



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**SB 19-078**

# FISCAL NOTE

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<b>Drafting Number:</b>	LLS 19-0485	<b>Date:</b>	January 31, 2019
<b>Prime Sponsors:</b>	Sen. Donovan Rep. Hansen; Herod	<b>Bill Status:</b>	Senate SVMA
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**Bill Topic:** OPEN INTERNET CUSTOMER PROTECTIONS IN COLORADO

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**Summary of Fiscal Impact:**

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill places requirements on internet service providers to follow net neutrality standards or forego High Cost Support Mechanism funding. It creates an ongoing workload increase for the state and local governments.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** This fiscal note reflects the introduced bill.

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## Summary of Legislation

This bill disqualifies an internet service provider from receiving High Cost Support Mechanism (HCSM) grants if the provider engages in:

- blocking lawful internet content;
- paid prioritization of internet content;
- regulating network traffic by modifying bandwidth; and
- not providing transparency of its network management practices.

A provider that is determined by the Public Utilities Commission (PUC) to have engaged in any of these anti-net neutrality practices is required to return any HCSM funds it received during the prior 24 months.

The PUC must utilize a federal agency order or decree, or a decision from a court of competent jurisdiction, to make a determination related to whether an internet service provider has engaged in an anti-net neutrality practice. The Broadband Deployment Board is also responsible for periodically reviewing the websites of the Federal Trade Commission and the Federal Communications Commission to determine whether either agency has issued an order or decree regarding any applicant seeking or who has been awarded a broadband deployment grant from the HCSM.

The Attorney General's Office and the Broadband Deployment Board must develop guidance for consumers on filing complaints with the Federal Trade Commission to allege that a provider has engaged in any of these restricted activities. A governmental body contracting for internet service must give preference to a provider that certifies it will not engage in any of these restricted activities.

## **Background**

The HCSM is a surcharge that applies to all providers of intrastate telecommunications service. The HCSM is administered by the PUC, but collected funds are held outside by a third party. A portion of HCSM revenue each year is required to be distributed for state broadband deployment grants.

The 16-member Broadband Deployment Board provides direction and oversight to ensure the goal of “universal access” by awarding grants for broadband development in underserved areas of Colorado. Grants may only be awarded in areas where there is no competition for basic broadband services, as determined by the PUC.

## **State Expenditures**

The bill will increase state workload in the Department of Regulatory Agencies, the Department of Law, the Department of Personnel and Administration, and the Office of Economic Development and International Trade (OEDIT) beginning in FY 2019-20.

**Public Utilities Commission and Broadband Deployment Board — Department of Regulatory Agencies.** The PUC will review net neutrality violations subsequent to a federal agency order or court decision, which will require legal and technical support. It is expected that this workload will take place during the PUC's normal course of business. The Broadband Deployment Board will incorporate the work to develop guidelines with the Attorney General's Office within existing appropriations.

**Department of Law.** The Department of Law will have an increase in workload to work with the Broadband Deployment Board and to provide counsel to the PUC and OEDIT. Counsel may specifically be needed in instances where a provider may have engaged in prohibited efforts and appeals the PUC's written order. If additional resources are required, they will requested through the annual budget process.

**Department of Personnel and Administration.** The State Purchasing Office in the Department of Personnel and Administration may develop technical guidance and revisions to the procurement process for internet service providers. This effort can be accomplished within existing appropriations.

**Office of Economic Development and International Trade.** OEDIT will have increase in workload to verify that companies granted tax credits or grants administered by OEDIT to finance broadband deployment do not engage in prohibited behavior. This can be accomplished within existing appropriations.

## **Local Government**

Local governments that are internet service providers may see an increase in workload to ensure policies meet the bill's standards. Only Longmont currently provides broadband services, while Fort Collins is currently building and implementing broadband services. To date, 40 Colorado counties and 91 municipalities have authorized their local government to provide telecommunications services to date.

## **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## **Departmental Difference**

OEDIT estimates that it will cost \$10,000 in FY 2019-20 for legal services and computer programming administration costs paid from the General Fund, cash funds, and federal funds. The fiscal note assumes that OEDIT's legal services and computer programming cost needs are minimal, as is the case for other state agencies, and can be achieved within existing resources.

## **State and Local Government Contacts**

Information Technology  
Law  
Office of Economic Development and International Trade  
Personnel  
Regulatory Agencies