (7)(d)(IV) OF THIS SECTION IS NOT DEEMED TO
26 HAVE A CONFLICT OF INTEREST MERELY BY VIRTUE OF RESIDING IN OR
27 REPRESENTING AN UNSERVED AREA, A CRITICALLY UNSERVED AREA, OR AN
28 AREA THAT IS THE SUBJECT OF AN APPLICATION BEFORE THE BOARD; AND
29 (III) A BOARD MEMBER APPOINTED PURSUANT TO SUBSECTION
30 (7)(d)(III) OF THIS SECTION IS DEEMED TO HAVE A CONFLICT OF INTEREST
31 WITH RESPECT TO AN APPLICATION FILED BY AN ENTITY THAT THE BOARD
32 MEMBER REPRESENTS; HOWEVER, IF SUCH APPLICATION IS FILED, THE
33 BOARD MEMBER MAY STILL PARTICIPATE IN DISCUSSIONS ABOUT OTHER
34 APPLICATIONS BEFORE THE BOARD BUT SHALL NOT VOTE ON THOSE OTHER
35 APPLICATIONS.
36 (g) (f) In the event of a tie vote of the board, the application,
37 appeal, proposition, or other matter being voted upon fails.
38 (g) COMMENCING ON SEPTEMBER 1, 2021, SIX MEMBERS OF THE
39 BOARD CONSTITUTE A QUORUM.
40 ~~(6) Repealed.~~
41 ~~(7)~~ (8) The board shall provide notice to and requests for

1 proposals from incumbent providers, incumbent broadband providers, and
2 local entities about the board's purpose to deploy broadband service in
3 unserved areas. The board shall ensure that both the manner and amount
4 of notice provided under this subsection ~~(7)~~ (8) are adequate and
5 equitable for all potentially eligible applicants.

6 ~~(8)~~ (9) The board shall direct the commission to transfer money,
7 in a manner consistent with this section, from the HCSM account
8 DEDICATED for broadband deployment ~~established in the HCSM~~
9 PURSUANT TO SUBSECTION (3) OF THIS SECTION to approved grant
10 applicants. The board shall develop criteria for awarding money for new
11 projects to deploy broadband in unserved areas, including:

12 (a) (I) Developing a project application process that places the
13 burden on an eligible applicant to demonstrate that its proposed project
14 meets the project eligibility criteria established in this subsection ~~(8)~~ (9),
15 including a requirement that the proposal concern a new project, and not
16 a project already in progress, and a requirement to prove that the area to
17 be served by the proposed project is an unserved area.

18 (II) To prove that the area to be served is an unserved area, the
19 applicant:

20 (A) Must submit a map and a list of household addresses
21 demonstrating the insufficient availability of broadband service in the
22 area to the board; the board of county commissioners, city council, or
23 other local entity with authority over the area to be served; and all
24 incumbent providers or incumbent broadband providers that provide
25 broadband internet service or broadband service in the area proposed to
26 be served in the application; and

27 (B) May submit to the board EITHER the written certification of a
28 local entity as described in subsection ~~(8)(a)(II)~~ (9)(a)(III) of this section
29 OR A STATISTICALLY REPRESENTATIVE NUMBER OF SPEED TESTS
30 PERFORMED IN ACCORDANCE WITH SUBSECTION (9)(a)(VII) OF THIS
31 SECTION.

32 (III) As additional evidence of the insufficient availability of
33 broadband service in the area that an applicant proposes to serve, the
34 applicant may request from a local entity with jurisdiction over the area
35 proposed to be served a written certification that the area is an unserved
36 area. The local entity shall not provide written certification until after the
37 local entity has:

38 (A) Provided public notice, including notification to any
39 incumbent provider, if any, and held a hearing on the issue; and

40 (B) Collected, solicited, and reviewed any quantitative data that
41 it deems appropriate regarding the availability of broadband service in the

1 area that the applicant proposes to serve. A local entity must collect,
2 solicit, and review quantitative data in accordance with rules adopted by
3 the ~~executive director of the department of regulatory agencies~~ CHIEF
4 INFORMATION OFFICER, in consultation with the ~~office of information~~
5 ~~technology created in section 24-37.5-103~~ and the board, regarding
6 standards concerning quantitative data.

7 (IV) The board shall establish a notice and comment period of at
8 least sixty days within which any interested party, including a local entity
9 with jurisdiction over the area proposed to be served, whether or not the
10 entity provided a written certification as described in subsection
11 ~~(8)(a)(H)~~ (9)(a)(III) of this section, may review and comment on the
12 application.

13 (V) (A) THE BOARD SHALL DEVELOP A REQUEST FOR PROPOSAL
14 PROCESS UNDER WHICH, FOR EACH CALENDAR YEAR, THE BOARD RESERVES
15 UP TO SIXTY PERCENT OF THE HCSM MONEY ALLOCATED FOR BROADBAND
16 DEPLOYMENT TO AWARD GRANTS TO PROPOSED PROJECTS THAT SERVE
17 CRITICALLY UNSERVED AREAS IDENTIFIED BY THE OFFICE, INCLUDING ANY
18 CRITICALLY UNSERVED AREAS WITHIN THE BOUNDARIES OF AN INDIAN
19 RESERVATION LOCATED WITHIN THE STATE.

20 (B) AT THE END OF EACH CALENDAR YEAR, ANY OF THE RESERVED
21 MONEY NOT AWARDED THROUGH THE REQUEST FOR PROPOSAL PROCESS
22 REMAINS AVAILABLE FOR DISTRIBUTION THROUGH THE EXISTING GRANT
23 APPLICATION PROCESS.

24 (C) ALL APPLICATION AND APPEAL PROCESSES AND CRITERIA SET
25 FORTH IN THIS SUBSECTION (9) APPLY TO THE REQUEST FOR PROPOSAL
26 PROCESS; EXCEPT THAT THE REQUIREMENT TO PROVE THAT AN AREA TO BE
27 SERVED BY A PROPOSED PROJECT IS AN UNSERVED AREA AS SET FORTH IN
28 SUBSECTION (9)(a)(I) OF THIS SECTION DOES NOT APPLY AND SUBSECTIONS
29 (9)(a)(II), (9)(a)(III), (9)(b), AND (9)(d) OF THIS SECTION DO NOT APPLY.
30 SUBSECTION (9)(e)(II) OF THIS SECTION ONLY APPLIES TO THE REQUEST
31 FOR PROPOSAL PROCESS IN THE LIMITED MANNER INDICATED IN THAT
32 SUBSECTION.

33 (D) THE BOARD, IN IMPLEMENTING THE REQUEST FOR PROPOSAL
34 PROCESS, NEED NOT COMPLY WITH THE "PROCUREMENT CODE", ARTICLES
35 101 TO 112 OF THIS TITLE 24.

36 (E) THIS SUBSECTION (9)(a)(V) IS REPEALED, EFFECTIVE
37 SEPTEMBER 1, 2024.

38 (VI) (A) ON OR BEFORE NOVEMBER 1, 2021, THE OFFICE SHALL
39 DEVELOP AND SUBMIT TO THE BOARD ONE OR MORE MAPS IDENTIFYING
40 THE CRITICALLY UNSERVED AREAS IN THE STATE. THE BOARD SHALL
41 UTILIZE THE MAPS SUBMITTED WHEN REVIEWING ANY APPLICATION OR

1 APPEAL PURSUANT TO THIS SECTION.
2 (B) WITH REGARD TO THE REQUEST FOR PROPOSAL PROCESS SET
3 FORTH IN SUBSECTION (9)(a)(V) OF THIS SECTION, BASED ON THE MAPS
4 SUBMITTED, THE BOARD SHALL CHOOSE CRITICALLY UNSERVED AREAS FOR
5 WHICH THE BOARD SHALL SOLICIT PROPOSED PROJECT BIDS TO SERVE
6 THOSE AREAS. IN CHOOSING THE CRITICALLY UNSERVED AREAS FOR WHICH
7 THE BOARD WILL SOLICIT PROPOSED PROJECT BIDS, THE BOARD SHALL
8 STRIVE TO ENSURE GEOGRAPHIC DIVERSITY AMONG THE AREAS CHOSEN.
9 THIS SUBSECTION (9)(a)(VI)(B) IS REPEALED, EFFECTIVE SEPTEMBER 1,
10 2024.
11 (VII) IF AN APPLICANT FILING AN APPLICATION OR AN APPELLANT
12 FILING AN APPEAL PURSUANT TO SUBSECTION (9)(k)(III) OF THIS SECTION
13 SUBMITS, AS PART OF THE APPLICATION OR APPEAL, A SPEED TEST
14 PERFORMED ON AN INCUMBENT PROVIDER'S NETWORK, THE SPEED TEST
15 SHALL BE PERFORMED IN ACCORDANCE WITH INDUSTRY-STANDARD
16 SPEED-TEST PROTOCOLS AS IDENTIFIED BY THE FCC.
17 (b) Developing a methodology for determining whether a
18 proposed project will serve unserved areas. The board's methodology
19 must give substantial weight to a local entity's written certification on the
20 issue of whether the area to be served is an unserved area.
21 (c) Denying funding for applications that overbuild areas
22 receiving federal sources of high cost support or federal broadband grants
23 for construction of a broadband network that will be completed within
24 twenty-four months after the date that the applicant filed the application
25 so as to maximize the total available state and federal support for rural
26 broadband development. An incumbent broadband provider receiving
27 federal funds must submit to the board an affidavit from a company
28 officer that the build-out will be completed within the twenty-four-month
29 period. Upon completion of the project, an incumbent broadband provider
30 will provide documentation to the board that demonstrates that the
31 unserved addresses meet the minimum download and upload speeds
32 established in the FCC's definition of high-speed internet access or
33 broadband. If the incumbent broadband provider fails to meet the
34 commitment made in the affidavit filed, the board may award a grant to
35 another provider to provide service for the addresses that remain
36 unserved.
37 ~~(c.5)~~ (d) Denying funding for overbuilding of existing broadband
38 networks in order to maximize the total available support for financing
39 rural broadband development;
40 ~~(d)~~ (e) Ensuring that a proposed project includes:
41 (I) Access to measurable speeds of at least ten megabits per

1 second downstream and one megabit per second upstream or measurable
2 speeds at least equal to the FCC's definition of high-speed internet access
3 or broadband, whichever is faster;

4 (II) (A) EXCEPT AS PROVIDED IN SUBSECTION (9)(e)(II)(B) OF THIS
5 SECTION, independent funding secured for at least twenty-five percent of
6 the total cost of the proposed project. ~~and~~

7 (B) THE BOARD MAY AUTHORIZE A PROPOSED PROJECT AWARDED
8 GRANT MONEY PURSUANT TO SUBSECTION (9)(a)(V) OF THIS SECTION TO
9 SECURE A LESSER AMOUNT OF INDEPENDENT FUNDING IF THE PROPOSED
10 PROJECT MEETS THE CRITERIA SET FORTH IN THIS SUBSECTION (9) AND THE
11 AMOUNT OF INDEPENDENT FUNDING SECURED IS THE HIGHEST AMOUNT OF
12 INDEPENDENT FUNDING PROPOSED AMONG MULTIPLE PROPOSALS TO SERVE
13 THE AREA TO BE SERVED BY THE PROPOSED PROJECT. THIS SUBSECTION
14 (9)(e)(II)(B) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

15 (III) A requirement to utilize any award granted from the ~~fund~~
16 HCSM ACCOUNT DEDICATED TO BROADBAND DEPLOYMENT PURSUANT TO
17 SUBSECTION (3) OF THIS SECTION for infrastructure purposes only and not
18 for operations;

19 ~~(e)~~ (f) Providing additional consideration for proposed projects
20 that ~~include~~ INCLUDES at least some of the following factors:

21 (I) Proposed projects that provide service to residential and
22 business addresses that lack broadband internet service at measurable
23 speeds of at least ten megabits per second downstream and one megabit
24 per second upstream;

25 (II) Proposed projects that are endorsed by local entities interested
26 in obtaining broadband internet service in unserved areas of the state;

27 (III) Proposed projects that have speeds of at least ten megabits
28 per second downstream and one megabit per second upstream or
29 measurable speeds at least equal to the FCC's definition of high-speed
30 internet access or broadband, whichever is faster;

31 (IV) Proposed projects for which the applicant has an established
32 record of operation in the area of the grant application; ~~and~~

33 (V) Proposed projects providing last-mile broadband service,
34 which is defined as the portion of broadband service that delivers an
35 internet connection to an end user; ~~that lacks access to broadband service~~
36 ~~at measurable speeds greater than fifty-six kilobits per second;~~ AND

37 (VI) PROPOSED PROJECTS THAT PROVIDE DISCOUNTED BROADBAND
38 SERVICE TO LOW-INCOME HOUSEHOLDS;

39 ~~(f)~~ (g) Providing an assessment of the following factors:

40 (I) Whether the proposed project will provide services via a
41 licensed or unlicensed means of transmission;

1 (II) The cost-effectiveness of the proposed project's proposed
2 method for expanding broadband internet service into unserved areas; and
3 (III) The reliability of the network providing broadband services;
4 ~~(g)~~ (h) (I) With regard to an applicant that has submitted a
5 proposed project to the board, affording each incumbent provider in the
6 area that is not providing access to a broadband network in the unserved
7 area a right of first refusal regarding the implementation of a project in
8 the unserved area.

9 (II) If an incumbent provider proposes a project for the area, the
10 incumbent provider commits to providing access to a broadband network:
11 (A) Within one year after the applicant's submission of a proposed
12 project;
13 (B) At demonstrated downstream and upstream speeds equal to or
14 faster than the speeds indicated in the applicant's proposed project; and
15 (C) At a cost per household in the area to be served that is equal
16 to or less than the cost per household indicated in the applicant's proposed
17 project.

18 ~~(h)~~ (i) Ensuring that broadband service grant awards are not
19 provided in areas other than unserved areas;
20 ~~(i)~~ (j) In the case of a franchise agreement, ensuring that
21 broadband service grant awards are not provided in areas with a
22 population density large enough to require service under an existing
23 franchise agreement;
24 ~~(j)~~ (k) Establishing a grant award process that:
25 (I) Allows an applicant to apply for grants on multiple projects in
26 a given year if the applicant makes a separate application for each project.
27 The board may approve more than one of the applicant's projects within
28 a single year.
29 (II) Ensures the geographically equitable distribution of grant
30 awards;
31 (III) Provides for an appeals process for any party aggrieved by an
32 award or denial of grant money, whether exercising a right of first refusal,
33 having filed any comments regarding the initial grant application, or both.
34 If a provider of broadband service or a broadband network that alleges
35 funding provided pursuant to this section will overbuild the provider's
36 broadband network, the provider is an aggrieved party with standing to
37 appeal under this subsection ~~(8)(j)(HH)~~ (9)(k)(III).

38 (IV) Requires the board to consider appeals alleging that the
39 application area is no longer unserved because federal support improves
40 a broadband network for service locations that are adjacent to the area
41 receiving the federal award and are within the application area;

1 ~~(k)~~ (l) Establishing reporting and accountability requirements for
2 a project receiving financial support from the ~~fund~~ HCSM ACCOUNT
3 DEDICATED TO BROADBAND DEPLOYMENT PURSUANT TO SUBSECTION (3)
4 OF THIS SECTION, including contractual requirements that:
5 (I) The applicant secure a performance bond for the project, as
6 appropriate;
7 (II) The applicant demonstrate an ability to provide broadband
8 service at a reasonable cost per household in the area to be served by the
9 proposed project;
10 (III) The applicant demonstrate an ability to complete the
11 proposed project within a reasonable time, not to exceed two years, unless
12 delayed by a government entity; ~~and~~
13 (IV) Prohibit an applicant from using grant award ~~moneys~~ MONEY
14 to offer, provide, or sell broadband services in an area not meeting the
15 definition of unserved area;
16 (V) THE APPLICANT, ON AN ANNUAL BASIS UNTIL THE GRANT
17 MONEY HAS BEEN FULLY EXPENDED, REPORT TO THE BOARD ON THE
18 FOLLOWING:
19 (A) THE NUMBER OF HOMES AND BUSINESSES THAT THE
20 APPLICANT'S GRANT-SUPPORTED BROADBAND NETWORK SERVES;
21 (B) THE NUMBER OF ADDITIONAL HOMES AND BUSINESSES THAT
22 THE APPLICANT EXPECTS TO SERVE THROUGH THE GRANT-SUPPORTED
23 BROADBAND NETWORK WITHIN THE FOLLOWING YEAR; AND
24 (C) THE SPEED TIERS, ADVERTISED RATES, AND SERVICES THAT
25 THE APPLICANT OFFERS TO CUSTOMERS THROUGH THE GRANT-SUPPORTED
26 BROADBAND NETWORK, INCLUDING SPEED TIERS, RATES, AND OTHER
27 SERVICES THAT THE APPLICANT OFFERS TO LOW-INCOME HOUSEHOLDS;
28 AND
29 (VI) THE APPLICANT, AFTER THE GRANT MONEY HAS BEEN FULLY
30 EXPENDED, PROVIDE THIRD-PARTY PERFORMANCE-TESTING
31 CERTIFICATION, BASED ON FCC-APPROVED PERFORMANCE-TESTING
32 PROTOCOLS, THAT THE PROJECT MEETS THE ORIGINAL DESIGN OF, AND
33 PROVIDES THE MEASURABLE SPEEDS, RATES, AND SERVICES SET FORTH IN,
34 THE APPLICATION;
35 (m) (I) COMMENCING IN THE GRANT FUNDING CYCLE THAT BEGINS
36 IMMEDIATELY AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (9)(m),
37 REQUIRING AN APPLICANT, OR AN APPELLANT FILING AN APPEAL PURSUANT
38 TO SUBSECTION (9)(k)(III) OF THIS SECTION, TO SUBMIT, IN THE FORM AND
39 MANNER DETERMINED BY THE OFFICE OR, IF THE FCC ADOPTS
40 REGULATIONS REQUIRING THE SUBMISSION OF GRANULAR COVERAGE
41 DATA, IN THE FORM AND MANNER REQUIRED BY THE FCC, GRANULAR



1 COVERAGE DATA TO THE OFFICE. IF THE FCC ADOPTS SUCH REGULATIONS,
2 THE OFFICE SHALL NOT IMPOSE ANY GRANULAR COVERAGE DATA
3 SUBMISSION REQUIREMENTS THAT ARE MORE ONEROUS OR LESS
4 STRINGENT THAN THE REQUIREMENTS SET FORTH IN THE FCC'S
5 REGULATIONS. UPON REQUEST OF THE BOARD, THE OFFICE SHALL INFORM
6 THE BOARD IF AN APPLICANT HAS SUBMITTED THE GRANULAR COVERAGE
7 DATA IN ACCORDANCE WITH THIS SUBSECTION (9)(m).

8 (II) GRANULAR COVERAGE DATA SUBMITTED PURSUANT TO THIS
9 SUBSECTION (9)(m) IS NOT A PUBLIC RECORD AS DEFINED IN, AND IS NOT
10 SUBJECT TO PUBLIC DISCLOSURE UNDER, THE "COLORADO OPEN RECORDS
11 ACT", PART 2 OF ARTICLE 72 OF THIS TITLE 24.

12 (III) AS USED IN THIS SUBSECTION (9)(m), "GRANULAR COVERAGE
13 DATA" MEANS MAPPING DATA PRESENTED IN THE FORM OF A COVERAGE
14 POLYGON OR LOCATION COORDINATES THAT REFLECTS:

15 (A) THE MAXIMUM DOWNLOAD AND UPLOAD SPEEDS AVAILABLE
16 IN EACH AREA;

17 (B) THE TECHNOLOGY USED TO PROVIDE THE SERVICE; AND

18 (C) A DIFFERENTIATION AMONG RESIDENTIAL-ONLY,
19 BUSINESS-ONLY, AND RESIDENTIAL-AND-BUSINESS BROADBAND SERVICES.

20 ~~(8.3)~~ (10) (a) The board shall periodically review the websites of
21 the federal trade commission and the FCC to determine whether either of
22 those federal agencies has issued a final order or entered into a settlement
23 or consent decree regarding any:

24 (I) Applicant seeking broadband deployment grant money from
25 the board; or

26 (II) Internet service provider, as defined in section 40-15-209
27 (4)(b), to which the board has awarded broadband deployment grant
28 money.

29 (b) The board shall review any order or decree described in
30 subsection ~~(8.3)(a)~~ (10)(a) of this section to determine whether the
31 internet service provider that is the subject of the order or decree has
32 engaged in conduct prohibited by section 40-15-209 (1)(a) to (1)(d). The
33 board shall deny the application of any applicant subject to such a federal
34 order or decree and shall inform the commission pursuant to section
35 40-15-209 (2)(a) about any internet service provider awarded broadband
36 deployment grant money that is subject to such an order or decree.

37 ~~(8.5)~~ (11) (a) The board shall deny an application that contains an
38 area that does not meet the definition of unserved area and shall grant an
39 appeal to an incumbent broadband provider that demonstrates, by a
40 preponderance of the evidence, that an area covered by an application
41 does not meet the definition of unserved area.



1 (b) If all other application requirements remain met, an
2 application may be amended at any time to remove from the application
3 coverage of an area that does not meet the criteria established pursuant to
4 this section. Alternatively, the board may award a partial grant for an area
5 that does meet the criteria.

6 ~~(9)~~ (12) (a) The board shall report annually to the transportation
7 and ~~energy~~ LOCAL GOVERNMENT committee and the business affairs and
8 labor committee in the house of representatives and to the ~~agriculture,~~
9 ~~natural resources,~~ TRANSPORTATION and energy committee and business,
10 labor, and technology committee in the senate, or their successor
11 committees, on the projects supported by money from the HCSM account
12 dedicated to broadband deployment PURSUANT TO SUBSECTION (3) OF THIS
13 SECTION in a given year, including information on:

- 14 (I) The number of projects;
- 15 (II) The location of each project;
- 16 (III) The amount of funding received for each project; and
- 17 (IV) A description of each project.

18 (b) Notwithstanding section 24-1-136 (11), ~~C.R.S.~~, the report
19 required under this subsection ~~(9)~~ (12) continues indefinitely.

20 ~~(10)~~ (13) Local entities are encouraged to cooperate with respect
21 to timelines and permit fees concerning projects in their geographic area.

22 ~~(10.5)~~ (14) (a) The board may apply for OR OTHERWISE RECEIVE
23 federal funding of broadband deployment projects and programs. IF THE
24 BOARD RECEIVES ANY FEDERAL FUNDING, THE BOARD SHALL UTILIZE THE
25 REQUEST FOR PROPOSAL PROCESS ESTABLISHED UNDER, OR
26 SUBSTANTIALLY SIMILAR TO THE PROCESS ESTABLISHED UNDER,
27 SUBSECTION (9)(a)(V) OF THIS SECTION TO DISTRIBUTE THE FEDERAL
28 FUNDS AS SOON AS PRACTICABLE, SO LONG AS SUCH PROCESS COMPLIES
29 WITH FEDERAL REQUIREMENTS FOR USE OF THE FUNDS AND THE FUNDS ARE
30 USED FOR CRITICALLY UNSERVED AREAS.

31 (b) The HCSM third-party contractor shall maintain any federal
32 money awarded for broadband deployment in a separate account of the
33 HCSM that is dedicated to allocating federal broadband deployment
34 money. The commission is authorized to disburse any money from the
35 account as directed by the board.

36 ~~(b) (I) Following the model of New York's petition for expedited~~
37 ~~waiver, the board shall immediately petition the FCC for a waiver from~~
38 ~~the auction rules that prohibit a state entity from applying for connect~~
39 ~~America fund phase II auction money to allow the board itself to allocate~~
40 ~~auction money for broadband deployment projects approved by the board.~~

41 ~~(II) After submitting the petition to the FCC, the board may:~~

1 (A) ~~File any additional documentation that the FCC requires of the~~
2 ~~board in considering the board's petition; and~~
3 (B) ~~Coordinate with the FCC to develop any conditions that the~~
4 ~~FCC might require to grant the petition.~~
5 (III) ~~If the FCC grants the board's petition and awards the board~~
6 ~~auction money:~~
7 (A) ~~The HCSM third-party contractor shall maintain any federal~~
8 ~~money awarded from the auction in the separate account of the HCSM~~
9 ~~described in subsection (10.5)(a) of this section; and~~
10 (B) ~~The commission is authorized to disburse the federal money~~
11 ~~in that account for broadband deployment grants as directed by the board.~~
12 (IV) ~~The board may coordinate with the FCC to comply with any~~
13 ~~conditions established by the FCC in granting the petition. If any such~~
14 ~~FCC conditions impose project eligibility, application process, award~~
15 ~~criteria, or other requirements that are distinct from the requirements set~~
16 ~~forth in this section or established by the board pursuant to this section;~~
17 ~~the commission may, by rule and in consultation with the board, establish~~
18 ~~requirements that comply with the FCC's conditions; except that any~~
19 ~~requirements established by the commission by rule pursuant to this~~
20 ~~subsection (10.5)(b) must apply only to broadband deployment projects~~
21 ~~that are eligible to receive auction money.~~
22 (e) ~~As used in this subsection (10.5):~~
23 (I) ~~"Auction rules" refers to the FCC's rules in 47 CFR 54.309 to~~
24 ~~54.316, which rules concern the implementation of the connect America~~
25 ~~fund phase II auction.~~
26 (H) ~~"Connect America fund phase II auction" or "auction" refers~~
27 ~~to a ten-year auction of federal money through which the FCC will~~
28 ~~allocate money, by means of a competitive bidding process, to~~
29 ~~telecommunications providers who commit to providing voice and~~
30 ~~broadband service in high-cost areas of the nation in accordance with the~~
31 ~~FCC's auction rules.~~
32 (III) ~~"New York's petition for expedited waiver" refers to a~~
33 ~~petition that the state of New York filed with the FCC seeking a waiver~~
34 ~~from the FCC's auction rules with regard to the rules' limitation~~
35 ~~prohibiting state entities from applying for federal money through the~~
36 ~~auction. The FCC granted the waiver request on January 26, 2017, thus~~
37 ~~authorizing the state of New York to directly receive and allocate auction~~
38 ~~money to broadband projects within the state.~~
39 (10.6) (a) (I) ~~Following the model of New York's petition for~~
40 ~~expedited waiver, the board, on or before January 1, 2019, shall petition~~
41 ~~the FCC for a waiver from the FCC's rules concerning the remote areas~~

1 ~~fund to seek FCC authorization for the board to itself allocate remote~~
2 ~~areas fund money for broadband deployment projects in Colorado:~~
3 ~~(H) After submitting the petition to the FCC, the board may:~~
4 ~~(A) File any additional documentation that the FCC requires of the~~
5 ~~board in considering the board's petition; and~~
6 ~~(B) Coordinate with the FCC to develop any conditions that the~~
7 ~~FCC might require to grant the petition:~~
8 ~~(b) If the FCC denies the board's petition, the board shall not file~~
9 ~~a new petition or otherwise subsequently apply for money from the~~
10 ~~remote areas fund:~~
11 ~~(c) If the FCC grants the board's petition:~~
12 ~~(i) The HCSM third-party contractor shall maintain any federal~~
13 ~~money awarded through the remote areas fund in a separate account of~~
14 ~~the HCSM that is dedicated to allocating the federal money in compliance~~
15 ~~with any conditions established by the FCC in granting the petition;~~
16 ~~(ii) The commission is authorized to disburse the federal money~~
17 ~~in that account for broadband deployment grants as authorized by the~~
18 ~~board and in compliance with any conditions established by the FCC in~~
19 ~~granting the petition; and~~
20 ~~(iii) The board is authorized to coordinate with the FCC to~~
21 ~~comply with any conditions established by the FCC in granting the~~
22 ~~petition. If any such FCC conditions impose project eligibility,~~
23 ~~application process, award criteria, or other requirements that are distinct~~
24 ~~from the requirements set forth in this section or established by the board~~
25 ~~pursuant to this section, the commission may, by rule and in consultation~~
26 ~~with the board, establish requirements that comply with the FCC's~~
27 ~~conditions; except that any requirements established by the commission~~
28 ~~by rule pursuant to this subsection (10.6) must apply only to broadband~~
29 ~~deployment projects that are eligible to receive the federal remote areas~~
30 ~~fund money:~~
31 ~~(d) As used in this subsection (10.6):~~
32 ~~(i) "Auction rules" refers to the FCC's rules in 47 CFR 54.309 to~~
33 ~~54.316, which rules concern the implementation of the connect America~~
34 ~~fund phase II auction:~~
35 ~~(ii) "Connect America fund" refers to the federal universal service~~
36 ~~high-cost program that allows eligible telecommunications providers to~~
37 ~~recover some of their costs from the federal government for providing~~
38 ~~voice and broadband service in high-cost areas:~~
39 ~~(iii) "Connect America phase II auction" refers to a ten-year~~
40 ~~auction of federal money through which the FCC will allocate money~~
41 ~~through a competitive bidding process to telecommunications providers~~

1 ~~who commit to providing voice and broadband service in high-cost areas~~
2 ~~of the nation in accordance with the FCC's auction rules.~~

3 ~~(IV) "New York's petition for expedited waiver" refers to a~~
4 ~~petition that the state of New York filed with the FCC seeking a waiver~~
5 ~~from the FCC's auction rules, which waiver the FCC granted on January~~
6 ~~26, 2017.~~

7 ~~(V) "Remote areas fund" refers to a fund created by the FCC as~~
8 ~~part of its connect America fund to facilitate broadband deployment in~~
9 ~~extremely high-cost areas of the nation.~~

10 ~~(10.7) (15) The board shall make every effort to ensure that a~~
11 ~~project funded pursuant to this section does not overbuild any project~~
12 ~~supported or approved by the department of local affairs.~~

13 ~~(10.9) (16) As used in this section:~~

14 (a) "BROADBAND" OR "BROADBAND SERVICE" HAS THE MEANING
15 SET FORTH IN SECTION 40-15-102 (3.3).

16 (b) "BROADBAND INTERNET SERVICE" HAS THE MEANING SET
17 FORTH IN SECTION 40-15-102 (3.5).

18 (c) "BROADBAND NETWORK" HAS THE MEANING SET FORTH IN
19 SECTION 40-15-102 (3.7).

20 (d) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION
21 CREATED IN SECTION 40-2-101.

22 (e) "COMPETITIVE LOCAL EXCHANGE CARRIER" MEANS A LOCAL
23 EXCHANGE PROVIDER THAT IS NOT THE INCUMBENT LOCAL EXCHANGE
24 CARRIER IN AN IDENTIFIED EXCHANGE AREA.

25 (f) "CRITICALLY UNSERVED", WHEN USED TO DESCRIBE A
26 HOUSEHOLD OR AREA, MEANS A HOUSEHOLD OR AREA THAT LACKS ACCESS
27 TO AT LEAST ONE NONSATELLITE PROVIDER OF BROADBAND SERVICE
28 DELIVERED AT MEASURABLE SPEEDS OF EITHER AT LEAST TEN MEGABITS
29 PER SECOND DOWNSTREAM AND ONE MEGABIT PER SECOND UPSTREAM OR
30 AT MEASURABLE SPEEDS AT LEAST EQUAL TO ONE-HALF OF THE MINIMUM
31 MEASURABLE SPEEDS THAT QUALIFY AS BROADBAND UNDER THE FCC
32 DEFINITION AND ROUNDED UP TO THE NEAREST WHOLE NUMBER,
33 WHICHEVER IS FASTER.

34 (g) **[Formerly 40-15-102 (6.7)]** "Eligible applicant" means an
35 applicant seeking grant funding for a proposed broadband project under
36 THIS section ~~40-15-509.5~~ with a sufficient business track record to
37 indicate that the applicant's operations will be sustainable after receiving
38 infrastructure support under THIS section. ~~40-15-509.5~~. The term is
39 limited to for-profit entities; except that a nonprofit telephone
40 cooperative, including its affiliates and subsidiaries, or a nonprofit rural
41 electric association that existed on May 10, 2014, qualifies as an "eligible

1 applicant". The term is not limited to a current recipient of high cost
2 support mechanism funds.

3 (h) "FCC" MEANS THE FEDERAL COMMUNICATIONS COMMISSION.

4 (i) "HIGH COST SUPPORT MECHANISM" OR "HCSM" MEANS THE
5 SUPPORT MECHANISM CREATED PURSUANT TO SECTION 40-15-208.

6 (j) "Incumbent broadband provider" means a provider that
7 offers broadband internet service over a broadband network in an area
8 covered by an application filed pursuant to this section.

9 (k) "INCUMBENT PROVIDER" HAS THE MEANING SET FORTH IN
10 SECTION 40-15-102 (9.5).

11 (l) [Formerly 40-15-102 (10.5)] "Infrastructure" means the
12 facilities or equipment used in the deployment of broadband service.

13 (m) [Formerly 40-15-102 (17.5)] (I) "Local entity" means elected
14 members of a county or municipal government OR THE ELECTED MEMBERS
15 OF A METROPOLITAN DISTRICT THAT LIES WHOLLY WITHIN THE
16 UNINCORPORATED PART OF A COUNTY.

17 (II) ~~For purposes of~~ AS USED IN this subsection ~~(17.5);~~ (16)(m):

18 (A) "METROPOLITAN DISTRICT" HAS THE MEANING SET FORTH IN
19 SECTION 32-1-103 (10).

20 (B) "Municipal government" means a home rule or statutory city,
21 town, or city and county or a territorial charter city.

22 (b) (m) "Overbuild" or "overbuilding" means providing a
23 broadband network to a household or households that:

24 (I) At the time of application, either have access to a broadband
25 network or have received federal sources of high cost support or federal
26 broadband grants to provide access to a broadband network; and

27 (II) Account for twenty percent or more of the total household or
28 households to be served by a proposed wireless project.

29 (n) "UNSERVED AREA" HAS THE MEANING SET FORTH IN SECTION
30 40-15-102 (32).

31 (17) This section is repealed, effective September 1, 2024.
32 Before its THE repeal, the powers, duties, and functions of the board
33 regarding the deployment of broadband services into unserved areas are
34 scheduled for review in accordance with section 24-34-104.

35 **SECTION 3.** In Colorado Revised Statutes, 24-72-202, **add**
36 (6)(b)(XV) as follows:

37 **24-72-202. Definitions.** As used in this part 2, unless the context
38 otherwise requires:

39 (6) (b) "Public records" does not include:

40 (XV) GRANULAR COVERAGE DATA, AS DEFINED IN AND SUBMITTED
41 TO THE OFFICE OF INFORMATION TECHNOLOGY PURSUANT TO SECTION



1 24-37.5-118 (9)(m).

2 **SECTION 4.** In Colorado Revised Statutes, 40-15-102, **repeal**
3 (6.5) as follows:

4 **40-15-102. Definitions.** As used in this article 15, unless the
5 context otherwise requires:

6 (6.5) ~~"Distributed equitably" means that distribution by the~~
7 ~~commission of high cost support mechanism funding to eligible providers~~
8 ~~shall be accomplished using regulatory principles that are neutral in their~~
9 ~~effect, that do not favor one class of providers over another, and that do~~
10 ~~not cause any eligible telecommunications provider to experience a~~
11 ~~reduction in its high cost support mechanism support revenue requirement~~
12 ~~based upon commission rules that are not applicable to other~~
13 ~~telecommunications providers.~~

14 **SECTION 5.** In Colorado Revised Statutes, 6-26-101, **amend** (1)
15 as follows:

16 **6-26-101. Complaints to federal trade commission - attorney**
17 **general to provide guidance.** (1) The attorney general or the attorney
18 general's designee, in collaboration with the broadband deployment board
19 created in section ~~40-15-509.5 (5)~~ 24-37.5-118, shall develop written
20 guidance for consumers seeking to file a complaint with the federal trade
21 commission to allege that an internet service provider, as defined in
22 section 40-15-209 (4)(b), has engaged in any practice that violates federal
23 law regarding interference with the open internet.

24 **SECTION 6.** In Colorado Revised Statutes, 40-15-208, **amend**
25 (2)(a)(I)(B) as follows:

26 **40-15-208. High cost support mechanism - Colorado high cost**
27 **administration fund - creation - purpose - operation - rules - report**
28 **- repeal.** (2) (a) (I) The commission is hereby authorized to establish a
29 mechanism for the support of universal service, also referred to in this
30 section as the "high cost support mechanism", which must operate in
31 accordance with rules adopted by the commission. The primary purpose
32 of the high cost support mechanism is to provide financial assistance as
33 a support mechanism to:

34 (B) Provide access to broadband service in unserved areas
35 pursuant to this section and section ~~40-15-509.5~~ 24-37.5-118 only.

36 **SECTION 7.** In Colorado Revised Statutes, 40-15-209, **amend**
37 (1) introductory portion, (2)(a), and (2)(c) as follows:

38 **40-15-209. Net neutrality conditions for internet service**
39 **providers to receive high cost support mechanism money -**
40 **definitions.** (1) Except as provided in subsection (3) of this section, an
41 internet service provider that is otherwise eligible to receive money

1 through a grant from the broadband deployment board pursuant to section
2 ~~40-15-509.5~~ 24-37.5-118 or through any state fund established to help
3 finance broadband deployment is not eligible to receive that money if the
4 internet service provider:

5 (2) (a) If the commission learns from the broadband deployment
6 board that a federal agency has issued a final order or entered into a
7 settlement or consent decree regarding, or a court of competent
8 jurisdiction has issued a final judgment against, an internet service
9 provider and that the board has determined from the order, decree, or
10 judgment that the internet service provider has engaged in conduct
11 specified in subsection (1) of this section, the commission shall issue a
12 written order to the internet service provider requiring the internet service
13 provider to fully refund any money that the internet service provider
14 received in the twenty-four months preceding the board's determination
15 from the high cost support mechanism pursuant to a grant awarded by the
16 broadband deployment board under section ~~40-15-509.5~~ 24-37.5-118.

17 (c) The third-party contractor that maintains the high cost support
18 mechanism shall allocate any money refunded to the high cost support
19 mechanism pursuant to this subsection (2) to the high cost support
20 mechanism account dedicated to broadband deployment, which account
21 is described in section ~~40-15-509.5~~ (3) 24-37.5-118 (3).

22 **SECTION 8.** In Colorado Revised Statutes, 40-15-502, **amend**
23 (5)(a) as follows:

24 **40-15-502. Expressions of state policy. (5) Universal service**
25 **support mechanisms.** (a) In order to accomplish the goals of universal
26 basic service, universal access to advanced service under section
27 ~~40-15-509.5~~ 24-37.5-118, and any revision of the definition of basic
28 service under subsection (2) of this section, the commission shall create
29 a system of support mechanisms to assist in the provision of basic service
30 and advanced service in high-cost areas. The commission shall fund these
31 support mechanisms equitably and on a nondiscriminatory, competitively
32 neutral basis through assessments, which may include a rate element, on
33 all telecommunications providers in Colorado. A provider's eligibility to
34 receive support for basic service under the support mechanisms is
35 conditioned upon the provider's offering basic service throughout an
36 entire support area.

37 **SECTION 9. Repeal of provisions being relocated in this act.**
38 In Colorado Revised Statutes, **repeal** 40-15-102 (6.7), (10.5), and (17.5)
39 and 40-15-509.5.

40 **SECTION 10. Applicability.** This act applies to applications
41 filed on or after the effective date of this act.



1 **SECTION 11. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, or safety."

4 Page 1, line 102, after "**THEREWITH,**" insert "**MOVING THE BOARD FROM**
5 **THE DEPARTMENT OF REGULATORY AGENCIES TO THE OFFICE OF**
6 **INFORMATION TECHNOLOGY,**".

** *** ** *** **

