

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0382.02 Jennifer Berman x3286

SENATE BILL 16-136

SENATE SPONSORSHIP

Donovan,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING BROADBAND DEPLOYMENT, AND, IN CONNECTION
102 THEREWITH, MODIFYING A LOCAL GOVERNMENT'S PROCESS FOR
103 AN EXEMPTION FROM THE REQUIREMENT FOR VOTER APPROVAL
104 TO PROVIDE ITS OWN ADVANCED SERVICE IN AN UNSERVED
105 AREA, UPDATING THE DEFINITION OF "BROADBAND",
106 MODIFYING THE PROCEDURE FOR DETERMINING HOW FUNDS IN
107 THE HIGH COST SUPPORT MECHANISM ARE ALLOCATED, AND
108 REQUIRING COORDINATION BETWEEN STATE AGENCIES TO
109 ENSURE NONDUPLICATION OF FUNDING FOR BROADBAND
110 DEPLOYMENT IN RURAL AREAS.

Bill Summary

(Note: This summary applies to this bill as introduced and does

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.

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/billsummaries>.)

Absent voter approval at an election, a local government is prohibited from providing its own cable television service, telecommunications service, or advanced service, which is defined as high-speed internet access greater than 256 kilobits per second. If no private provider of advanced service provides advanced service anywhere within the boundaries of a local government and if certain circumstances are met, the local government is exempt from the prohibition as an unserved area.

Sections 1 through 6 of the bill modify the law respecting a local government's provision of these services. Section 1 updates the definition of "advanced service" to mean high-speed internet access capability at measurable speeds of at least 10 megabits per second downstream and one megabit per second upstream.

Section 3 permits a local government to evaluate the feasibility of, or need for, providing cable television service, telecommunications service, or broadband service without having to call an election first. Section 3 also requires a local government to give at least 60 days' public notice to private providers of cable television, telecommunications, or advanced service of its intent to consider a ballot measure concerning the provision of such services and to publish a plan for the proposed service.

Section 4 modifies the exemption from seeking voter approval to cover those local governments with an area that constitutes an unserved area, which is defined for advanced service as an area with advanced service that consists of one or more contiguous census blocks in which a majority of the households lack access to at least one provider of advanced service that uses satellite technology and at least one provider of advanced service that uses nonsatellite technology.

Section 5 expands the activities that a local government may engage in without seeking voter approval to include leasing space or capacity to a private provider, entering into a joint trenching agreement with a private provider if the lease, trenching agreement is made or entered into in a nondiscriminatory and competitively neutral manner. Section 5 also excludes from the voter approval requirement a local government's purchase, lease, construction, maintenance, or operation of middle-mile transport facilities that are made available on a nondiscriminatory, nonexclusive, competitively neutral basis.

Section 7 updates the definition of broadband network for purposes of telecommunications regulation and deregulation.

Section 8 updates how the public utilities commission (commission) makes an effective competition determination for high cost

support mechanism (HCSM) funding, which is financial assistance provided to telecommunications companies that provide basic telephone service or broadband service in areas that lack effective competition. Section 8 also updates the process for seeking review of an effective competition determination made by the commission.

Section 10 establishes that HCSM funding cannot be used to support more than one business line per individual business, one wireline per individual household, or one wireless line per individual household.

Sections 9 and 11 change the broadband fund to the broadband support mechanism, for the administration of money to award grants to projects aimed at deploying broadband service in unserved areas of the state. Section 11 also requires that a reasonable reserve of money be maintained in the broadband support mechanism. Section 11 further requires the executive director of the department of local affairs and the chief information officer of the office of information technology to report to the broadband deployment board on a quarterly basis to ensure nonduplication of state funding of broadband deployment projects.

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

2 **SECTION 1.** In Colorado Revised Statutes, 29-27-102, **amend**
3 (1) as follows:

4 **29-27-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (1) (a) "Advanced service" means high-speed internet access
7 capability ~~in excess of two hundred fifty-six kilobits per second both~~
8 ~~upstream and~~ AT MEASURABLE SPEEDS OF AT LEAST TEN MEGABITS PER
9 SECOND downstream AND ONE MEGABIT PER SECOND UPSTREAM.

10 (b) "ADVANCED SERVICE" INCLUDES BROADBAND, AS DEFINED IN
11 SECTION 40-15-102 (3.3), C.R.S.

12 **SECTION 2.** In Colorado Revised Statutes, 29-27-103, **repeal** (3)
13 as follows:

14 **29-27-103. Limitations on providing cable television,**
15 **telecommunications, and broadband services.** (3) ~~Nothing in this~~
16 ~~article shall be construed to limit the authority of a local government to~~

1 ~~lease to a private provider physical space in or on its property for the~~
2 ~~placement of equipment or facilities the private provider uses to provide~~
3 ~~cable television, telecommunications, or advanced services.~~

4 **SECTION 3.** In Colorado Revised Statutes, **amend** 29-27-201 as
5 follows:

6 **29-27-201. Vote - referendum - activities not requiring a vote.**

7 (1) (a) Before a local government may engage ~~or offer to engage~~ in
8 providing cable television service, telecommunications service, or
9 advanced service IN AN AREA THAT DOES NOT QUALIFY AS AN UNSERVED
10 AREA, an election shall be called on whether or not the local government
11 shall provide the proposed cable television service, telecommunications
12 service, or advanced service.

13 (b) FOR PURPOSES OF PROVIDING ADVANCED SERVICE, "UNSERVED
14 AREA" MEANS AN AREA THAT CONSISTS OF ONE OR MORE CONTIGUOUS
15 CENSUS BLOCKS IN WHICH A MAJORITY OF THE HOUSEHOLDS LACK ACCESS
16 TO AT LEAST ONE PROVIDER OF ADVANCED SERVICE THAT USES SATELLITE
17 TECHNOLOGY AND AT LEAST ONE PROVIDER OF ADVANCED SERVICE THAT
18 USES NONSATELLITE TECHNOLOGY.

19 (2) NOTHING IN THIS SECTION REQUIRES A LOCAL GOVERNMENT TO
20 CALL AN ELECTION TO EVALUATE THE FEASIBILITY OF, OR NEED FOR,
21 PROVIDING CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE,
22 OR BROADBAND SERVICE. WITHOUT CALLING AN ELECTION, A LOCAL
23 GOVERNMENT MAY CONSULT WITH INCUMBENT PROVIDERS, CONDUCT
24 FEASIBILITY OR NEED ANALYSES, ENGAGE CONSULTANTS TO SURVEY THE
25 MARKET, OR CONDUCT ANY ANALYSES REQUIRED TO DETERMINE THE
26 POTENTIAL FEASIBILITY OF PROVIDING CABLE TELEVISION SERVICE,
27 TELECOMMUNICATIONS SERVICE, OR BROADBAND SERVICE.

1 (3) AT LEAST SIXTY DAYS BEFORE A GOVERNING BODY OF A LOCAL
2 GOVERNMENT CONSIDERS A POTENTIAL BALLOT MEASURE AT A PUBLIC
3 MEETING OF THE GOVERNING BODY, THE LOCAL GOVERNMENT SHALL
4 NOTIFY THE COMMUNITY OF ITS INTENT TO CONSIDER A BALLOT MEASURE
5 UNDER THIS SECTION ON THE LOCAL GOVERNMENT'S WEBSITE. PRIVATE
6 PROVIDERS ARE ENCOURAGED TO WORK WITH THE LOCAL GOVERNMENT
7 WITHIN THIS SIXTY-DAY PERIOD TO FURTHER DEFINE AND ADDRESS THE
8 SERVICE NEEDS THAT THE LOCAL GOVERNMENT IDENTIFIED.

9 (4) FOR PURPOSES OF CONSIDERING AT A PUBLIC MEETING A
10 POTENTIAL BALLOT MEASURE TO PROVIDE CABLE TELEVISION,
11 TELECOMMUNICATIONS, OR ADVANCED SERVICE IN AN AREA THAT DOES
12 NOT QUALIFY AS AN UNSERVED AREA, A LOCAL GOVERNMENT SHALL FIRST
13 MAKE PUBLICLY AVAILABLE A PLAN EXPLAINING THE REASONS WHY THE
14 LOCAL GOVERNMENT WISHES TO PROVIDE SERVICE IN AN AREA ALREADY
15 BEING SERVED BY A PRIVATE SERVICE PROVIDER. THE PLAN MUST
16 INCLUDE:

17 (a) THE TYPE OF CABLE TELEVISION SERVICE,
18 TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE TO BE PROVIDED
19 AND WHETHER THE SERVICE OR SERVICES WILL BE PROVIDED DIRECTLY OR
20 INDIRECTLY, AS DESCRIBED IN SECTION 29-27-103 (2) (a) AND (2) (b);

21 (b) THE GEOGRAPHIC AREA TO BE SERVED;

22 (c) PROJECTED REVENUES FROM THE PROPOSED SERVICE AND THE
23 SOURCE OF THE REVENUES FOR THE FIRST THREE YEARS OF OPERATION OF
24 THE SERVICE; AND

25 (d) PROJECTED EXPENSES, INCLUDING DEBT SERVICE EXPENSES,
26 FOR THE FIRST THREE YEARS OF OPERATION OF THE SERVICE.

27 ~~(2)~~ (5) AFTER THE PLAN PREPARED PURSUANT TO SUBSECTION (4)

1 OF THIS SECTION HAS BEEN MADE PUBLICLY AVAILABLE, THE LOCAL
2 GOVERNMENT MAY CALL AN ELECTION PURSUANT TO SUBSECTION (1) OF
3 THIS SECTION ON WHETHER THE LOCAL GOVERNMENT SHALL PROVIDE THE
4 PROPOSED CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE,
5 OR ADVANCED SERVICE. The ballot at an election conducted pursuant to
6 this section ~~shall~~ MUST pose the question as a single subject and ~~shall~~
7 MUST include a description of the nature of the proposed service, the role
8 that the local government will have in provision of the service, and the
9 intended subscribers of such service, AS PROVIDED FOR IN THE PLAN
10 DESCRIBED IN SUBSECTION (4) OF THIS SECTION. The ballot proposition
11 ~~shall not~~ CANNOT take effect until submitted to the electors and approved
12 by the majority of those voting on the ballot.

13 **SECTION 4.** In Colorado Revised Statutes, **amend** 29-27-202 as
14 follows:

15 **29-27-202. Election exemption for unserved areas.** (1) A local
16 government ~~shall be exempt from the requirements of this part 2 and may~~
17 ~~engage or offer to engage in providing~~ PROVIDE cable television service,
18 telecommunications service, or ~~advance~~ ADVANCED service WITHOUT
19 FIRST HAVING HELD AN ELECTION if:

20 (a) ~~No private provider of~~ THE AREA TO BE SERVED IS LOCATED
21 WITHIN THE LOCAL GOVERNMENT'S BOUNDARIES AND:

22 (I) FOR ADVANCED SERVICE, QUALIFIES AS AN UNSERVED AREA, AS
23 DESCRIBED IN SUBSECTION (2) OF THIS SECTION; OR

24 (II) FOR cable television service OR telecommunications service,
25 ~~or advanced service provides~~ A PRIVATE PROVIDER DOES NOT PROVIDE the
26 service anywhere within the boundaries of the local government;

27 (b) The governing body of the local government has submitted a

1 written request to provide the service to ~~any~~ ALL incumbent ~~provider~~
2 PROVIDERS of cable television service, telecommunications service, or
3 advanced service within the boundaries of the local government; and

4 (c) ~~The~~ AN incumbent provider has not AFFIRMATIVELY
5 RESPONDED TO AND agreed within sixty days ~~of~~ AFTER the receipt of a
6 request submitted pursuant to paragraph (b) of this subsection (1), to
7 provide the service or, if the provider has agreed, it has not commenced
8 providing the service within fourteen months ~~of~~ AFTER the receipt of the
9 request.

10 (2) FOR PURPOSES OF SUBSECTION (1) OF THIS SECTION AND WITH
11 REGARD TO ADVANCED SERVICE, THE AREA WITHIN THE BOUNDARIES OF
12 A LOCAL GOVERNMENT IS CONSIDERED AN "UNSERVED AREA" IF
13 MEASURABLE SPEEDS DO NOT MEET THE SPEEDS SET FORTH IN THE
14 DEFINITION OF ADVANCED SERVICE IN SECTION 29-27-102 (1).

15 **SECTION 5.** In Colorado Revised Statutes, **amend** 29-27-302 as
16 follows:

17 **29-27-302. Protected local government activities.** (1) ~~Nothing~~
18 ~~in this article shall be construed to authorize any local government to:~~

19 (a) ~~Provide, directly or indirectly, cable television service,~~
20 ~~telecommunications service, or advanced service; or~~

21 (b) ~~Purchase, lease, construct, maintain, or operate a facility for~~
22 ~~the purpose of providing, directly or indirectly, cable television service,~~
23 ~~telecommunications service, or advanced service.~~

24 (2) (a) Nothing in this article ~~shall be construed to apply~~ APPLIES
25 to a local government purchasing, leasing, constructing, maintaining, or
26 operating facilities that are designed to provide cable television service,
27 telecommunications service, or advanced service that the local

1 government uses for internal or intergovernmental purposes, INCLUDING
2 ADVANCED SERVICE IN LOCAL GOVERNMENT BUILDINGS.

3 (b) A PERSON ACCESSING THE FACILITIES DESCRIBED IN
4 PARAGRAPH (a) DOES NOT CONSTITUTE A SUBSCRIBER.

5 (3) (a) NOTHING IN THIS ARTICLE APPLIES TO A LOCAL
6 GOVERNMENT PURCHASING, LEASING, CONSTRUCTING, MAINTAINING, OR
7 OPERATING MIDDLE-MILE TRANSPORT FACILITIES THAT CREATE A
8 REDUNDANT, DIVERSE PATH.

9 (b) AS USED IN THIS SUBSECTION (3), "MIDDLE MILE" MEANS ANY
10 CARRIER-TO-CARRIER WHOLESALE COMMUNICATIONS INFRASTRUCTURE
11 WITHIN A SINGLE POINT OF DEMARCATION WITHIN THE LOCAL
12 GOVERNMENT'S GEOGRAPHIC BOUNDARIES THAT:

13 (I) DOES NOT CONNECT DIRECTLY TO END USERS OR TO END-USER
14 FACILITIES;

15 (II) MAY INCLUDE INTEROFFICE TRANSPORT, BACKHAUL, INTERNET
16 CONNECTIVITY, OR SPECIAL ACCESS; AND

17 (III) IS MADE AVAILABLE ON A NONDISCRIMINATORY,
18 NONEXCLUSIVE, AND COMPETITIVELY NEUTRAL BASIS.

19 (4) IF A LEASE IS MADE ON A NONDISCRIMINATORY AND
20 COMPETITIVELY NEUTRAL BASIS, NOTHING IN THIS ARTICLE LIMITS THE
21 AUTHORITY OF A LOCAL GOVERNMENT TO LEASE THE FOLLOWING TO A
22 PRIVATE PROVIDER:

23 (a) PHYSICAL SPACE IN OR ON ITS PROPERTY FOR THE PLACEMENT
24 OF EQUIPMENT OR FACILITIES THAT THE PRIVATE PROVIDER USES TO
25 PROVIDE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR
26 ADVANCED SERVICE; OR

27 (b) CAPACITY CONSTRUCTED FOR INTERNAL OR

1 INTERGOVERNMENTAL PURPOSES.

2 (5) NOTHING IN THIS ARTICLE LIMITS A LOCAL GOVERNMENT'S
3 AUTHORITY TO ENTER INTO A JOINT TRENCHING AGREEMENT WITH A
4 PRIVATE PROVIDER FOR THE CONSTRUCTION OF A CONDUIT IF THE
5 AGREEMENT IS ENTERED INTO ON A NONDISCRIMINATORY, NONEXCLUSIVE,
6 AND COMPETITIVELY NEUTRAL BASIS.

7 ~~(3)~~ (6) (a) Nothing in this article ~~shall be construed to apply~~
8 APPLIES to the sale or lease OF EXCESS CAPACITY by a local government
9 to private providers, ~~of excess capacity~~ INCLUDING UNDER A
10 PUBLIC-PRIVATE PARTNERSHIP, if:

11 (a) (I) ~~Such~~ THE excess capacity is insubstantial in relation to the
12 capacity utilized by the local government for its own purposes; and

13 ~~(b)~~ (II) The opportunity to purchase and the opportunity to use
14 ~~such~~ THE excess capacity is made available to any private provider in a
15 nondiscriminatory, nonexclusive, and competitively neutral manner AND
16 IS OFFERED FOR SALE OR LEASE AT FAIR MARKET VALUE.

17 (b) FOR PURPOSES OF THIS SUBSECTION (6), EXCESS CAPACITY IS
18 INSUBSTANTIAL IN RELATION TO THE CAPACITY USED BY THE LOCAL
19 GOVERNMENT FOR ITS OWN PURPOSES IF THE EXCESS CAPACITY IS LESS
20 THAN TEN PERCENT OF THE CAPACITY USED BY THE LOCAL GOVERNMENT,
21 INCLUDING CAPACITY OWNED BY ANY UTILITY OWNED OR OPERATED BY
22 THE LOCAL GOVERNMENT.

23 ~~(4)~~ (7) Nothing in this article ~~shall be construed to limit~~ LIMITS
24 either the authority of the statewide internet portal authority created in
25 section 24-37.7-102, C.R.S., to carry out its mission or to integrate the
26 electronic information delivery systems of local governments into the
27 statewide internet portal as defined in ~~article 37.7 of title 24~~ SECTION

1 24-37.7-101 (7), C.R.S.

2 (8) NOTHING IN THIS ARTICLE LIMITS A LOCAL GOVERNMENT'S
3 AUTHORITY TO LEASE TO A PRIVATE PROVIDER PHYSICAL SPACE IN OR ON
4 ITS PROPERTY FOR THE PLACEMENT OF EQUIPMENT OR FACILITIES THAT
5 THE PRIVATE PROVIDER USES TO PROVIDE CABLE TELEVISION,
6 TELECOMMUNICATIONS, OR ADVANCED SERVICE.

7 **SECTION 6.** In Colorado Revised Statutes, 29-27-303, **amend**
8 (1) as follows:

9 **29-27-303. Enforcement and appeal.** (1) Before an individual
10 subscriber or a private provider that competes with a local government ~~in~~
11 ~~the geographic boundaries~~ WITHIN THE JURISDICTION of the local
12 government may file an action in district court for violation of this article,
13 that person shall file a written complaint with the local government. The
14 failure by the local government to issue a final decision regarding the
15 complaint within forty-five days shall be treated as an adverse decision
16 for purposes of appeal.

17 **SECTION 7.** In Colorado Revised Statutes, 40-15-102, **amend**
18 (3.7) introductory portion as follows:

19 **40-15-102. Definitions.** As used in this article, unless the context
20 otherwise requires:

21 (3.7) "Broadband network" means the plant, equipment,
22 components, facilities, hardware, and software used to provide broadband
23 internet service at measurable speeds of at least ~~four~~ TEN megabits per
24 second downstream and one megabit per second upstream ~~or at~~
25 ~~measurable speeds at least equal to the federal communications~~
26 ~~commission's definition of high-speed internet access or broadband,~~
27 ~~whichever is faster,~~ with:

1 **SECTION 8.** In Colorado Revised Statutes, **amend** 40-15-207 as
2 follows:

3 **40-15-207. Reclassification of services and products.**

4 (1) (a) Notwithstanding any other provision of this title, upon its own
5 motion or upon application by any person, the commission shall regulate,
6 pursuant to part 3 of this article, specific telecommunications services
7 regulated under this part 2 upon a finding that there is effective
8 competition in the relevant market for ~~such~~ THE service and that ~~such~~ THE
9 regulation under part 3 of this article will promote the public interest and
10 the provision of adequate and reliable service at just and reasonable rates.

11 (b) (I) In determining whether MONEY FROM THE HIGH COST
12 SUPPORT MECHANISM, ESTABLISHED UNDER SECTION 40-15-208, MAY BE
13 USED TO SUPPORT EACH HOUSEHOLD OR BUSINESS IN THE RELEVANT
14 MARKET, THE COMMISSION, ON OR BEFORE JANUARY 1, 2017, SHALL
15 DETERMINE, AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR A
16 HEARING, WHETHER effective competition for a specific
17 telecommunications service exists ~~the commission shall make findings,~~
18 ~~after notice and opportunity for hearing, and shall issue an order~~ FOR
19 EACH HOUSEHOLD OR BUSINESS IN THE RELEVANT MARKET based upon
20 ~~consideration of the following factors~~ A DETERMINATION THAT EFFECTIVE
21 COMPETITION FOR AN INDIVIDUAL HOUSEHOLD OR BUSINESS EXISTS:

22 ~~(I) (A) The extent of economic, technological, or other barriers to~~
23 ~~market entry and exit~~ FOR WIRELINE SERVICE, IF THE INDIVIDUAL
24 HOUSEHOLD OR BUSINESS HAS ACCESS TO SERVICE FROM TWO OR MORE
25 FACILITIES-BASED WIRELINE PROVIDERS; AND

26 ~~(II) (B) The number of other providers offering similar services~~
27 ~~in the relevant geographic area~~ FOR WIRELESS SERVICE, IF THE INDIVIDUAL

1 HOUSEHOLD OR BUSINESS HAS ACCESS TO SERVICE FROM TWO OR MORE
2 FACILITIES-BASED WIRELESS PROVIDERS.

3 (II) THE METHOD FOR DETERMINING EFFECTIVE COMPETITION SET
4 FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) DOES NOT APPLY TO:

5 (A) AREAS THAT THE COMMISSION HAS ALREADY DEEMED
6 EFFECTIVELY COMPETITIVE; OR

7 (B) AREAS SERVED BY RURAL TELECOMMUNICATIONS PROVIDERS.

8 ~~(III) The ability of consumers in the relevant geographic area to~~
9 ~~obtain the service from other providers at reasonable and comparable~~
10 ~~rates, on comparable terms, and under comparable conditions;~~

11 ~~(IV) The ability of any provider of such telecommunications~~
12 ~~service to affect prices or deter competition; and~~

13 ~~(V) Such other factors as the commission deems appropriate.~~

14 ~~(c) In determining geographic areas under paragraph (b) of this~~
15 ~~subsection (1), the commission shall not be unduly restrictive. FOR~~

16 PURPOSES OF THIS SECTION, AN INDIVIDUAL OR BUSINESS HAS ACCESS TO:

17 (I) A WIRELINE PROVIDER IF THE WIRELINE PROVIDER OFFERS
18 FACILITIES-BASED VOICE SERVICE TO THE HOUSEHOLD OR BUSINESS; AND

19 (II) A WIRELESS PROVIDER IF THE WIRELESS PROVIDER OFFERS
20 FACILITIES-BASED WIRELESS SERVICE TO THE HOUSEHOLD OR BUSINESS
21 WITH REASONABLY GOOD COVERAGE, AS DETERMINED BY THE
22 COMMISSION, BASED ON ESRI SHAPEFILES, AT THE NINETY-EIGHT
23 DECIBEL-MILLIWATTS PROPAGATION LEVEL THAT IS GENERALLY
24 SUFFICIENT TO CARRY AN INDOOR WIRELESS SIGNAL FOR EACH CARRIER.

25 (d) IN DETERMINING WHETHER AN INDIVIDUAL OR HOUSEHOLD HAS
26 ACCESS TO A WIRELINE OR WIRELESS PROVIDER, THE COMMISSION SHALL
27 REQUEST APPROPRIATE DATA FROM ALL WIRELINE AND WIRELESS

1 FACILITIES-BASED VOICE PROVIDERS DOING BUSINESS IN COLORADO. FOR
2 PROVIDERS SUBJECT TO PART 4 OF THIS ARTICLE, INCLUDING VOIP,
3 IP-ENABLED, AND WIRELESS VOICE PROVIDERS, THE PROVISION OF SUCH
4 DATA IS OPTIONAL. DATA SUBMITTED IN RESPONSE TO A COMMISSION
5 REQUEST IS DEEMED A TRADE SECRET AND CONFIDENTIAL COMMERCIAL
6 DATA UNDER SECTION 24-72-204 (3) (a) (IV), C.R.S., AND HIGHLY
7 CONFIDENTIAL INFORMATION UNDER THE COMMISSION'S ADMINISTRATIVE
8 RULES.

9 **SECTION 9.** In Colorado Revised Statutes, 40-15-208, **amend**
10 (2) (a) (III) introductory portion and (3) (a) as follows:

11 **40-15-208. High cost support mechanism - Colorado high cost**
12 **administration fund - creation - purpose - operation - rules - report**
13 **- repeal.** (2) (a) (III) The commission, at its regularly scheduled meetings
14 to establish the high cost support mechanism surcharge and surcharge
15 rate, shall reduce the amount of the high cost support mechanism
16 surcharge by the following percentages of the new broadband funds
17 allocated in that year pursuant to section 40-15-509.5 (3) from the high
18 cost support mechanism to the broadband ~~fund~~ SUPPORT MECHANISM,
19 created in section 40-15-509.5 (4):

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

1 incurred by the commission and its contractors. At the end of any fiscal
2 year, all unexpended and unencumbered ~~moneys~~ MONEY in the fund
3 ~~remain~~ REMAINS in the fund and shall not be credited or transferred to the
4 general fund or any other fund. Based upon the high cost support
5 mechanism, the balance remaining in the fund, and the amount
6 appropriated annually by the general assembly for use by the commission,
7 each year the commission shall determine the nondiscriminatory,
8 competitively neutral assessment on all telecommunications service
9 providers in Colorado that will be necessary to cover the cost of
10 implementing and administering the high cost support mechanism AND
11 THE BROADBAND SUPPORT MECHANISM CREATED IN SECTION 40-15-509.5
12 (4) (a). Only the ~~moneys~~ MONEY from the PORTION OF THE assessment for
13 administering the high cost support mechanism shall be transmitted to the
14 state treasurer, who shall credit ~~the same~~ THAT PORTION OF THE
15 ASSESSMENT to the fund. All interest derived from the deposit and
16 investment of ~~moneys~~ MONEY in the fund ~~remain~~ REMAINS in the fund and
17 ~~do~~ DOES not revert to the general fund.

18 **SECTION 10.** In Colorado Revised Statutes, 40-15-502, **amend**
19 (5) (a); and **add** (5) (a.5) as follows:

20 **40-15-502. Expressions of state policy. (5) Universal service**
21 **support mechanisms.** (a) In order to accomplish the goals of universal
22 basic service, universal access to advanced service under section
23 40-15-509.5, and any revision of the definition of basic service under
24 subsection (2) of this section, the commission shall create a system of
25 support mechanisms to assist in the provision of basic service in high-cost
26 areas that are without effective competition for basic service, applying the
27 factors stated in section 40-15-207; except that support provided ~~in a~~

1 ~~particular geographic support area~~ FOR ANY INDIVIDUAL HOUSEHOLD OR
2 BUSINESS is not affected until the commission makes a ~~finding applying~~
3 ~~the factors listed in~~ DETERMINATION OF EFFECTIVE COMPETITION UNDER
4 section 40-15-207 (1) (b). The commission shall fund these support
5 mechanisms equitably and on a nondiscriminatory, competitively neutral
6 basis through assessments, which may include a rate element, on all
7 telecommunications service providers in Colorado, and the commission
8 shall distribute the funds equitably and on a nondiscriminatory,
9 competitively neutral basis. ~~For purposes of administering the support~~
10 ~~mechanisms, the commission shall divide the state into reasonably~~
11 ~~compact, competitively neutral geographic support areas.~~ A provider's
12 eligibility to receive support under the support mechanisms is conditioned
13 upon the provider's offering basic service throughout an entire support
14 area. The commission shall review the costs of basic service and shall
15 administer the support mechanisms.

16 (a.5) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
17 ARTICLE, A SUPPORT MECHANISM CREATED BY THE COMMISSION SHALL
18 NOT BE USED TO SUPPORT MORE THAN ONE WIRELINE AND WIRELESS LINE
19 AT ANY INDIVIDUAL HOUSEHOLD OR INDIVIDUAL BUSINESS.

20 (II) THE HIGH COST SUPPORT MECHANISM SHALL NOT BE USED TO
21 SUPPORT MORE THAN ONE WIRELINE OR MORE THAN ONE WIRELESS LINE
22 AT ANY INDIVIDUAL HOUSEHOLD OR BUSINESS.

23 (III) THIS PARAGRAPH (a.5) DOES NOT APPLY TO AN AREA SERVED
24 BY A RURAL TELECOMMUNICATIONS PROVIDER.

25 **SECTION 11.** In Colorado Revised Statutes, 40-15-509.5,
26 **amend** (1), (3), (4), (5) (a), (6), (7), (8) introductory portion, (8) (k)
27 introductory portion, and (11); and **add** (8.5) and (10.5) as follows:

1 **40-15-509.5. Broadband service - report - broadband**
2 **deployment board - broadband support mechanism - creation -**
3 **repeal.** (1) **Short title.** THE SHORT TITLE OF this section ~~shall be known~~
4 ~~and may be cited as~~ IS the "Connect Colorado to Enhance Economic
5 Development, Telehealth, Education, and Safety Act".

6 (3) The commission ~~may~~ SHALL allocate the Colorado high cost
7 support mechanism, established under section 40-15-208 and referred to
8 in this section as the "HCSM", for the deployment of broadband service
9 in unserved areas of the state. ~~pursuant to this section only.~~ The
10 commission may fund the deployment of broadband service in unserved
11 areas of the state through use of the HCSM surcharge and surcharge rate
12 in effect on May 10, 2014. Pursuant to subsection (4) of this section and
13 consistent with section 40-15-208 (2) (a) (III), the commission may
14 transfer to the broadband deployment board only the ~~moneys~~ MONEY that
15 it determines ~~are~~ IS no longer required by the HCSM to support universal
16 basic service through an effective competition determination. A
17 REASONABLE RESERVE OF MONEY, AS DETERMINED BY THE COMMISSION,
18 MUST REMAIN IN THE HCSM. After each transfer to the broadband
19 deployment board, the commission shall use the ~~moneys~~ MONEY
20 remaining in the HCSM to support basic service. Nothing in this section
21 increases any surcharge rate charged to help fund the HCSM.

22 (4) (a) There is hereby created ~~in the state treasury~~ the broadband
23 ~~fund~~ SUPPORT MECHANISM, referred to in this section as the "~~fund~~"
24 "MECHANISM". The ~~fund~~ MECHANISM consists of all ~~moneys~~ MONEY
25 allocated from the HCSM to provide access to broadband services
26 through broadband networks in unserved areas pursuant to section
27 40-15-208 (2) (a) (I) (B), which ~~moneys~~ MONEY shall be transferred to the

1 ~~fund~~ MECHANISM upon allocation. ~~and all moneys that the general~~
2 ~~assembly may appropriate to the fund.~~ The moneys MONEY in the fund are
3 ~~appropriated to~~ MECHANISM MUST OPERATE IN ACCORDANCE WITH RULES
4 ADOPTED BY THE COMMISSION, WHICH RULES MUST REQUIRE THAT the
5 broadband deployment board, created in subsection (5) of this section,
6 CONTRACT WITH A THIRD PARTY TO ADMINISTER THE MONEY IN THE
7 MECHANISM TO AWARD GRANTS, AS DETERMINED BY THE BROADBAND
8 DEPLOYMENT BOARD for the purposes set forth in this section. ~~All interest~~
9 ~~earned from the investment of moneys in the fund is credited to the fund.~~
10 ~~All moneys not expended at the end of the fiscal year remain in the fund~~
11 ~~and do not revert to the general fund or any other fund.~~

12 (b) (I) ~~The broadband deployment board shall dedicate two~~
13 ~~hundred thousand dollars of the moneys in the fund to cover the direct~~
14 ~~and indirect costs incurred by the board, its employees, and its contractors~~
15 ~~in funding the deployment of broadband service in unserved areas of the~~
16 ~~state.~~ THERE IS HEREBY CREATED IN THE STATE TREASURY THE
17 BROADBAND ADMINISTRATION FUND, INTO WHICH FUND THE GENERAL
18 ASSEMBLY MAY ANNUALLY APPROPRIATE MONEY TO REIMBURSE THE
19 BROADBAND DEPLOYMENT BOARD, ITS EMPLOYEES, AND ITS
20 CONTRACTORS FOR THE REASONABLE DIRECT AND INDIRECT EXPENSES
21 INCURRED IN THE ADMINISTRATION OF THE BROADBAND SUPPORT
22 MECHANISM.

23 (II) ON JULY 1, 2016, THE STATE TREASURER SHALL TRANSFER
24 ANY MONEY REMAINING IN THE BROADBAND FUND TO THE BROADBAND
25 ADMINISTRATION FUND.

26 (III) ONLY THE MONEY FROM THE PORTION OF THE ASSESSMENT
27 CALCULATED BY THE COMMISSION PURSUANT TO SECTION 40-15-208 (3)

1 (a) TO BE USED FOR ADMINISTERING THE MECHANISM SHALL BE
2 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THAT
3 PORTION OF THE ASSESSMENT TO THE BROADBAND ADMINISTRATION FUND.

4 (IV) AT THE END OF A FISCAL YEAR, ALL UNEXPENDED AND
5 UNENCUMBERED MONEY IN THE FUND REMAINS IN THE FUND AND SHALL
6 NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ALL
7 INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
8 BROADBAND ADMINISTRATION FUND REMAINS IN THE FUND AND SHALL
9 NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

10 (5) (a) There is hereby created in the department of regulatory
11 agencies the broadband deployment board, referred to in this section as
12 the "board". The board is an independent board created to implement and
13 administer the deployment of broadband service in unserved areas from
14 the ~~fund~~ MECHANISM. The department of regulatory agencies shall staff
15 the board. The board has the powers and duties specified in this section.

16 (6) The board's powers and duties commence three months after
17 ~~moneys are~~ MONEY IS first allocated from the HCSM to the ~~fund~~
18 MECHANISM.

19 (7) For a period of at least six months before accepting
20 applications for proposed projects, the board shall provide notice to and
21 requests for proposals from incumbent providers and local entities about
22 the ~~broadband fund~~ MECHANISM and its purpose to deploy broadband
23 service in unserved areas. The board shall ensure that both the manner
24 and amount of notice provided under this subsection (7) are adequate and
25 equitable for all potentially eligible applicants.

26 (8) The board, THROUGH ITS THIRD-PARTY CONTRACTOR, shall
27 award moneys from the ~~fund~~ MECHANISM and, in connection therewith,

1 shall develop criteria for awarding ~~moneys~~ MONEY from the ~~fund~~
2 MECHANISM for new projects expanding broadband networks into
3 unserved areas, including:

4 (k) Establishing reporting and accountability requirements for a
5 project receiving financial support from the ~~fund~~ MECHANISM, including
6 contractual requirements that:

7 (8.5) THE BOARD'S DECISION ON AN APPEAL OF ITS AWARD OR
8 DENIAL OF GRANT MONEY PURSUANT TO SUBPARAGRAPH (III) OF
9 PARAGRAPH (j) OF SUBSECTION (8) OF THIS SECTION IS A FINAL AGENCY
10 ACTION THAT MAY BE APPEALED TO A DISTRICT COURT IN ACCORDANCE
11 WITH SECTION 24-4-106, C.R.S., OF THE "STATE ADMINISTRATIVE
12 PROCEDURE ACT".

13 (10.5) (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
14 LOCAL AFFAIRS SHALL NOTIFY THE BOARD OF ANY APPLICATION THE
15 DEPARTMENT OF LOCAL AFFAIRS RECEIVES FOR A BROADBAND GRANT OR
16 LOAN.

17 (b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL
18 AFFAIRS AND THE CHIEF INFORMATION OFFICER OF THE OFFICE OF
19 INFORMATION TECHNOLOGY SHALL, ON A QUARTERLY BASIS, REPORT TO
20 THE BOARD TO ENSURE NONDUPLICATION OF STATE FUNDING BETWEEN
21 THE THREE ENTITIES.

22 (11) This section is repealed, effective September 1, 2024. Before
23 the repeal, the department of regulatory agencies shall review the powers,
24 duties, and functions of the board regarding the administration of the
25 broadband ~~fund~~ SUPPORT MECHANISM in accordance with section
26 24-34-104, C.R.S.

27 **SECTION 12.** In Colorado Revised Statutes, 24-34-104, **amend**

1 (55) (f) as follows:

2 **24-34-104. General assembly review of regulatory agencies**
3 **and functions for termination, continuation, or reestablishment.**

4 (55) The following agencies, functions, or both, terminate on September
5 1, 2024:

6 (f) The functions of the broadband deployment board, created in
7 section 40-15-509.5, C.R.S., regarding the administration of the
8 broadband ~~fund~~ SUPPORT MECHANISM, created in section 40-15-509.5,
9 C.R.S.;

10 **SECTION 13. Applicability.** This act applies to reviews of
11 effective competition by the public utilities commission commenced and
12 broadband deployment grants administered on or after the effective date
13 of this act.

14 **SECTION 14. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.