

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-1029.01 Duane Gall

SENATE BILL 08-215

SENATE SPONSORSHIP

Schwartz,

HOUSE SPONSORSHIP

Riesberg,

Senate Committees

Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING BROADBAND TELECOMMUNICATIONS SERVICE, AND, IN**
102 **CONNECTION THEREWITH, DIRECTING THE STATE'S CHIEF**
103 **INFORMATION OFFICER TO CREATE AN INVENTORY OF**
104 **BROADBAND TELECOMMUNICATIONS SERVICE AREAS AND**
105 **INFORMATION SERVICE AREAS AND AUTHORIZING THE PUBLIC**
106 **UTILITIES COMMISSION TO ESTABLISH A FUNDING MECHANISM**
107 **TO HELP DEFRAY THE COST OF PREPARING THE INVENTORY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Directs the chief information officer of the office of information technology, in consultation with the public utilities commission (commission) and the governor's innovation council, to identify broadband telecommunications service areas and information service areas within Colorado and to develop a map of such areas, with the goal of using the map to help plan the deployment of broadband service to unserved areas of the state. Uses the map as the basis for an inventory of existing and potential service areas and makes a report available to the general assembly containing this information.

Requires the chief information officer to hold at least 4 public meetings and consider comments submitted by members of the public in preparing the inventory. Allows the chief information officer to solicit gifts, grants, and donations to pay for the meetings and the preparation of the inventory and report.

Exempts from disclosure under the Colorado open records act any proprietary information submitted by telecommunications providers and information service providers in connection with the inventory.

Clarifies that the existing high cost support mechanism administered by the commission is established only for the financial support of providing basic local exchange service in rural areas. Authorizes the commission to draw upon the high cost administration fund to help defray the cost of preparing the inventory if the cost of preparing the inventory exceeds the amount available from gifts, grants, and donations as of September 1, 2008.

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

2 **SECTION 1.** 24-37.5-106, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SUBSECTION to read:

4 **24-37.5-106. Chief information officer - duties and**
5 **responsibilities - repeal. (3) Broadband telecommunications service**
6 **areas - planning documents - statewide map. (a) (I) THE CHIEF**
7 **INFORMATION OFFICER, WORKING IN CONSULTATION WITH THE PUBLIC**
8 **UTILITIES COMMISSION, THE GOVERNOR'S INNOVATION COUNCIL, AND**
9 **OTHER PUBLIC AND PRIVATE ENTITIES, SHALL IDENTIFY BROADBAND**
10 **TELECOMMUNICATIONS SERVICE AREAS AND INFORMATION SERVICE AREAS**
11 **WITHIN COLORADO, WITH THE GOAL OF CREATING AND MAINTAINING A**

1 GEOGRAPHICALLY-BASED STATEWIDE INVENTORY OF AVAILABLE
2 BROADBAND TELECOMMUNICATIONS AND INFORMATION SERVICES.

3 (II) **Scope of inquiry.** THE INVENTORY SHALL INCLUDE, BUT IS
4 NOT LIMITED TO:

5 (A) AN ILLUSTRATIVE STATEWIDE MAP TO HELP
6 TELECOMMUNICATIONS PROVIDERS, INFORMATION SERVICE PROVIDERS,
7 THE PUBLIC UTILITIES COMMISSION, AND OTHER STATE AGENCIES MORE
8 RATIONALLY PLAN THE DEPLOYMENT OF BROADBAND SERVICE TO
9 UNSERVED AREAS OF THE STATE. THE INVENTORY SHALL NOT DISCLOSE
10 PROPRIETARY INFORMATION.

11 (B) THE POTENTIAL USE OF ENTERPRISE ZONES IN THE
12 DEVELOPMENT OF RURAL BROADBAND TELECOMMUNICATIONS SERVICE
13 AND INFORMATION SERVICE; AND

14 (C) THE NEED FOR ADDITIONAL TRANSMISSION INFRASTRUCTURE
15 TO REACH LOCATIONS IN WHICH POTENTIAL BROADBAND
16 COMMUNICATIONS AND INFORMATION SERVICE CUSTOMERS ARE FOUND.

17 (b) THE CHIEF INFORMATION OFFICER OR HIS OR HER DESIGNEE
18 SHALL HOLD AT LEAST FOUR PUBLIC MEETINGS TO SOLICIT AND RECEIVE
19 COMMENTS, INCLUDING WRITTEN COMMENTS, FROM MEMBERS OF THE
20 PUBLIC. THE CHIEF INFORMATION OFFICER MAY DETERMINE THE MANNER
21 IN WHICH SUCH COMMENTS ARE RECEIVED.

22 (c) IN PREPARING THE INVENTORY PURSUANT TO THIS SUBSECTION
23 (3), THE CHIEF INFORMATION OFFICER:

24 (I) SHALL CONSIDER ANY COMMENTS RECEIVED FROM THE
25 GENERAL PUBLIC AS WELL AS WRITTEN COMMENTS FROM AFFECTED
26 COUNTIES, CITIES, PROVIDERS OF TELECOMMUNICATIONS SERVICE AND
27 INFORMATION SERVICE AND THEIR CUSTOMERS, ENVIRONMENTAL GROUPS,

1 AND OTHER INTERESTED STAKEHOLDERS; AND

2 (II) MAY EMPLOY OR CONTRACT WITH ONE OR MORE PRIVATE
3 CONTRACTORS OR CONSULTANTS FOR RESEARCH, COMPILATION,
4 PUBLICATION, DISTRIBUTION, OR OTHER DUTIES.

5 (d) THE INVENTORY SHALL BE COMPLETED ON OR BEFORE APRIL
6 1, 2009, AND MADE AVAILABLE TO THE GENERAL ASSEMBLY IN
7 ACCORDANCE WITH SECTION 24-1-136 (9).

8 (e) **Funding.** (I) THE CHIEF INFORMATION OFFICER MAY ACCEPT
9 ALLOCATIONS FROM THE HIGH COST SUPPORT MECHANISM CREATED
10 PURSUANT TO SECTION 40-15-208, C.R.S., IF NECESSARY, AS WELL AS
11 PRIVATE GIFTS, GRANTS, AND DONATIONS, FOR THE PURPOSE OF
12 IMPLEMENTING THIS SUBSECTION (3). ANY SUCH GIFTS, GRANTS, AND
13 DONATIONS SHALL BE HELD IN THE BROADBAND TELECOMMUNICATIONS
14 INVENTORY FUND, ALSO REFERRED TO IN THIS SECTION AS THE "FUND",
15 WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND
16 SHALL ALSO CONSIST OF MONEYS APPROPRIATED AND TRANSFERRED TO
17 THE FUND. EARNINGS FROM INVESTMENT OF MONEYS IN THE FUND SHALL
18 BE CREDITED TO THE FUND. MONEYS IN THE FUND SHALL BE ANNUALLY
19 APPROPRIATED TO THE CHIEF INFORMATION OFFICER FOR THE PURPOSE OF
20 IMPLEMENTING THIS SUBSECTION (3). EXCEPT AS OTHERWISE PROVIDED
21 IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (e), ANY UNEXPENDED OR
22 UNENCUMBERED MONEYS REMAINING IN THE FUND AS OF MAY 1, 2009,
23 SHALL REVERT TO THE OFFICE TO BE USED BY THE OFFICE FOR OTHER
24 PURPOSES SPECIFIED IN THIS ARTICLE.

25 (II) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE CHIEF
26 INFORMATION OFFICER NOT BE REQUIRED TO SOLICIT GIFTS, GRANTS, OR
27 DONATIONS FROM ANY SOURCE FOR THE PURPOSES OF THIS SECTION AND

1 THAT NO GENERAL FUND MONEYS BE USED TO PAY FOR THE
2 IMPLEMENTATION OF THIS SUBSECTION (3).

3 (III) IF, BY SEPTEMBER 1, 2008, MONEYS IN THE FUND CREATED
4 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (e) HAVE NOT
5 REACHED AN AMOUNT SUFFICIENT TO FINANCE THE IMPLEMENTATION OF
6 THIS SUBSECTION (3), THE CHIEF INFORMATION OFFICER MAY DRAW UPON
7 REVENUES MADE AVAILABLE IN ACCORDANCE WITH SECTION 40-15-208
8 (3), C.R.S.

9 (f) **Repeal.** THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1,
10 2009.

11 **SECTION 2.** 24-72-204 (3) (a), Colorado Revised Statutes, is
12 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

13 **24-72-204. Allowance or denial of inspection - grounds -**
14 **procedure - appeal - definitions.** (3) (a) The custodian shall deny the
15 right of inspection of the following records, unless otherwise provided by
16 law; except that any of the following records, other than letters of
17 reference concerning employment, licensing, or issuance of permits, shall
18 be available to the person in interest under this subsection (3):

19 (XX) PROPRIETARY INFORMATION SUBMITTED BY A PROVIDER OF
20 TELECOMMUNICATIONS SERVICE OR INFORMATION SERVICE IN
21 CONNECTION WITH THE BROADBAND TELECOMMUNICATIONS INVENTORY
22 AUTHORIZED BY SECTION 24-37.5-106 (3).

23 **SECTION 3.** 40-15-102, Colorado Revised Statutes, is amended
24 BY THE ADDITION OF A NEW SUBSECTION to read:

25 **40-15-102. Definitions.** As used in this article, unless the context
26 otherwise requires:

27 (2.5) "ADVANCED SERVICES" MEANS BROADBAND ACCESS THAT

1 PROVIDES THE SUBSCRIBER WITH TRANSMISSION SPEEDS, IN EACH
2 DIRECTION, OF THE HIGHER OF THE FOLLOWING:

- 3 (a) TWO HUNDRED THOUSAND BITS PER SECOND (KBPS); OR
- 4 (b) SUCH HIGHER SPEED AS THE COMMISSION SHALL DETERMINE IS
- 5 APPROPRIATE.

6 **SECTION 4.** 40-15-208 (1) and (3), Colorado Revised Statutes,
7 are amended to read:

8 **40-15-208. High cost support mechanism - Colorado high cost**
9 **administration fund - creation - purpose - operation.** (1) ~~All moneys~~
10 ~~remaining in the Colorado high cost fund as of July 1, 1998, and not~~
11 ~~previously encumbered by the commission for payment to providers of~~
12 ~~telecommunications service shall be transferred to the Colorado high cost~~
13 ~~administration fund created in subsection (3) of this section.~~

14 (3) There is hereby created, in the state treasury, the Colorado
15 high cost administration fund, ALSO referred to in this section as the
16 "fund", which shall be used to reimburse the commission and its
17 contractors for reasonable expenses incurred in the administration of the
18 high cost support mechanism, as determined by rules of the commission,
19 AND, TO THE EXTENT NECESSARY TO SUPPLEMENT ANY GIFTS, GRANTS,
20 AND DONATIONS RECEIVED PURSUANT TO SECTION 24-37.5-106 (3) (e),
21 C.R.S., IN ASSISTING THE OFFICE OF INFORMATION TECHNOLOGY IN
22 PREPARING THE STATEWIDE INVENTORY OF AVAILABLE BROADBAND
23 TELECOMMUNICATIONS SERVICES AND INFORMATION SERVICES AS
24 PROVIDED IN SECTION 24-37.5-106 (3), C.R.S. The moneys in the fund
25 that are to be used ~~for the direct and indirect administrative costs incurred~~
26 by the commission and its contractors shall be appropriated annually by
27 the general assembly. At the end of any fiscal year, all unexpended and

1 unencumbered moneys in the fund shall remain therein and shall not be
2 credited or transferred to the general fund or any other fund. Based upon
3 the balance remaining in the fund and the amount appropriated annually
4 by the general assembly for use by the commission, each year the
5 commission shall determine the nondiscriminatory, competitively neutral
6 assessment on all telecommunications service providers, INFORMATION
7 SERVICE PROVIDERS, AND OTHER PROVIDERS OF ADVANCED SERVICES in
8 Colorado that will be necessary to cover the cost of implementing the
9 high cost support mechanism AND PREPARING THE INVENTORY PURSUANT
10 TO SECTION 24-37.5-106 (3), C.R.S. Only the moneys from such
11 assessment shall be transmitted to the state treasurer, who shall credit the
12 same to the fund. All interest derived from the deposit and investment of
13 this fund shall remain in the fund and shall not revert to the general fund.

14 **SECTION 5.** 40-15-502 (5) (a) and (5) (b), Colorado Revised
15 Statutes, are amended to read:

16 **40-15-502. Expressions of state policy. (5) Universal service**
17 **support mechanisms.** (a) In order to accomplish the goals of universal
18 basic service, universal access to advanced service, and any revision of
19 the definition of basic service under subsection (2) of this section, the
20 commission shall create a system of support mechanisms to assist in the
21 provision of such services in high-cost areas. These support mechanisms
22 shall be funded equitably and on a nondiscriminatory, competitively
23 neutral basis through assessments, which may include a rate element, on
24 all telecommunications service providers in Colorado and shall be
25 distributed equitably and on a nondiscriminatory, competitively neutral
26 basis. For purposes of administering ~~such~~ THE HIGH COST support
27 ~~mechanisms~~ MECHANISM PURSUANT TO SECTION 40-15-208 (3), the

1 commission shall divide the state into reasonably compact, competitively
2 neutral geographic support areas. A provider's eligibility to receive
3 support under the HIGH COST support ~~mechanisms~~ MECHANISM FOR BASIC
4 SERVICE shall be conditioned upon the provider's offering basic service
5 throughout an entire support area. ~~The commission shall review the costs~~
6 ~~of basic service and shall administer such support mechanisms.~~

7 (b) A provider that offers basic local exchange service throughout
8 an entire support area through use of its own facilities or on a resale basis
9 may be qualified as a provider of last resort or may be eligible to receive
10 ~~universal service support~~ FUNDS FROM THE HIGH COST SUPPORT
11 MECHANISM, as determined by the commission. Resale shall be made
12 available on a nondiscriminatory basis, as determined by the commission.

13 **SECTION 6. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.