

CHAPTER 219

GOVERNMENT - STATE

HOUSE BILL 24-1336

BY REPRESENTATIVE(S) Parenti and Weinberg, Boesenecker, Kipp, Lindsay, Lukens, Titone, Bacon, Bird, Bradley, Brown, Duran, Joseph, Snyder;
also SENATOR(S) Rodriguez and Priola, Bridges, Buckner, Cutter, Fields, Jaquez Lewis, Michaelson Jenet.

AN ACT

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

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

SECTION 1. In Colorado Revised Statutes, 24-34-104, **repeal** (25)(a)(VI); and **add** (31)(a)(XII) as follows:

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

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

(31) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2030:

(XII) THE FUNCTIONS OF THE BROADBAND OFFICE IN ADMINISTERING THE BROADBAND DEPLOYMENT GRANT PROGRAM CREATED IN SECTION 24-37.5-905.

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

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

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

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

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

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

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

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

(b) (I) THE BROADBAND OFFICE MAY ALLOCATE MONEY FROM THE HCSM FOR THE DEPLOYMENT OF BROADBAND IN UNSERVED AND UNDERSERVED AREAS OF THE STATE PURSUANT TO THIS SECTION AND SECTION 40-15-208 THROUGH THE USE OF THE HCSM SURCHARGE AND SURCHARGE RATE IN EFFECT ON JANUARY 1, 2018. IN DETERMINING THE DEFINITION OF UNSERVED AND UNDERSERVED AREAS, THE STANDARDS USED BY THE BROADBAND OFFICE MUST BE CONSISTENT WITH BROADBAND BENCHMARK STANDARDS AND ANY REVISIONS TO THE STANDARDS, AS DETERMINED BY THE FEDERAL COMMUNICATIONS COMMISSION AND THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF COMMERCE. PURSUANT TO SECTIONS 40-15-207 AND 40-15-208, THE COMMISSION SHALL DETERMINE THE FUNDS AVAILABLE FOR BROADBAND DEPLOYMENT FROM THE HCSM MONEY. THE HCSM THIRD-PARTY CONTRACTOR SHALL MAINTAIN AND HOLD THE MONEY AVAILABLE FOR BROADBAND DEPLOYMENT IN A SEPARATE ACCOUNT FROM THE MONEY USED FOR BASIC VOICE SERVICE. MONEY HELD FOR BROADBAND DEPLOYMENT MUST NOT BE DISBURSED FOR BASIC VOICE SERVICE, AND MONEY HELD FOR BASIC VOICE SERVICE MUST NOT BE DISBURSED FOR BROADBAND DEPLOYMENT.

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

(3) (a) UP TO FIVE PERCENT OF THE MONEY ALLOCATED FROM THE HCSM FOR BROADBAND DEPLOYMENT MAY BE USED TO COVER THE BROADBAND OFFICE'S DIRECT AND INDIRECT COSTS TO ADMINISTER THE GRANT PROGRAM, INCLUDING TO COVER STAFFING COSTS FOR THE GRANT PROGRAM. MONEY THAT IS ALLOCATED FOR SUCH PURPOSES IS CREDITED TO THE BROADBAND OFFICE ADMINISTRATIVE FUND, WHICH FUND IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF ALL MONEY ALLOCATED FROM THE HCSM FOR THE BROADBAND OFFICE'S ADMINISTRATION OF THE GRANT PROGRAM AND ALL MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED FOR THE PURPOSES SET FORTH IN THIS SECTION. ALL INTEREST EARNED FROM THE INVESTMENT OF MONEY IN THE FUND IS CREDITED TO THE FUND. ALL MONEY NOT EXPENDED AT THE END OF A STATE FISCAL YEAR REMAINS IN THE FUND AND DOES NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

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

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

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

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

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

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

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

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

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

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

(II) SPEED REQUIREMENTS;

(III) MATCHING FUNDING REQUIREMENTS;

(IV) APPLICANT ELIGIBILITY REQUIREMENTS;

(V) GENERALLY ACCEPTED INDUSTRY RELIABILITY AND PERFORMANCE STANDARDS;

(VI) TIMELINES FOR COMPLETION OF A PROJECT;

(VII) REASONABLE COST REQUIREMENTS FOR A PROJECT;

(VIII) COMPLIANCE STANDARDS; AND

(IX) REPORTING AND ACCOUNTABILITY REQUIREMENTS; AND

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

(I) THE PURPOSE AND PROJECT IMPACTS;

(II) THE GEOGRAPHIC DISTRIBUTION OF BROADBAND DEPLOYMENT;

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

(IV) BROADBAND NETWORK SPEEDS;

(V) THE AMOUNT OF MATCHING MONEY AVAILABLE;

(VI) THE COST-EFFECTIVENESS OF THE PROJECT;

(VII) THE AMOUNT OF SUPPORT THE PROJECT WOULD PROVIDE FOR LOW-INCOME HOUSEHOLDS; AND

(VIII) THE EXTENT TO WHICH THE PROJECT WOULD SUPPORT CRITICALLY UNSERVED AREAS.

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

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

(I) INDUSTRY ASSOCIATIONS;

(II) LOCAL GOVERNMENTS;

(III) TRIBAL GOVERNMENTS;

(IV) OTHER STATE AGENCIES;

(V) FEDERAL AGENCIES;

(VI) BROADBAND CONSUMERS; AND

(VII) OTHER KEY STAKEHOLDERS THAT THE BROADBAND OFFICE IDENTIFIES;

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

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

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

(I) ON AN INCUMBENT PROVIDER'S BROADBAND NETWORK; AND

(II) IN ACCORDANCE WITH INDUSTRY-STANDARD SPEED-TEST PROTOCOLS IDENTIFIED BY THE FEDERAL COMMUNICATIONS COMMISSION;

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

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

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

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

(8) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR BEFORE JANUARY 1, 2025, AND ON OR BEFORE JANUARY 1 OF EACH YEAR THEREAFTER, THE BROADBAND OFFICE SHALL SUBMIT AN ANNUAL REPORT TO THE JOINT BUDGET COMMITTEE AND

THE JOINT TECHNOLOGY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, SUMMARIZING FOR THE PREVIOUS CALENDAR YEAR:

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

(b) HCSM EXPENDITURES MADE FOR BROADBAND DEPLOYMENT.

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

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

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

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

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

24-37.5-106. Chief information officer - duties and responsibilities - rules. (4) The chief information officer may promulgate as rules pursuant to article 4 of this title 24 all of the policies, procedures, standards, specifications, guidelines, or criteria that are developed or approved pursuant to section 24-37.5-105 (4) and RULES to establish accessibility standards for individuals with a disability pursuant to section 24-85-103 AND TO IMPLEMENT THE BROADBAND DEPLOYMENT GRANT PROGRAM PURSUANT TO SECTION 24-37.5-905.

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

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

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

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

SECTION 7. In Colorado Revised Statutes, 40-15-208, **amend** (2)(a)(I)(B) as follows:

40-15-208. High cost support mechanism - Colorado high cost administration fund - creation - purpose - operation - rules - report - repeal.

(2) (a) (I) The commission is hereby authorized to establish a mechanism for the support of universal service, also referred to in this section as the "high cost support mechanism", which must operate in accordance with rules adopted by the commission. The primary purpose of the high cost support mechanism is to provide financial assistance as a support mechanism to:

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

SECTION 8. In Colorado Revised Statutes, 40-15-209, **amend** (1) introductory portion, (2)(a), and (2)(c) as follows:

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

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

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

SECTION 9. In Colorado Revised Statutes, 40-15-502, **amend** (5)(a) as follows:

40-15-502. Expressions of state policy. (5) Universal service support mechanisms. (a) In order to accomplish the goals of universal basic service, universal access to advanced service under section ~~24-37.5-119~~ 24-37.5-905, and any revision of the definition of basic service under subsection (2) of this section, the commission shall create a system of support mechanisms to assist in the provision of basic service and advanced service in high-cost areas. The commission shall fund these support mechanisms equitably and on a nondiscriminatory, competitively neutral basis through assessments, which may include a rate element, on all telecommunications providers in Colorado. A provider's eligibility to receive

support for basic service under the support mechanisms is conditioned upon the provider's offering basic service throughout an entire support area.

SECTION 10. Appropriation - adjustments to 2024 long bill. (1) To implement this act, appropriations made in the annual general appropriation act for the 2024-25 state fiscal year to the office of the governor are adjusted as follows:

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

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

SECTION 11. Act subject to petition - effective date. This act takes effect September 1, 2024; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 22, 2024