



RURAL BROADBAND EQUIPMENT REFUND

EVALUATION SUMMARY | JULY 2022 | 2022-TE30

TAX TYPE	Sales and use	REVENUE IMPACT	\$0
YEAR ENACTED	2014	(TAX YEARS 2014-2021)	
REPEAL/EXPIRATION DATE	None	NUMBER OF TAXPAYERS	0
		(TAX YEARS 2014-2021)	

KEY CONCLUSION: The refund has not encouraged broadband providers to expand service in rural areas because no providers have qualified for it.

WHAT DOES THE TAX EXPENDITURE DO?

The Rural Broadband Equipment Refund [Section 39-26-129, C.R.S.] allows broadband providers to claim a refund of state sales and use tax paid for tangible personal property that is installed in a target area for the provision of broadband service. Statute defines “target area” as the unincorporated part of a county or a municipality with a population of less than 30,000 people, according to the most recently available population statistics of the U.S. Bureau of the Census.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute [Section 39-26-129(1), C.R.S.] states the purpose of the refund is “To encourage broadband providers to deploy broadband infrastructure in rural areas of the state.”

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

The General Assembly may want to consider:

- Repealing the refund since it has not been used.
- If it chooses not to repeal the refund, it could consider establishing performance measures to evaluate the refund if it is used in future years.



RURAL BROADBAND EQUIPMENT REFUND

EVALUATION RESULTS

WHAT IS THE TAX EXPENDITURE?

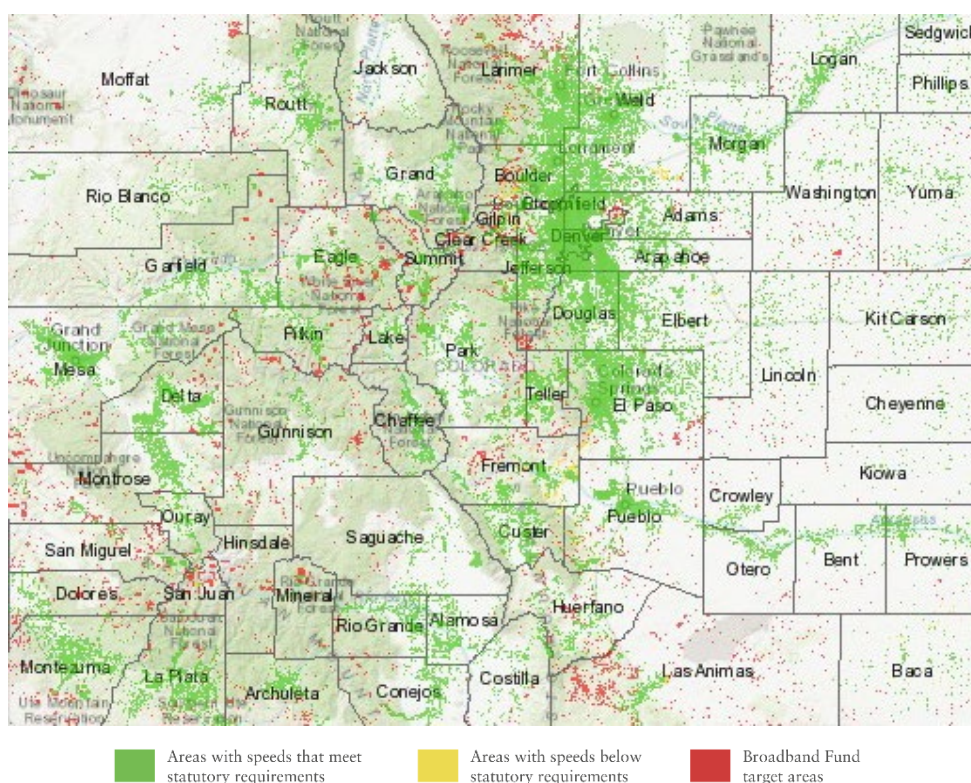
The Rural Broadband Equipment Refund allows broadband providers to claim a refund of state sales and use tax paid for tangible personal property that is installed in a target area for the provision of broadband service. Statute defines “target area” as the unincorporated part of a county or a municipality with a population of less than 30,000 people, according to the most recently available population statistics of the U.S. Bureau of the Census [Section 39-26-129 (2)(c), C.R.S.]. Broadband service means communications service having the capacity to transmit data at least four megabits per second (Mbps) for downloads and one Mbps for uploads, or the Federal Communications Commission’s definition of broadband service, whichever is faster [Section 39-26-129 (2)(b), C.R.S.]. The Department of Revenue (Department) is allowed to refund up to \$1 million per calendar year to all providers combined. If providers, in total, are approved for more than \$1 million in refunds, the Department prorates the refunds based on the refund amount requested by each provider [Section 39-26-129(5), C.R.S.]. This expenditure has not been substantively changed since its enactment in 2014 as part of House Bill 14-1327.

In order to claim the refund, taxpayers must submit the Sales and Use Tax Refund for Broadband Equipment Form (Form DR 0137 C), along with supporting documentation, such as invoices, sales tax receipts, and census data, which establishes that the equipment was installed in a target area; as well as documentation showing the performance specifications and description of each piece of equipment and how they are used to provide broadband services. Taxpayers must submit their claims between January 1st and April 1st of the year following the calendar year in which the sales tax was paid [Section 39-26-129(4), C.R.S.]. The Department reviews the claim and supporting documentation to ensure it meets statutory requirements.

WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE?

Based on our review of the refund's statutory language and Department forms, we considered the intended beneficiaries to be broadband providers that install broadband in target rural areas, and households in rural areas who receive broadband service as a result of the refund. According to the Colorado Broadband Office within the Governor's Office of Information Technology, 6.9 percent of rural households in CO did not have access to broadband as of 2021. According to the Broadband Office, broadband enables people to access basic amenities such as education, health care, public safety, and government services. Broadband access increases economic opportunities within a community; provides access to education such as remote learning; helps provide cost effective access to healthcare; and supports public safety systems, such as 9-1-1, early warning and public alert, and remote security monitoring and backup systems for public safety communications networks. Exhibit 1 provides current broadband access by speed throughout Colorado.

EXHIBIT 1. BROADBAND IN COLORADO



SOURCE: Colorado Broadband Office.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute [Section 39-26-129(1), C.R.S.] states the purpose of the refund is “to encourage broadband providers to deploy broadband infrastructure in rural areas of the state.”

IS THE TAX EXPENDITURE MEETING ITS PURPOSE AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

We found that the Broadband Refund is not meeting its purpose because, according to Department records, no providers have received it.

Statute does not provide quantifiable performance measures for this tax expenditure. Therefore, we created and applied the following performance measure to determine the extent to which the refund is meeting its purpose:

PERFORMANCE MEASURE #1: *To what extent has the expenditure encouraged broadband providers in Colorado to increase coverage to rural areas?*

RESULT: The refund has not encouraged providers to install broadband infrastructure in target rural areas of the state because it has not been used. First, according to the Department, as of March 2022, no providers have received the refund since it was established in 2014. Although Department records indicate that 14 providers submitted claims for the refund in 2014 through 2018, the Department reported that none provided sufficient information with their claims to verify that they qualified. The Department contacted these taxpayers, but none were able to produce the required documentation to substantiate their claims or they did not respond to the Department’s request for additional information. Therefore, it is possible that these providers did not meet the refund’s requirements or determined that the cost of documenting their eligibility outweighed the potential benefit. The

Department also indicated that some of these taxpayers could still correct their applications and receive the refund, although we lacked information on how many intended to do so.

For 15 claims from 10 providers, the Department provided documentation that stated the reason the Department rejected the provider's claim. Exhibit 2 summarizes the issues with those claims.

EXHIBIT 2: SUMMARY OF CLAIM ISSUES	
Problem with Claim	Number of Claims with This Issue
Missing Performance Specifications of Broadband Equipment	14
Missing Contract/Service Agreement	13
Missing Proof of Payment for Equipment	5
Missing or Incomplete Spreadsheet of Installed Equipment	3
Missing Bank Statement	1
Missing Amended Consumer Tax Report or Proof of Sales Tax Payment	6
Claim Not Submitted Timely and Attempted to Claim Local Tax	1
SOURCE: Office of the State Auditor analysis of Department of Revenue refund request data.	

In addition, although providers may have purchased property that would qualify, it appears that many may not be aware of the refund. Specifically, the Rural Broadband Office emailed questions we prepared to providers who serve rural areas. We received responses from nine providers who reported that they had installed broadband in target areas of the state in the past 5 years. However, eight of the nine respondents reported that they were not aware of the exemption.

Finally, it also appears that the refund may not act as a significant incentive for providers to complete a project because it is a relatively

small portion of the overall cost of a typical project. For example, based on data from the Broadband Fund grant applicants in January 2022, about 22 percent of the cost of a typical project was for equipment and the remaining 78 percent was for other project costs such as installation and administration. Based on these costs, a refund of the State's 2.9 percent sales tax represents 0.64 percent of the total project cost (2.9 percent of 22 percent). Therefore, while the refund could potentially encourage providers to complete projects that are only marginally cost-effective, it is unlikely to be a deciding factor for most projects.

In contrast, state and federal grants have provided significant funding for rural broadband projects in recent years, which likely also makes the refund less significant for most providers. For example, the Broadband Fund from the Colorado Broadband Office covers approximately 60 percent of rural broadband project costs and the ReConnect Loan and Grant Program from the U.S. Department of Agriculture covers approximately 70 percent of rural broadband project costs. In addition, there are far more grant funds available than what providers could claim from the refund, which is statutorily capped at \$1 million per year. Within the Broadband Fund alone, providers were awarded a total of \$51 million in grants between 2016 and 2021 for installing broadband services. According to the Colorado Broadband Office, the significant funding provided by these grants has led to an additional 29,024 households in rural areas gaining access to broadband services, with 93.1 percent of Coloradoans in rural areas having broadband access in 2021.

WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURE?

The refund has had no revenue impact or other economic costs and benefits because, according to the Department, no refunds have been issued since its creation in 2014.

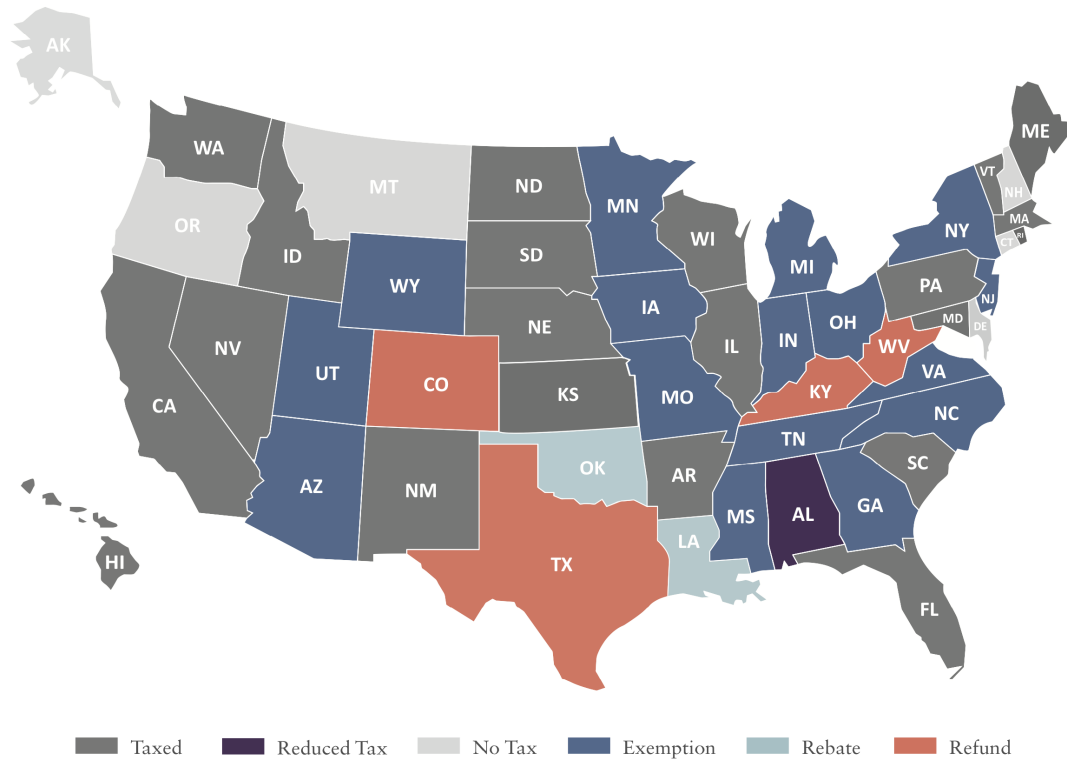
WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURE HAVE ON BENEFICIARIES?

Eliminating the refund would not have an impact on providers or the installation of broadband equipment in rural areas of the state. As mentioned, no provider has successfully claimed the refund and many providers installing broadband in rural areas do not appear to be aware of it. Additionally, state and federal grants may provide a significant portion of the installation costs.

ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

Of the 44 states that levy sales tax (excluding Colorado), 22 have expenditures that exempt broadband equipment from sales tax either through a refund, rebate, reduced tax rate, or exemption. Out of the 22 states with an exemption, only four allow exemptions for equipment installed in certain locations, like rural areas, and 18 provide an exemption at the time of purchase regardless of the location. The types of equipment eligible for an exemption also vary by state. Broadband encompasses internet and telecommunication services, so some states exempt telephone equipment while others exempt wireless internet equipment. For example, Kentucky defines equipment eligible for the refund as a “communication system” that must cost at least \$100 million and, in contrast to Colorado, providers must submit paperwork prior to their purchases. Louisiana’s rebate includes fiber optic cabling used for installing broadband in rural areas of the state, but does not allow a refund for equipment purchased with state or federal funds, unless they are reported as taxable income. Exhibit 3 shows the tax treatment of broadband equipment purchases across the United States.

EXHIBIT 3. BROADBAND TAX EXPENDITURES IN THE UNITED STATES



SOURCE: Office of the State Auditor review of Bloomberg BNA data.

ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

There are several grants available to providers that install broadband in rural areas of the state. Specifically, the Colorado Broadband Office currently offers a grant through the Broadband Fund, providing grants for projects in rural areas with a population of 7,500 or less people. To receive the grants, broadband providers must provide a minimum of 25 percent of the total project costs. Similar to the Rural Broadband Equipment Refund, the Broadband Fund only covers broadband infrastructure installation and does not cover ongoing maintenance costs. The Broadband Fund has issued a total of \$51 million in grants over 63 projects since 2016, which the Colorado Broadband Office projects will result in 29,024 rural households receiving broadband

access. On average, the Broadband Fund covered roughly 60 percent of the total project costs.

The Department of Local Affairs (DOLA) also provides two grants to expand broadband access to rural areas of the state. The first is the Broadband Interconnectivity Grant Program, established by House Bill 21-1289. The grants are to provide broadband access to those in Colorado who are “unserved or underserved,” which means that they do not have wireline connection capable of reliably delivering speeds of at least 25 Mbps for downloads and 3 Mbps for uploads; there is \$5 million in total grants available. The second grant provided by DOLA is the Broadband Planning and Infrastructure Set-Aside program. This grant seeks to support the efforts of local governments to “improve Broadband service to their constituents to achieve enhanced community and economic development.” The total funding available for this program is \$3.6 million.

In addition to state-level grants, the U.S. Department of Agriculture offers a grant program called the ReConnect Loan and Grant Program. Similar to the Rural Broadband Equipment Refund, this program seeks to expand broadband access to rural areas. As provided in Exhibit 4, within Colorado, this program funded three projects in Fiscal Year 2020, the most recent year with data available.

EXHIBIT 4. USDA RECONNECT LOAN AND GRANT PROGRAM IN COLORADO FISCAL YEAR 2020			
Data Input	Delta-Montrose Electric Association	Emery Telecommunications & Video, Inc.	Yampa Valley Electric Association, Inc.
Square Miles	126	358	122
Total Project Cost	\$14,127,300	\$12,049,900	\$8,067,500
Grant Amount	\$10,595,400	\$6,302,200	\$6,029,200
Percent of Project Covered by Grant	75	52	75
SOURCE: Office of the State Auditor analysis of USDA data.			

WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURE?

There were no data constraints that impacted our ability to evaluate this tax expenditure.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

THE GENERAL ASSEMBLY MAY WANT TO CONSIDER REPEALING THE RURAL BROADBAND EQUIPMENT REFUND. As discussed, since the refund's enactment in 2014, none of the 14 providers who have applied for the refund have successfully claimed it. According to Section 39-26-129(4), C.R.S., taxpayers "must provide proof of the state sales and use tax paid by the broadband provider in the immediately preceding calendar year and proof that the tangible personal property was deployed in a target area for the provision of broadband service." Based upon stakeholder feedback and review of available data from the Department, it appears that providers have had difficulty documenting that they meet statutory requirements, such as providing proof that the broadband equipment was installed in an eligible location. We also found that most broadband providers we spoke with were not aware of the refund and it does not seem that the refund has encouraged broadband providers in Colorado to increase coverage to rural areas. Additionally, we estimate that if it was being issued, the refund would typically cover less than 1 percent of the total project costs, which may not be a large enough benefit to encourage providers to move forward with a project. Further, there are several grants available in Colorado that provide much larger financial incentives. As a result, the General Assembly may want to consider repealing the Rural Broadband Equipment Refund.

IF THE GENERAL ASSEMBLY CHOOSES NOT TO REPEAL THE RURAL BROADBAND EQUIPMENT REFUND, IT MAY WANT TO CONSIDER AMENDING STATUTE TO ESTABLISH STATUTORY PERFORMANCE MEASURES. As discussed, statute and the enacting legislation for the refund do not provide performance measures for evaluating its effectiveness. Therefore, for the purposes of our evaluation, we considered a potential performance measure for the refund: to what extent has the expenditure

encouraged broadband providers in Colorado to increase broadband infrastructure to rural areas of the state? We identified this performance measure based on our review of the defined statutory purpose, “To encourage broadband providers to deploy broadband infrastructure in rural areas of the state.” [Section 39-26-129 (1), C.R.S.]. However, the General Assembly may want to clarify its expectations by adding performance measure(s) in statute, which would allow our office to more definitively assess the extent to which the refund is accomplishing its intended goal(s) if it is used in the future.