

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Transportation & Energy.

SB24-091 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly hereby finds and declares that:

5 (a) To connect every Colorado household and business to the
6 internet and effectively deploy federal and state broadband funding,
7 broadband providers must build middle mile facilities capable of reaching
8 every town and community around the state;

9 (b) Publicly owned rights-of-way along state highways are an
10 important, and sometimes irreplaceable, asset in deploying broadband to
11 unserved towns and communities statewide;

12 (c) The federal regulations governing the federal broadband equity
13 access and deployment program require the state to identify steps it will
14 take to reduce costs and barriers to deployment, promote the use of
15 existing infrastructure, and promote and adopt dig-once policies,
16 streamlined permitting processes, and cost-effective access to poles,
17 conduits, easements, and rights-of-way, including the imposition of
18 reasonable access requirements;

19 (d) Further, those federal regulations provide that states are
20 strongly encouraged to remove time and cost barriers associated with
21 broadband equity, access, and deployment projects, including by
22 expediting permitting timelines and waiving fees where applicable, where
23 doing so does not undermine other critical policy goals;

24 (e) The Colorado department of transportation grants streamlined
25 and cost-based access to the public rights-of-way for facilities that qualify
26 as "utility facilities" for purposes of certain regulations of the federal
27 highway administration; and

28 (f) According to the federal highway administration, the federal
29 definition of a utility facility in 23 CFR 645.207 is broad and intended to
30 cover the extensive array of uses that are defined by the states. State laws
31 and regulations can be narrower in scope than the federal definition. As
32 such, states may broaden their applicable state laws and regulations to
33 cover the full scope of the federal definition should they wish these
34 facilities to be accommodated in the highway right-of-way as a utility.

35 (2) The general assembly finds and declares that Senate Bill
36 24-091 requires the Colorado department of transportation to update its
37 utility accommodation code to grant broadband facilities streamlined and
38 cost-based access to its public rights-of-way under that code, consistent
39 with the requirements and limits of federal law and regulations.

40 **SECTION 2.** In Colorado Revised Statutes, 43-1-225, **add** (4) as
41 follows:

1 **43-1-225. Power of transportation commission - relocation of**
2 **utility facilities - payment of cost.** (4) (a) AS USED IN THIS SUBSECTION
3 (4), UNLESS THE CONTEXT OTHERWISE REQUIRES, "UTILITY" OR "UTILITY
4 FACILITY" HAS THE SAME MEANING AS SET FORTH IN 23 CFR 645.207 AND
5 INCLUDES INTERNET AND BROADBAND FACILITIES FOR PURPOSES OF
6 ACCOMMODATING SUCH FACILITIES IN PUBLIC RIGHTS-OF-WAY.

7 (b) THE DEPARTMENT SHALL ALLOW COMPETITIVELY NEUTRAL
8 AND NONDISCRIMINATORY ACCESS TO BROADBAND PROVIDERS SEEKING
9 TO USE PUBLIC RIGHTS-OF-WAY FOR THE DEPLOYMENT OF BROADBAND
10 UNDER THE UTILITY ACCOMMODATION CODE.

11 (c) THE DEPARTMENT SHALL NOT REQUIRE A PERMIT RECIPIENT
12 PURSUANT TO THIS SUBSECTION (4) TO PROVIDE ANY IN-KIND GOODS OR
13 SERVICES AS A CONDITION OF GRANTING ACCESS TO PUBLIC
14 RIGHTS-OF-WAY FOR BROADBAND DEPLOYMENT.

15 (d) THE PERMIT FEE FOR ACCESS TO PUBLIC RIGHTS-OF-WAY FOR
16 THE DEPLOYMENT OF BROADBAND AS AUTHORIZED IN THIS SECTION MUST
17 BE REASONABLY RELATED TO THE COSTS DIRECTLY INCURRED BY THE
18 DEPARTMENT IN PROVIDING SERVICES NECESSARY TO THE GRANTING OR
19 ADMINISTRATION OF PERMITS AND, CONSISTENT WITH FEDERAL LAW,
20 SHALL NOT INCLUDE ANY CHARGE OR ELEMENT TO RECEIVE
21 COMPENSATION FOR THE FAIR MARKET VALUE OF PUBLIC RIGHTS-OF-WAY
22 OR ACCESS TO PUBLIC RIGHTS-OF-WAY.

23 (e) BEGINNING ON JANUARY 1, 2025, THE DEPARTMENT SHALL
24 PROCESS A PUBLIC RIGHTS-OF-WAY PERMIT APPLICATION PURSUANT TO
25 THIS SUBSECTION (4) WITHIN FORTY-FIVE DAYS OF RECEIPT OF THE
26 APPLICATION. IN SETTING PERMIT FEES PURSUANT TO THIS SUBSECTION (4),
27 THE DEPARTMENT SHALL ESTABLISH THE PERMIT FEE IN AN AMOUNT
28 SUFFICIENT TO ALLOW THE DEPARTMENT TO PROCESS PERMIT
29 APPLICATIONS WITHIN THIS REQUIRED TIME FRAME.

30 (f) NOTHING IN THIS SUBSECTION (4) ALTERS OR AFFECTS ANY
31 RIGHTS OR PROTECTIONS AFFORDED TO A CABLE OPERATOR UNDER
32 SECTION 621 OF THE FEDERAL "COMMUNICATIONS ACT OF 1934", AS
33 AMENDED, 47 U.S.C. SEC. 541, OR ANY REGULATIONS OR STATUTORY
34 GUIDANCE PROVIDED BY THE FEDERAL COMMUNICATIONS COMMISSION
35 PURSUANT TO THE ACT.

36 **SECTION 3. Safety clause.** The general assembly finds,
37 determines, and declares that this act is necessary for the immediate
38 preservation of the public peace, health, or safety or for appropriations for
39 the support and maintenance of the departments of the state and state
40 institutions.".

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