

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 14-0834 **Date:** March 24, 2014
Prime Sponsor(s): Rep. Williams; Coram **Bill Status:** House Business, Labor, Economic, and Workforce Development
 Sen. Nicholson; Crowder **Fiscal Analyst:** Alex Schatz (303-866-4375)

SHORT TITLE: CONNECT COLORADO BROADBAND ACT

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016	FY 2016-2017
State Revenue			
Revenue Change	HCSM reduction.		
Cash Funds	See State Revenue section.		
State Transfers	HCSM allocations.		
Cash Funds	At least \$200,000 in FY 2014-15. See State Revenue section.		
	HCSM allocations.		
State Expenditures	\$316,154	\$231,133	\$231,133
Cash Funds	285,971	209,462	209,462
Centrally Appropriated Costs**	30,183	21,671	21,671
FTE Position Change	1.9 FTE	1.2 FTE	1.2 FTE
Appropriation Required: \$86,518 - Department of Regulatory Agencies (FY 2014-15)			

* This summary shows changes from current law under the bill for each fiscal year. Transfers and diversions result in no net change to state revenue.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

This fiscal note is a preliminary estimate of revenue and expenditure impacts on state and local agencies, based on available information. The fiscal note may be updated based on receipt of analysis by affected agencies.

Summary of Legislation

Until its statutory sunset on July 1, 2024, this bill creates the 13-member Broadband Deployment Board (BDB) in the Department of Regulatory Agencies (DORA). The BDB administers the newly created Broadband Deployment Fund (BDF), from which grants are awarded for broadband development in unserved areas of the state. Funding to the BDF is provided by transferring an amount from surcharges in the High Cost Support Mechanism (HCSM), as allocated by the Public Utilities Commission (PUC).

Funding from the Colorado High Cost Support Mechanism. The bill authorizes the use of HCSM financial assistance for access to broadband service in unserved areas of the state. In addition, the bill authorizes the use of the Colorado High Cost Administrative Fund for PUC costs associated with broadband deployment.

To offer financial assistance, the PUC must determine the amount of current HCSM surcharges that are no longer necessary to support universal basic service. Allocation of funds to the BDF results in a subsequent, scheduled reduction in HCSM surcharges by percentages set according to calendar year.

Allocated amounts are immediately transferred from the HCSM to the BDF. A report on the status of the HCSM must be included in certain DORA reports and its annual presentation to legislative committees of reference.

The Broadband Development Board. Members of the BDB are appointed by the Governor and legislative leadership, and include representatives from:

- the PUC (one member);
- the Office of Economic Development and International Trade (OEDIT) (one member);
- the Department of Local Affairs (DOLA) (one member);
- the Office of Information Technology (OIT) (one member);
- representatives from local governments (three members);
- representatives from the broadband industry (three members); and
- members of the public from different geographic areas, including two unserved areas (three members).

Members of the BDB are compensated with a \$75 per diem for attendance at meetings, plus actual and necessary expenses for BDB business.

Broadband service grant awards. The BDB begins its work three months after funds are initially transferred from the HCSM to the BDF. After developing awareness and at least six months for existing local carriers and local governments to develop proposals, the BDB may consider applications for new broadband projects in unserved areas.

Completed applications for broadband service grant awards must be copied to the relevant local government (e.g., town, city, or county with jurisdiction over the project area) for a 60-day notice and comment period. Thereafter, the BDB reviews projects in accordance with criteria developed by the BDB to advance the objectives of the bill, such as having multiple funding sources, providing "last-mile" broadband service, and achieving minimum broadband network speeds.

The BRB makes an annual report to the General Assembly regarding projects receiving broadband service grant awards.

Background

The Colorado High Cost Support Mechanism. The HCSM is a surcharge that applies to all providers of intrastate telecommunications services. The PUC determines contributions to the HCSM based on providers' reported retail revenues, and providers may choose to integrate HCSM charges into customer access rates or as a separate line item on customer bills.

Funds collected by the HCSM are distributed to eligible providers in both rural and nonrural areas that are determined to be high cost geographic areas to provide telecommunications service. An eligible provider must provide basic local exchange service. In practice, an eligible provider is typically the owner of local telephone lines. The majority of local telephone lines in high cost geographic areas of Colorado are currently owned by Century Link, as the successor to Qwest.

State Revenue

The bill decreases HCSM revenue when scheduled surcharge reductions begin in 2016. Surcharge reductions depend on the amount allocated by the PUC to the BDF and the applicable percentage rate. To the extent that the HCSM is unnecessary to fund basic service in some areas of Colorado that are currently receiving the HCSM, the capacity to allocate funds for BDF transfers is likely to result in significant reductions in HCSM surcharges by 2023, when the last surcharge reduction takes place under the bill. The amount of HCSM revenue affected by the bill is not estimated, but see the Technical Note for further discussion.

Assumptions. In a given year, HCSM allocations to the BDF are reflected in surcharges for the fiscal year starting July 1 of that year. Scheduled reductions in HCSM surcharges begin in FY 2016-17.

State transfers. A series of transfers from the HCSM to the BDF are contemplated by the bill. These transfers occur anytime the PUC determines that HCSM collections include an amount that is not necessary to support basic service. The amounts and frequency of transfers are not estimated. Based on language in the bill, a transfer of at least \$200,000 is assumed to occur in FY 2014-15.

State Expenditures

The bill increases state expenditures by **\$316,154 and 1.9 FTE in FY 2014-15**, by **\$231,133 and 1.2 FTE in FY 2015-16** and future fiscal years. This is the result of increased costs in the Public Utilities Commission and the Executive Director's Office in DORA, as summarized in Table 1.

Table 1. Expenditures Under HB 14-1328			
Cost Components	FY 2014-15	FY 2015-16	FY 2016-17
<i>Public Utilities Commission</i>	<u>\$99,285</u>	<u>\$18,453</u>	<u>\$18,453</u>
Personal Services	52,733	14,712	14,712
FTE	0.7	0.2	0.2
Operating Expenses	665	0	0
Capital Outlay	4,703	0	0
Legal Services (312 hr. @ \$91.08/hr.) (0.2 FTE)	28,417	0	0
Centrally Appropriated Costs*	12,767	3,741	3,741
<i>Broadband Deployment Board (DORA EDO)</i>	<u>\$216,869</u>	<u>\$212,680</u>	<u>\$212,680</u>
Personal Services	63,800	63,800	63,800
FTE	1.0	1.0	1.0
Operating Expenses	950	950	950
Capital Outlay	4,703	0	0
Contractor Services	130,000	130,000	130,000
Centrally Appropriated Costs*	17,416	17,930	17,930
TOTAL	\$316,154	\$231,133	\$231,133

* Centrally appropriated costs are not included in the bill's appropriation.

Assumptions. According to the bill, the BDB is an independent board within DORA. The BDB is assumed to fall under the budget control of the Executive Director's Office in DORA and does not utilize staff or resources of the PUC.

DORA — Executive Director's Office (EDO). The bill results in new personal services for BDB staff, budgeted under the EDO in DORA. In FY 2014-15, BDB staff and expert contractors will develop criteria, application forms and procedures for the broadband service grant program, and an accounting system for applications received. In FY 2015-16 and future fiscal years, each time the PUC makes a new allocation of HCSM surcharges to the BDF, the BDB will have additional workload to solicit and assess applications, requiring future appropriations to address BDB workload. BDB staff also updates its procedures as needed and assembles an annual report. New EDO expenditures under the bill will be funded by the BDF.

DORA — PUC. In FY 2014-15, the bill requires PUC staff to study current HCSM collections to determine if there are surcharges above the level required to fund basic service. Workload of the PUC also increases in FY 2014-15 to conduct rulemaking appropriate to the implementation of the bill, such as regulations concerning allocations and surcharge reductions. In FY 2015-16 and future fiscal years, the PUC staff will have ongoing work to monitor HCSM collections, recommend allocations, and include discussion of the HCSM in an annual report. New PUC expenditures under the bill will be covered from the Colorado High Cost Administrative Fund.

One member of the PUC is appointed to serve on the BDB. The fiscal note assumes this PUC member is compensated in accordance with the bill, with no additional fiscal impact.

Other state agencies. The OEDIT, OIT, and DOLA each dedicate resources to the bill by identifying a member of the agency staff to serve on the BDB. This workload will be limited to attendance at meetings and occasional consultation with other agency staff and will not require new appropriations.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under HB 14-1328*			
Cost Components	FY 2014-15	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, Disability)	\$10,440	\$7,362	\$7,362
Supplemental Employee Retirement Payments	8,093	6,085	6,085
Indirect Costs	11,650	8,224	8,224
TOTAL	\$30,183	\$21,671	\$21,671

*More information is available at: <http://colorado.gov/fiscalnotes>

Local Government Impact

Certain local governments will have a minor workload increase under the bill. Local governments will have the opportunity to comment on and participate in broadband service grant projects, with potential costs to conduct research, advocate, and establish broadband policy. Also, local governments that are represented on the BDB will dedicate resources for their staff time and expenses to attend BDB meeting. A minimal amount of new local expenditures are required by the bill.

Technical Notes

Base funding for BDB staff. The bill requires a one-time expenditure of \$200,000 "to cover the direct and indirect costs incurred by the [BDB], its employees, and its contractors in funding the deployment of advanced and broadband service in unserved areas of the state." The fiscal note assumes that this does not preclude future use of the BDF or HCSM transfers for BDB costs.

BDF appropriations. The fiscal note assumes that the BDF is continuously appropriated by the language in the bill and that no further appropriation of these funds to the BDB is required. However, the bill states only that "moneys in the fund are appropriated to the Broadband Deployment Board." It does not definitively state that this is a continuous or an annual appropriation. This issue may be clarified by amendments.

HCSM surcharge reductions. The bill reduces the amount of HCSM surcharges according to the "percentages of the new broadband funds allocated in that year" from the HCSM. The total of all percentages in the scheduled surcharge reductions is 100 percent. However, the reduction of surcharges not necessary for support of basic service is always substantially less than 100 percent of this excess in any year and does not result in a "100 percent" benchmark relative to any current revenue or expenditure when all scheduled reductions have been accomplished.

Conflicting HCSM authority. Section 3 of the bill amends state policy concerning universal service support mechanisms, including the HCSM, to permit the use of such support mechanisms for access to broadband service. The same statute would be amended by House Bill 14-1331 to limit use of the HCSM and other support mechanisms to access to basic service. If both this bill and HB 14-1331 are enacted, further action by the Revisor of Statutes or the General Assembly may be necessary for expenditures from the HCSM to take effect.

Effective Date

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

State Appropriations

For FY 2014-15, the bill requires an appropriation of \$86,518 and 0.7 FTE from the Colorado High Cost Administrative Fund to the Department of Regulatory Agencies. Of this amount, \$28,417 is reappropriated to the Department of Law for legal services.

Based on reappropriated amounts for legal services, the Department of Law requires an allocation of 0.2 FTE for FY 2014-15.

No appropriation from the BDF is required under the bill in FY 2014-15. See the Technical Note for discussion of BDF appropriations.

State and Local Government Contacts

Regulatory Agencies (PUC)