

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading

LLS NO. 24-0562.02 Jennifer Berman x3286

HOUSE BILL 24-1336

HOUSE SPONSORSHIP

Parenti,

SENATE SPONSORSHIP

Rodriguez,

House Committees

Transportation, Housing & Local Government
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE DEPLOYMENT OF BROADBAND THROUGH GRANTS**
102 **ADMINISTERED BY THE COLORADO BROADBAND OFFICE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Transportation, Housing, and Local Government Committee. The "Connect Colorado to Enhance Economic Development, Telehealth, Education, and Safety Act" (act), which created the broadband deployment board (board) in the governor's office of information technology and tasked the board with awarding grant money from the high cost support mechanism (HCSM) for broadband

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

deployment in unserved areas of the state, is scheduled for repeal on September 1, 2024. The department of regulatory agencies, as part of its sunset process, reviewed the act and board and recommended that they be extended for 5 years. The bill, instead, repeals the act and board, transfers the function of awarding grant money from the HCSM to the Colorado broadband office (office), and authorizes the office to award grants for unserved and underserved areas of the state.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
3 (25)(a)(VI) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (25) (a) The following agencies, functions, or both,
7 are scheduled for repeal on September 1, 2024:

8 ~~(VI) The functions of the broadband deployment board created in~~
9 ~~section 24-37.5-119;~~

10 **SECTION 2.** In Colorado Revised Statutes, **repeal** 24-37.5-119.

11 **SECTION 3.** In Colorado Revised Statutes, **add** 24-37.5-905 as
12 follows:

13 **24-37.5-905. Broadband deployment - grant program - high**
14 **cost support mechanism money - broadband office administrative**
15 **fund - creation - criteria - rules - reports - definitions.** (1) AS USED IN
16 THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

17 (a) "BROADBAND" HAS THE MEANING SET FORTH IN SECTION
18 40-15-102.

19 (b) "BROADBAND NETWORK" HAS THE MEANING SET FORTH IN
20 SECTION 40-15-102.

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

1 (d) "HCSM" MEANS THE HIGH COST SUPPORT MECHANISM
2 CREATED PURSUANT TO SECTION 40-15-208.

3 (e) "INCUMBENT PROVIDER" HAS THE MEANING SET FORTH IN
4 SECTION 40-15-102 (9.5).

5 (f) "MIDDLE MILE INFRASTRUCTURE" HAS THE MEANING SET FORTH
6 IN 47 U.S.C. SEC. 1741 (a)(9), AS AMENDED.

7 (2) (a) THE BROADBAND OFFICE SHALL ADMINISTER A BROADBAND
8 DEPLOYMENT GRANT PROGRAM IN ACCORDANCE WITH THIS SECTION. THE
9 BROADBAND OFFICE SHALL DIRECT THE COMMISSION TO AUTHORIZE A
10 THIRD-PARTY CONTRACTOR OF THE HCSM TO DISBURSE MONEY FROM THE
11 HCSM FOR BROADBAND DEPLOYMENT GRANTS APPROVED BY THE
12 BROADBAND OFFICE. THE COMMISSION SHALL AUTHORIZE DISBURSEMENTS
13 OF MONEY FROM THE HCSM FOR BROADBAND DEPLOYMENT GRANTS ONLY
14 AS DIRECTED BY THE BROADBAND OFFICE.

15 (b) (I) THE BROADBAND OFFICE MAY ALLOCATE MONEY FROM THE
16 HCSM FOR THE DEPLOYMENT OF BROADBAND IN UNSERVED AND
17 UNDERSERVED AREAS OF THE STATE PURSUANT TO THIS SECTION AND
18 SECTION 40-15-208 THROUGH THE USE OF THE HCSM SURCHARGE AND
19 SURCHARGE RATE IN EFFECT ON JANUARY 1, 2018. PURSUANT TO
20 SECTIONS 40-15-207 AND 40-15-208, THE COMMISSION SHALL DETERMINE
21 THE FUNDS AVAILABLE FOR BROADBAND DEPLOYMENT FROM THE HCSM
22 MONEY. THE HCSM THIRD-PARTY CONTRACTOR SHALL MAINTAIN AND
23 HOLD THE MONEY AVAILABLE FOR BROADBAND DEPLOYMENT IN A
24 SEPARATE ACCOUNT FROM THE MONEY USED FOR BASIC VOICE SERVICE.
25 MONEY HELD FOR BROADBAND DEPLOYMENT MUST NOT BE DISBURSED
26 FOR BASIC VOICE SERVICE, AND MONEY HELD FOR BASIC VOICE SERVICE
27 MUST NOT BE DISBURSED FOR BROADBAND DEPLOYMENT.

1 (II) TO MAXIMIZE THE EFFICACY OF THE GRANT PROGRAM, THE
2 BROADBAND OFFICE MAY USE HCSM MONEY ALLOCATED FOR
3 BROADBAND DEPLOYMENT PURSUANT TO THIS SUBSECTION (2) AND
4 SECTION 40-15-208 IN ORDER TO CONDUCT, OR CAUSE TO BE CONDUCTED,
5 STUDIES TO ASSESS BROADBAND NEEDS IN THE STATE.

6 (3) (a) UP TO FIVE PERCENT OF THE MONEY ALLOCATED FROM THE
7 HCSM FOR BROADBAND DEPLOYMENT MAY BE USED TO COVER THE
8 BROADBAND OFFICE'S DIRECT AND INDIRECT COSTS TO ADMINISTER THE
9 GRANT PROGRAM, INCLUDING TO COVER STAFFING COSTS FOR THE GRANT
10 PROGRAM. MONEY THAT IS ALLOCATED FOR SUCH PURPOSES IS CREDITED
11 TO THE BROADBAND OFFICE ADMINISTRATIVE FUND, WHICH FUND IS
12 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF ALL MONEY
13 ALLOCATED FROM THE HCSM FOR THE BROADBAND OFFICE'S
14 ADMINISTRATION OF THE GRANT PROGRAM AND ALL MONEY THAT THE
15 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE
16 MONEY IN THE FUND IS SUBJECT TO ANNUAL APPROPRIATION BY THE
17 GENERAL ASSEMBLY FOR THE PURPOSES SET FORTH IN THIS SECTION. ALL
18 INTEREST EARNED FROM THE INVESTMENT OF MONEY IN THE FUND IS
19 CREDITED TO THE FUND. ALL MONEY NOT EXPENDED AT THE END OF A
20 STATE FISCAL YEAR REMAINS IN THE FUND AND DOES NOT REVERT TO THE
21 GENERAL FUND OR ANY OTHER FUND.

22 (b) EXCEPT AS REQUIRED TO COMPLY WITH SUBSECTIONS (2)(b)(II)
23 AND (3)(a) OF THIS SECTION, THE BROADBAND OFFICE SHALL NOT AWARD
24 ITSELF MONEY FROM THE HCSM.

25 (c) THE BROADBAND OFFICE SHALL PROHIBIT GRANT RECIPIENTS
26 FROM USING GRANT MONEY TO SUBSIDIZE EXPENSES ASSOCIATED WITH
27 TELECOMMUNICATIONS OPERATIONAL EXPENSES, WITH THE EXCEPTION OF

1 A ONE-TIME TECHNOLOGY AND INNOVATION AND EXPENSES, AND
2 REGULATORY COMPLIANCE.

3 (4) ON OR BEFORE DECEMBER 31, 2024, THE BROADBAND OFFICE
4 SHALL ESTABLISH GRANT PROGRAM CRITERIA AND GUIDELINES FOR
5 AWARDING HCSM MONEY FOR NEW PROJECTS TO EXPAND BROADBAND
6 ACCESS AND TO INCREASE BROADBAND AFFORDABILITY IN THE STATE,
7 WHICH CRITERIA AND GUIDELINES MUST INCLUDE:

8 (a) THE ESTABLISHMENT OF A TWO-TIERED GRANT PROGRAM THAT
9 PRIORITIZES FUNDING AS FOLLOWS:

10 (I) UP TO SIXTY PERCENT OF AVAILABLE GRANT MONEY MUST BE
11 USED TO FINANCE TIER ONE PROJECTS FOR MIDDLE MILE INFRASTRUCTURE;
12 AND

13 (II) UP TO FORTY PERCENT OF AVAILABLE GRANT MONEY MUST BE
14 USED TO FINANCE TIER TWO PROJECTS AND OTHERWISE UNDERFUNDED
15 BROADBAND NEEDS, INCLUDING, BUT NOT LIMITED TO:

16 (A) POLE REPLACEMENTS AND ATTACHMENTS, LINE EXTENSIONS,
17 LONG DROPS, NETWORK UPGRADES THAT STRENGTHEN CYBERSECURITY,
18 AND NETWORK INFRASTRUCTURE, INCLUDING WIRELINE AND WIRELESS
19 FACILITIES SUCH AS TOWERS AND SATELLITE INFRASTRUCTURE; AND

20 (B) DIGITAL EQUITY INITIATIVES TO HELP CLOSE THE DIGITAL
21 DIVIDE IN THE STATE, INCLUDING INITIATIVES FOR BASIC INTERNET
22 ACCESS, COMPUTER AND DEVICE DISTRIBUTION, DIGITAL LITERACY
23 TRAINING, AND BROADBAND WORKFORCE DEVELOPMENT TRAINING;

24 (b) THE FOLLOWING MINIMUM REQUIREMENTS FOR PROJECTS THAT
25 ARE AWARDED GRANT MONEY:

26 (I) SUPPORT FOR BROADBAND DEPLOYMENT IN UNSERVED OR
27 UNDERSERVED AREAS;

- 1 (II) SPEED REQUIREMENTS;
- 2 (III) MATCHING FUNDING REQUIREMENTS;
- 3 (IV) APPLICANT ELIGIBILITY REQUIREMENTS;
- 4 (V) GENERALLY ACCEPTED INDUSTRY RELIABILITY AND
- 5 PERFORMANCE STANDARDS;
- 6 (VI) TIMELINES FOR COMPLETION OF A PROJECT;
- 7 (VII) REASONABLE COST REQUIREMENTS FOR A PROJECT;
- 8 (VIII) COMPLIANCE STANDARDS; AND
- 9 (IX) REPORTING AND ACCOUNTABILITY REQUIREMENTS; AND
- 10 (c) THE FOLLOWING CRITERIA FOR REVIEWING AND PRIORITIZING
- 11 APPLICANTS' PROPOSED PROJECTS:
- 12 (I) THE PURPOSE AND PROJECT IMPACTS;
- 13 (II) THE GEOGRAPHIC DISTRIBUTION OF BROADBAND DEPLOYMENT;
- 14 (III) BROADBAND NETWORK REDUNDANCY, DIVERSITY, AND
- 15 LATENCY;
- 16 (IV) BROADBAND NETWORK SPEEDS;
- 17 (V) THE AMOUNT OF MATCHING MONEY AVAILABLE;
- 18 (VI) THE COST-EFFECTIVENESS OF THE PROJECT;
- 19 (VII) THE AMOUNT OF SUPPORT THE PROJECT WOULD PROVIDE FOR
- 20 LOW-INCOME HOUSEHOLDS; AND
- 21 (VIII) THE EXTENT TO WHICH THE PROJECT WOULD SUPPORT
- 22 CRITICALLY UNSERVED AREAS.
- 23 (5) IN ESTABLISHING THE GRANT PROGRAM, THE BROADBAND
- 24 OFFICE SHALL:
- 25 (a) SOLICIT INPUT FROM THE GENERAL PUBLIC AND VARIOUS
- 26 STAKEHOLDERS, INCLUDING AT LEAST THE FOLLOWING GROUPS OF
- 27 STAKEHOLDERS:

- 1 (I) INDUSTRY ASSOCIATIONS;
- 2 (II) LOCAL GOVERNMENTS;
- 3 (III) TRIBAL GOVERNMENTS;
- 4 (IV) OTHER STATE AGENCIES;
- 5 (V) FEDERAL AGENCIES;
- 6 (VI) BROADBAND CONSUMERS; AND
- 7 (VII) OTHER KEY STAKEHOLDERS THAT THE BROADBAND OFFICE
- 8 IDENTIFIES;

9 (b) CREATE A WORK GROUP, INCLUDING EXTERNAL
10 STAKEHOLDERS, TO HELP REVIEW GRANT APPLICATIONS AND RECOMMEND
11 PROJECTS FOR GRANT AWARDS;

12 (c) ESTABLISH A FORMAL APPEALS PROCESS FOR GRANT
13 APPLICATIONS THAT ARE NOT AWARDED GRANTS. THE SOLE REMEDY FOR
14 AN APPLICANT THAT PREVAILS ON APPEAL IS THE FINANCING OF THE
15 APPLICANT'S PROPOSED PROJECT IN THE CURRENT OR NEXT FISCAL YEAR,
16 SUBJECT TO THE AVAILABILITY OF MONEY IN THE HCSM.

17 (d) AS PART OF A GRANT APPLICATION THAT AN APPLICANT FILES
18 OR AS PART OF AN APPEAL OF A GRANT DECISION THAT AN APPELLANT
19 FILES, REQUIRE THAT THE APPLICANT OR APPELLANT INCLUDE A SPEED
20 TEST PERFORMED:

- 21 (I) ON AN INCUMBENT PROVIDER'S BROADBAND NETWORK; AND
- 22 (II) IN ACCORDANCE WITH INDUSTRY-STANDARD SPEED-TEST
- 23 PROTOCOLS IDENTIFIED BY THE FEDERAL COMMUNICATIONS COMMISSION;

24 (e) INCLUDE A FORMAL PROCESS BY WHICH THE BROADBAND
25 OFFICE, ELIGIBLE APPLICANTS, AND INCUMBENT PROVIDERS MAY
26 CHALLENGE OR APPEAL AN APPLICANT'S DATA INCLUDED IN THE
27 APPLICATION TO PREVENT THE FINANCING OF PROJECTS THAT WOULD

1 CAUSE OVERBUILD OR DUPLICATION OF FEDERAL OR OTHER STATE
2 FUNDING; AND

3 (f) ESTABLISH A PROCESS FOR ENSURING THAT PROJECTS THAT ARE
4 AWARDED GRANTS COMPLY WITH ALL STATE AND FEDERAL BROADBAND
5 DEPLOYMENT REPORTING OBLIGATIONS.

6 (6) PURSUANT TO SECTION 24-37.5-106 (4), THE CHIEF
7 INFORMATION OFFICER MAY PROMULGATE RULES TO IMPLEMENT THIS
8 SECTION.

9 (7) THE BROADBAND OFFICE MAY CONTRACT WITH A THIRD PARTY
10 TO PERFORM ADMINISTRATIVE FUNCTIONS RELATED TO ADMINISTERING
11 THE GRANT PROGRAM.

12 (8) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR
13 BEFORE JANUARY 1, 2025, AND ON OR BEFORE JANUARY 1 OF EACH YEAR
14 THEREAFTER, THE BROADBAND OFFICE SHALL SUBMIT AN ANNUAL REPORT
15 TO THE JOINT BUDGET COMMITTEE AND THE JOINT TECHNOLOGY
16 COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, SUMMARIZING FOR THE
17 PREVIOUS CALENDAR YEAR:

18 (a) THE BROADBAND OFFICE'S GRANT ACTIVITIES; AND

19 (b) HCSM EXPENDITURES MADE FOR BROADBAND DEPLOYMENT.

20 **SECTION 4.** In Colorado Revised Statutes, 6-26-101, **amend** (1),
21 and (3) as follows:

22 **6-26-101. Complaints to federal trade commission - attorney**
23 **general to provide guidance.** (1) The attorney general or the attorney
24 general's designee, in collaboration with the COLORADO broadband
25 ~~deployment board~~ OFFICE created in section ~~24-37.5-119~~ 24-37.5-903 (1),
26 shall develop written guidance for consumers seeking to file a complaint
27 with the federal trade commission to allege that an internet service

1 provider, as defined in section 40-15-209 (4)(b), has engaged in any
2 practice that violates federal law regarding interference with the open
3 internet.

4 (3) The attorney general, in collaboration with the COLORADO
5 broadband ~~deployment board~~ OFFICE, shall update the written guidance
6 as needed.

7 **SECTION 5.** In Colorado Revised Statutes, 24-72-202, **repeal**
8 (6)(b)(XV) as follows:

9 **24-72-202. Definitions.** As used in this part 2, unless the context
10 otherwise requires:

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

12 (XV) ~~Granular coverage data, as defined in and submitted to the~~
13 ~~office of information technology pursuant to section 24-37.5-119 (9)(m);~~

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

16 **40-15-208. High cost support mechanism - Colorado high cost**
17 **administration fund - creation - purpose - operation - rules - report**
18 **- repeal.** (2) (a) (I) The commission is hereby authorized to establish a
19 mechanism for the support of universal service, also referred to in this
20 section as the "high cost support mechanism", which must operate in
21 accordance with rules adopted by the commission. The primary purpose
22 of the high cost support mechanism is to provide financial assistance as
23 a support mechanism to:

24 (B) Provide access to broadband service in unserved AND
25 UNDERSERVED areas pursuant to this section and section ~~24-37.5-119~~
26 24-37.5-905 only.

27 **SECTION 7.** In Colorado Revised Statutes, 40-15-209, **amend**

1 (1) introductory portion, (2)(a), and (2)(c) as follows:

2 **40-15-209. Net neutrality conditions for internet service**
3 **providers to receive high cost support mechanism money -**
4 **definitions.** (1) Except as provided in subsection (3) of this section, an
5 internet service provider that is otherwise eligible to receive money
6 through a grant from the COLORADO broadband ~~deployment board~~ OFFICE
7 pursuant to section ~~24-37.5-119~~ 24-37.5-905 or through any state fund
8 established to help finance broadband deployment is not eligible to
9 receive that money if the internet service provider:

10 (2) (a) If the commission learns from the COLORADO broadband
11 ~~deployment board~~ OFFICE that a federal agency has issued a final order or
12 entered into a settlement or consent decree regarding, or a court of
13 competent jurisdiction has issued a final judgment against, an internet
14 service provider and that the ~~board~~ OFFICE has determined from the order,
15 decree, or judgment that the internet service provider has engaged in
16 conduct specified in subsection (1) of this section, the commission shall
17 issue a written order to the internet service provider requiring the internet
18 service provider to fully refund any money that the internet service
19 provider received in the twenty-four months preceding the ~~board's~~
20 OFFICE'S determination from the high cost support mechanism pursuant
21 to a grant awarded by the COLORADO broadband ~~deployment board~~
22 OFFICE under section ~~24-37.5-119~~ 24-37.5-905.

23 (c) The third-party contractor that maintains the high cost support
24 mechanism shall allocate any money refunded to the high cost support
25 mechanism pursuant to this subsection (2) to the high cost support
26 mechanism account dedicated to broadband deployment, which account
27 is described in section ~~24-37.5-119 (3)~~ 24-37.5-905.

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

3 **40-15-502. Expressions of state policy. (5) Universal service**
4 **support mechanisms.** (a) In order to accomplish the goals of universal
5 basic service, universal access to advanced service under section
6 ~~24-37.5-119~~ 24-37.5-905, and any revision of the definition of basic
7 service under subsection (2) of this section, the commission shall create
8 a system of support mechanisms to assist in the provision of basic service
9 and advanced service in high-cost areas. The commission shall fund these
10 support mechanisms equitably and on a nondiscriminatory, competitively
11 neutral basis through assessments, which may include a rate element, on
12 all telecommunications providers in Colorado. A provider's eligibility to
13 receive support for basic service under the support mechanisms is
14 conditioned upon the provider's offering basic service throughout an
15 entire support area.

16 **SECTION 9. Act subject to petition - effective date.** This act
17 takes effect September 1, 2024; except that, if a referendum petition is
18 filed pursuant to section 1 (3) of article V of the state constitution against
19 this act or an item, section, or part of this act within the ninety-day period
20 after final adjournment of the general assembly, then the act, item,
21 section, or part will not take effect unless approved by the people at the
22 general election to be held in November 2024 and, in such case, will take
23 effect on the date of the official declaration of the vote thereon by the
24 governor.