

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING THE DEPLOYMENT OF BROADBAND INTO UNSERVED AREAS OF COLORADO THROUGH GRANT-MAKING FROM MONEYS ALLOCATED FROM THE COLORADO HIGH COST SUPPORT MECHANISM.

Prime Sponsors: Reps. Williams and Coram
Sens. Nicholson and Crowder

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Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/01/14.

XXX	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.001	Staff-prepared appropriation amendment

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to add a provision appropriating \$86,518 cash funds from the Colorado High Cost Administration Fund and 0.7 FTE to the Department of Regulatory Agencies and reappropriating \$28,417 and 0.2 FTE to the Department of Law for the provision of legal services for FY 2014-15. Amendment **J.001** also reappropriates an additional \$27,324 and 0.2 FTE to the Department of Law for the provision of legal services for FY 2014-15, from the Broadband Fund added in the bill and created in Section 40-15-509.5 (4) (a), C.R.S. The moneys in the Broadband Fund are statutorily appropriated to the Broadband Deployment Board pursuant to Section 40-15-509.5 (4) (a), C.R.S.

Points to Consider*Technical Issues*

- The *Technical Notes* section on page 5 of the Legislative Council Staff Revised Fiscal Note, identifies a technical issue with the High Cost Support Mechanism (HCSM) surcharge reductions in Section 2 of the bill that does not result in a "100 percent" reduction as might be suggested by the reduction schedule. It appears that the surcharge reduction mechanism is intended to reduce the surcharge or surcharge rate that is charged to telecommunications providers and telephone consumers over time as broadband access is funded through the HCSM.
- The surcharge reduction provision may be in conflict with the existing (and ongoing) statutory requirements of the HCSM which directs the Public Utilities Commission (PUC) "... *to provide financial assistance as a support mechanism to local exchange providers to help make basic local exchange service affordable and allow such providers **to be fully reimbursed** for the difference between the reasonable costs incurred in making basic service available to their customers within a rural high cost geographic support area and the price charged for such service...*" (emphasis added). Additionally, the surcharge reduction provision refers to the surcharge and the surcharge rate, however these terms are not defined in statute.
- Section 4 of the bill creates the Broadband Deployment Board (BDB) as an independent board in the Department of Regulatory Agencies (DORA). The independence of the board, whose location is not specified in the bill, has been interpreted through the fiscal note development process to mean independent of the PUC and is therefore to be located in the Executive Director's Office (EDO). However Section 40-15-509.5 (3), C.R.S., added in the bill, grants the PUC the authority to allocate funds from the HCSM to the Broadband Fund for the deployment of broadband service. Funding for the PUC-independent BDB is nevertheless dependent on PUC authority to allocate HCSM funds for the purposes of the BDB.
- Further, the same subsection (3) specifies that "*the commission may transfer to the broadband deployment board only the moneys that it determines are no longer required by the HCSM to support universal basic service through an effective competition determination.*" It appears that this provision may be in conflict with Section 40-15-208 (3) (a), C.R.S., which specifies that "*each year the commission shall determine the nondiscriminatory, competitively neutral assessment on all telecommunications service providers in Colorado that will be necessary to cover the cost of implementing and administering the high cost support mechanism.*" This provision appears to require the PUC to assess telecommunications providers for the HCSM at cost only, suggesting that there should be no surplus that would allow for a transfer to the BDB, unless the PUC is in violation of this provision.

HB14-1328

JBC Staff Analysis