

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 and Weinberg, Boesenecker, Kipp, Lindsay, Lukens, Titone

SENATE SPONSORSHIP

Rodriguez and Priola,

House Committees

Transportation, Housing & Local Government
Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE DEPLOYMENT OF BROADBAND THROUGH GRANTS**
102 **ADMINISTERED BY THE COLORADO BROADBAND OFFICE, AND, IN**
103 **CONNECTION THEREWITH, REDUCING AN APPROPRIATION.**

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

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.

HOUSE
3rd Reading Unamended
April 17, 2024

HOUSE
Amended 2nd Reading
April 15, 2024

from the high cost support mechanism (HCSM) for broadband 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); and add (31)(a)(XI) 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 (31) (a) The following agencies, functions, or both, are scheduled
11 for repeal on September 1, 2030:

12 (XI) THE FUNCTIONS OF THE BROADBAND OFFICE IN
13 ADMINISTERING THE BROADBAND DEPLOYMENT GRANT PROGRAM
14 CREATED IN SECTION 24-37.5-905.

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

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

18 **24-37.5-905. Broadband deployment - grant program - high**
19 **cost support mechanism money - broadband office administrative**
20 **fund - creation - criteria - rules - reports - definitions - repeal.** (1) AS
21 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1 (a) "BROADBAND" HAS THE MEANING SET FORTH IN SECTION
2 40-15-102.

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

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

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

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

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

13 (2)(a) THE BROADBAND OFFICE SHALL ADMINISTER A BROADBAND
14 DEPLOYMENT GRANT PROGRAM IN ACCORDANCE WITH THIS SECTION. THE
15 BROADBAND OFFICE SHALL DIRECT THE COMMISSION TO AUTHORIZE A
16 THIRD-PARTY CONTRACTOR OF THE HCSM TO DISBURSE MONEY FROM THE
17 HCSM FOR BROADBAND DEPLOYMENT GRANTS APPROVED BY THE
18 BROADBAND OFFICE. THE COMMISSION SHALL AUTHORIZE DISBURSEMENTS
19 OF MONEY FROM THE HCSM FOR BROADBAND DEPLOYMENT GRANTS ONLY
20 AS DIRECTED BY THE BROADBAND OFFICE.

21 (b)(I) THE BROADBAND OFFICE MAY ALLOCATE MONEY FROM THE
22 HCSM FOR THE DEPLOYMENT OF BROADBAND IN UNSERVED AND
23 UNDERSERVED AREAS OF THE STATE PURSUANT TO THIS SECTION AND
24 SECTION 40-15-208 THROUGH THE USE OF THE HCSM SURCHARGE AND
25 SURCHARGE RATE IN EFFECT ON JANUARY 1, 2018. IN DETERMINING THE
26 DEFINITION OF UNSERVED AND UNDERSERVED AREAS, THE STANDARDS
27 USED BY THE BROADBAND OFFICE MUST BE CONSISTENT WITH BROADBAND

1 BENCHMARK STANDARDS AND ANY REVISIONS TO THE STANDARDS, AS
2 DETERMINED BY THE FEDERAL COMMUNICATIONS COMMISSION AND THE
3 NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION IN
4 THE UNITED STATES DEPARTMENT OF COMMERCE. PURSUANT TO SECTIONS
5 40-15-207 AND 40-15-208, THE COMMISSION SHALL DETERMINE THE
6 FUNDS AVAILABLE FOR BROADBAND DEPLOYMENT FROM THE HCSM
7 MONEY. THE HCSM THIRD-PARTY CONTRACTOR SHALL MAINTAIN AND
8 HOLD THE MONEY AVAILABLE FOR BROADBAND DEPLOYMENT IN A
9 SEPARATE ACCOUNT FROM THE MONEY USED FOR BASIC VOICE SERVICE.
10 MONEY HELD FOR BROADBAND DEPLOYMENT MUST NOT BE DISBURSED
11 FOR BASIC VOICE SERVICE, AND MONEY HELD FOR BASIC VOICE SERVICE
12 MUST NOT BE DISBURSED FOR BROADBAND DEPLOYMENT.

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

18 (3) (a) UP TO FIVE PERCENT OF THE MONEY ALLOCATED FROM THE
19 HCSM FOR BROADBAND DEPLOYMENT MAY BE USED TO COVER THE
20 BROADBAND OFFICE'S DIRECT AND INDIRECT COSTS TO ADMINISTER THE
21 GRANT PROGRAM, INCLUDING TO COVER STAFFING COSTS FOR THE GRANT
22 PROGRAM. MONEY THAT IS ALLOCATED FOR SUCH PURPOSES IS CREDITED
23 TO THE BROADBAND OFFICE ADMINISTRATIVE FUND, WHICH FUND IS
24 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF ALL MONEY
25 ALLOCATED FROM THE HCSM FOR THE BROADBAND OFFICE'S
26 ADMINISTRATION OF THE GRANT PROGRAM AND ALL MONEY THAT THE
27 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE

1 MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED FOR THE PURPOSES
2 SET FORTH IN THIS SECTION. ALL INTEREST EARNED FROM THE
3 INVESTMENT OF MONEY IN THE FUND IS CREDITED TO THE FUND. ALL
4 MONEY NOT EXPENDED AT THE END OF A STATE FISCAL YEAR REMAINS IN
5 THE FUND AND DOES NOT REVERT TO THE GENERAL FUND OR ANY OTHER
6 FUND.

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

10 (c) THE BROADBAND OFFICE SHALL PROHIBIT GRANT RECIPIENTS
11 FROM USING GRANT MONEY TO SUBSIDIZE EXPENSES ASSOCIATED WITH
12 TELECOMMUNICATIONS OPERATIONAL EXPENSES, WITH THE EXCEPTION OF
13 A ONE-TIME TECHNOLOGY AND INNOVATION EXPENSE AND REGULATORY
14 COMPLIANCE.

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

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

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

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

1 (A) POLE REPLACEMENTS AND ATTACHMENTS, LINE EXTENSIONS,
2 LONG DROPS, NETWORK UPGRADES THAT STRENGTHEN CYBERSECURITY,
3 AND NETWORK INFRASTRUCTURE, INCLUDING WIRELINE AND WIRELESS
4 FACILITIES SUCH AS TOWERS AND SATELLITE INFRASTRUCTURE; AND

5 (B) DIGITAL EQUITY INITIATIVES TO HELP CLOSE THE DIGITAL
6 DIVIDE IN THE STATE, INCLUDING INITIATIVES FOR BASIC INTERNET
7 ACCESS, COMPUTER AND DEVICE DISTRIBUTION, DIGITAL LITERACY
8 TRAINING, AND BROADBAND WORKFORCE DEVELOPMENT TRAINING;

9 (b) THE FOLLOWING MINIMUM REQUIREMENTS FOR PROJECTS THAT
10 ARE AWARDED GRANT MONEY:

11 (I) SUPPORT FOR BROADBAND DEPLOYMENT IN UNSERVED OR
12 UNDERSERVED AREAS;

13 (II) SPEED REQUIREMENTS;

14 (III) MATCHING FUNDING REQUIREMENTS;

15 (IV) APPLICANT ELIGIBILITY REQUIREMENTS;

16 (V) GENERALLY ACCEPTED INDUSTRY RELIABILITY AND
17 PERFORMANCE STANDARDS;

18 (VI) TIMELINES FOR COMPLETION OF A PROJECT;

19 (VII) REASONABLE COST REQUIREMENTS FOR A PROJECT;

20 (VIII) COMPLIANCE STANDARDS; AND

21 (IX) REPORTING AND ACCOUNTABILITY REQUIREMENTS; AND

22 (c) THE FOLLOWING CRITERIA FOR REVIEWING AND PRIORITIZING
23 APPLICANTS' PROPOSED PROJECTS:

24 (I) THE PURPOSE AND PROJECT IMPACTS;

25 (II) THE GEOGRAPHIC DISTRIBUTION OF BROADBAND DEPLOYMENT;

26 (III) BROADBAND NETWORK REDUNDANCY, DIVERSITY, AND
27 LATENCY;

- 1 (IV) BROADBAND NETWORK SPEEDS;
2 (V) THE AMOUNT OF MATCHING MONEY AVAILABLE;
3 (VI) THE COST-EFFECTIVENESS OF THE PROJECT;
4 (VII) THE AMOUNT OF SUPPORT THE PROJECT WOULD PROVIDE FOR
5 LOW-INCOME HOUSEHOLDS; AND
6 (VIII) THE EXTENT TO WHICH THE PROJECT WOULD SUPPORT
7 CRITICALLY UNSERVED AREAS.

8 (5) IN ESTABLISHING THE GRANT PROGRAM, THE BROADBAND
9 OFFICE SHALL:

10 (a) SOLICIT INPUT FROM THE GENERAL PUBLIC AND VARIOUS
11 STAKEHOLDERS, INCLUDING AT LEAST THE FOLLOWING GROUPS OF
12 STAKEHOLDERS:

- 13 (I) INDUSTRY ASSOCIATIONS;
14 (II) LOCAL GOVERNMENTS;
15 (III) TRIBAL GOVERNMENTS;
16 (IV) OTHER STATE AGENCIES;
17 (V) FEDERAL AGENCIES;
18 (VI) BROADBAND CONSUMERS; AND
19 (VII) OTHER KEY STAKEHOLDERS THAT THE BROADBAND OFFICE
20 IDENTIFIES;

21 (b) CREATE A WORK GROUP, INCLUDING THE EXTERNAL
22 STAKEHOLDERS IDENTIFIED IN SUBSECTION (5)(a) OF THIS SECTION, TO
23 HELP REVIEW GRANT APPLICATIONS AND RECOMMEND PROJECTS FOR
24 GRANT AWARDS;

25 (c) ESTABLISH A FORMAL APPEALS PROCESS FOR GRANT
26 APPLICATIONS THAT ARE NOT AWARDED GRANTS. THE SOLE REMEDY FOR
27 AN APPLICANT THAT PREVAILS ON APPEAL IS THE FINANCING OF THE

1 APPLICANT'S PROPOSED PROJECT IN THE CURRENT OR NEXT FISCAL YEAR,
2 SUBJECT TO THE AVAILABILITY OF MONEY IN THE HCSM.

3 (d) AS PART OF A GRANT APPLICATION THAT AN APPLICANT FILES
4 OR AS PART OF AN APPEAL OF A GRANT DECISION THAT AN APPELLANT
5 FILES, REQUIRE THAT THE APPLICANT OR APPELLANT INCLUDE A SPEED
6 TEST PERFORMED:

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

10 (e) INCLUDE A FORMAL PROCESS BY WHICH THE BROADBAND
11 OFFICE, ELIGIBLE APPLICANTS, AND INCUMBENT PROVIDERS MAY
12 CHALLENGE OR APPEAL AN APPLICANT'S DATA INCLUDED IN THE
13 APPLICATION TO PREVENT THE FINANCING OF PROJECTS THAT WOULD
14 CAUSE OVERBUILD OR DUPLICATION OF FEDERAL OR OTHER STATE
15 FUNDING; AND

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

19 (6) PURSUANT TO SECTION 24-37.5-106 (4), THE CHIEF
20 INFORMATION OFFICER MAY PROMULGATE RULES TO IMPLEMENT THIS
21 SECTION AND SHALL SPECIFICALLY CONSIDER PROMULGATING RULES TO
22 IMPLEMENT SUBSECTIONS (2), (4), AND (5) OF THIS SECTION.

23 (7) THE BROADBAND OFFICE MAY CONTRACT WITH A THIRD PARTY
24 TO PERFORM ADMINISTRATIVE FUNCTIONS RELATED TO ADMINISTERING
25 THE GRANT PROGRAM.

26 (8) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR
27 BEFORE JANUARY 1, 2025, AND ON OR BEFORE JANUARY 1 OF EACH YEAR

1 THEREAFTER, THE BROADBAND OFFICE SHALL SUBMIT AN ANNUAL REPORT
2 TO THE JOINT BUDGET COMMITTEE AND THE JOINT TECHNOLOGY
3 COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, SUMMARIZING FOR THE
4 PREVIOUS CALENDAR YEAR:

- 5 (a) THE BROADBAND OFFICE'S GRANT ACTIVITIES; AND
- 6 (b) HCSM EXPENDITURES MADE FOR BROADBAND DEPLOYMENT.

7 (9) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2030.
8 BEFORE THE REPEAL, THIS SECTION IS SCHEDULED FOR REVIEW IN
9 ACCORDANCE WITH SECTION 24-34-104.

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

12 **6-26-101. Complaints to federal trade commission - attorney**
13 **general to provide guidance.** (1) The attorney general or the attorney
14 general's designee, in collaboration with the COLORADO broadband
15 ~~deployment board~~ OFFICE created in section ~~24-37.5-119~~ 24-37.5-903 (1),
16 shall develop written guidance for consumers seeking to file a complaint
17 with the federal trade commission to allege that an internet service
18 provider, as defined in section 40-15-209 (4)(b), has engaged in any
19 practice that violates federal law regarding interference with the open
20 internet.

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

24 **SECTION 5.** In Colorado Revised Statutes, 24-37.5-106, **amend**
25 (4) as follows:

26 **24-37.5-106. Chief information officer - duties and**
27 **responsibilities - rules.** (4) The chief information officer may

1 promulgate as rules pursuant to article 4 of this title 24 all of the policies,
2 procedures, standards, specifications, guidelines, or criteria that are
3 developed or approved pursuant to section 24-37.5-105 (4) and RULES to
4 establish accessibility standards for individuals with a disability pursuant
5 to section 24-85-103 AND TO IMPLEMENT THE BROADBAND DEPLOYMENT
6 GRANT PROGRAM PURSUANT TO SECTION 24-37.5-905.

7 **SECTION 6.** 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 7.** 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 8.** 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 9.** 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 10. Appropriation - adjustments to 2024 long bill.**

17 (1) To implement this act, appropriations made in the annual general
18 appropriation act for the 2024-25 state fiscal year to the office of the
19 governor are adjusted as follows:

20 (a) The cash funds appropriation from various sources of cash
21 funds for the office of information technology for health, life, and dental
22 is decreased by \$25,826;

23 (b) The cash funds appropriation from various sources of cash
24 funds for the office of information technology for enterprise solutions is
25 decreased by \$254,276, and the related FTE is decreased by 2.0 FTE.

26 ==

27 **SECTION 11. Act subject to petition - effective date.** This act

1 takes effect September 1, 2024; except that, if a referendum petition is
2 filed pursuant to section 1 (3) of article V of the state constitution against
3 this act or an item, section, or part of this act within the ninety-day period
4 after final adjournment of the general assembly, then the act, item,
5 section, or part will not take effect unless approved by the people at the
6 general election to be held in November 2024 and, in such case, will take
7 effect on the date of the official declaration of the vote thereon by the
8 governor.