

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0951.01 Ed DeCecco x4216

HOUSE BILL 14-1327

HOUSE SPONSORSHIP

Williams and Murray,

SENATE SPONSORSHIP

Scheffel and Tochtrop,

House Committees

Business, Labor, Economic, & Workforce Development

Finance

Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO EXPAND THE DEPLOYMENT OF**
102 **COMMUNICATION NETWORKS, AND, IN CONNECTION**
103 **THEREWITH, ENACTING THE "BROADBAND DEPLOYMENT ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 3 of the bill requires a local government to process a complete application for the collocation of a wireless service facility within 90 days and to process a complete application that involves a new structure or a new wireless service facility other than a collocation within

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.

150 days. There is an exception to these deadlines for the provider to respond to a request for additional information, and the parties may agree to waive the deadlines. **Section 3** also requires a local government to allow a permit applicant to consolidate applications and receive a single permit for a small cell network that is within the jurisdiction of a single local government and to consolidate documents and administrative proceedings if an applicant is collocating several wireless service facilities within a single local government.

Sections 4, 5, and 6 expand parts of the law relating to access to public rights-of-way for telecommunications providers to include broadband providers, which include cable operators. Specifically, **section 5** grants a broadband provider the right to construct, maintain, and operate facilities along any public highway. **Section 6** requires a political subdivision's tax, fee, or charge to be competitively neutral among telecommunications providers and broadband providers and prohibits a political subdivision from collecting taxes, fees, and charges from a broadband provider through in-kind services, or requiring in-kind services as a condition to use a highway.

Section 7 requires the state or a political subdivision to provide notice to a broadband provider of a utility trenching project that the state or political subdivision conducts and to allow joint trenching by broadband providers on a nonexclusive and nondiscriminatory basis. Notice of the trenching project will be given to any broadband provider that requests to be included on a public list maintained by the department of transportation.

Section 8 creates a state sales and use tax exemption for the sale or lease to a broadband provider of tangible personal property that is used directly in the provider's network for the provision of broadband service. **Section 2** of the bill permits a statutory county, city, or town to create a local sales and use tax exemption that is identical to the state exemption. It also repeals separate authority for local governments to create a similar sales and use tax exemption.

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

2 **SECTION 1. Short title.** This act shall be known and may be
3 cited as the "Broadband Deployment Act".

4 **SECTION 2.** In Colorado Revised Statutes, 29-2-105, **amend** (1)
5 (d) (I) (K), (1) (d) (I) (L), and (10); and **add** (1) (d) (I) (M) as follows:

6 **29-2-105. Contents of sales tax ordinances and proposals.**

7 (1) The sales tax ordinance or proposal of any incorporated town, city,

1 or county adopted pursuant to this article shall be imposed on the sale of
2 tangible personal property at retail or the furnishing of services, as
3 provided in paragraph (d) of this subsection (1). Any countywide or
4 incorporated town or city sales tax ordinance or proposal shall include the
5 following provisions:

6 (d) (I) A provision that the sale of tangible personal property and
7 services taxable pursuant to this article shall be the same as the sale of
8 tangible personal property and services taxable pursuant to section
9 39-26-104, C.R.S., except as otherwise provided in this paragraph (d).
10 The sale of tangible personal property and services taxable pursuant to
11 this article shall be subject to the same sales tax exemptions as those
12 specified in part 7 of article 26 of title 39, C.R.S.; except that the sale of
13 the following may be exempted from a town, city, or county sales tax only
14 by the express inclusion of the exemption either at the time of adoption
15 of the initial sales tax ordinance or resolution or by amendment thereto:

16 (K) The exemption for sales that benefit a Colorado school
17 specified in section 39-26-725, C.R.S.; ~~and~~

18 (L) The exemption for sales by an association or organization of
19 parents and teachers of public school students that is a charitable
20 organization as specified in section 39-26-718 (1) (c), C.R.S.; AND

21 (M) THE EXEMPTION FOR SALES OR LEASES TO A BROADBAND
22 PROVIDER OF TANGIBLE PERSONAL PROPERTY THAT IS USED DIRECTLY IN
23 THE PROVISION OF BROADBAND SERVICE AS SPECIFIED IN SECTION
24 39-26-709.5, C.R.S.

25 (10) (a) Notwithstanding any provision of this section to the
26 contrary, and except as provided in paragraph (b) of this subsection (10),
27 a town, city, or county may exempt from its sales tax sales to a

1 telecommunications provider of equipment used directly in the provision
2 of telephone service, cable television service, ~~broadband communications~~
3 ~~service~~, or mobile telecommunications service.

4 (b) A town, city, or county may not adopt a sales tax exemption
5 pursuant to the authority set forth in paragraph (a) of this subsection (10)
6 unless the exemption applies in a uniform and nondiscriminatory manner
7 to the telecommunications providers of telephone service, cable television
8 service, ~~broadband communications service~~, and mobile
9 telecommunications service.

10 **SECTION 3.** In Colorado Revised Statutes, **add** part 4 to article
11 27 of title 29 as follows:

12 **PART 4**

13 **PERMIT APPROVAL - PROCESS AND DEADLINE**

14 **29-27-401. Legislative declaration.** (1) THE GENERAL ASSEMBLY
15 FINDS AND DECLARES THAT:

16 (a) THE PERMITTING, CONSTRUCTION, MODIFICATION,
17 MAINTENANCE, AND OPERATION OF BROADBAND FACILITIES ARE CRITICAL
18 TO ENSURING THAT ALL CITIZENS IN THE STATE HAVE TRUE ACCESS TO
19 ADVANCED TECHNOLOGY AND INFORMATION;

20 (b) THESE FACILITIES ARE CRITICAL TO ENSURING THAT
21 BUSINESSES AND SCHOOLS THROUGHOUT THE STATE REMAIN COMPETITIVE
22 IN THE GLOBAL ECONOMY; AND

23 (c) THE PERMITTING, CONSTRUCTION, MODIFICATION,
24 MAINTENANCE, AND OPERATION OF THESE FACILITIES, TO THE EXTENT
25 SPECIFICALLY ADDRESSED IN THIS PART 4, ARE DECLARED TO BE MATTERS
26 OF STATEWIDE CONCERN AND INTEREST.

27 **29-27-402. Definitions.** AS USED IN THIS PART 4, UNLESS THE

1 CONTEXT OTHERWISE REQUIRES:

2 (1) "BROADBAND FACILITY" MEANS ANY INFRASTRUCTURE USED
3 TO DELIVER BROADBAND SERVICE OR FOR THE PROVISION OF BROADBAND
4 SERVICE.

5 (2) "BROADBAND SERVICE" HAS THE SAME MEANING AS SET FORTH
6 IN 7 U.S.C. SEC. 950bb (b) (1) AS OF THE EFFECTIVE DATE OF THIS
7 SECTION, AND FOR THE PURPOSES OF THIS SECTION INCLUDES:

8 (a) "CABLE SERVICE", AS DEFINED IN 47 U.S.C. SEC. 522 (6) AS OF
9 THE EFFECTIVE DATE OF THIS SECTION;

10 (b) "TELECOMMUNICATIONS SERVICE", AS DEFINED IN 47 U.S.C.
11 SEC. 153 AS OF THE EFFECTIVE DATE OF THIS SECTION; AND

12 (c) "WIRELESS SERVICE", WHICH MEANS DATA AND
13 TELECOMMUNICATIONS SERVICES, INCLUDING COMMERCIAL MOBILE
14 SERVICES, COMMERCIAL MOBILE DATA SERVICES, UNLICENSED WIRELESS
15 SERVICES, AND COMMON CARRIER WIRELESS EXCHANGE ACCESS SERVICES,
16 AS ALL OF THESE TERMS ARE DEFINED BY FEDERAL LAW AND
17 REGULATIONS.

18 (3) "COLLOCATION" MEANS THE MOUNTING OR INSTALLATION OF
19 BROADBAND SERVICE EQUIPMENT ON A TOWER, BUILDING, OR STRUCTURE
20 WITH EXISTING BROADBAND SERVICE EQUIPMENT FOR THE PURPOSE OF
21 TRANSMITTING OR RECEIVING RADIO FREQUENCY SIGNALS FOR
22 COMMUNICATIONS PURPOSES.

23 (4) "SMALL CELL FACILITY" MEANS EITHER:

24 (a) A PERSONAL WIRELESS SERVICE FACILITY AS DEFINED BY THE
25 FEDERAL "TELECOMMUNICATIONS ACT OF 1996", AS AMENDED AS OF THE
26 EFFECTIVE DATE OF THIS SECTION; OR

27 (b) A WIRELESS SERVICE FACILITY THAT MEETS BOTH OF THE

1 FOLLOWING QUALIFICATIONS:

2 (I) EACH ANTENNA IS LOCATED INSIDE AN ENCLOSURE OF NO MORE
3 THAN THREE CUBIC FEET IN VOLUME OR, IN THE CASE OF AN ANTENNA
4 THAT HAS EXPOSED ELEMENTS, THE ANTENNA AND ALL OF ITS EXPOSED
5 ELEMENTS COULD FIT WITHIN AN IMAGINARY ENCLOSURE OF NO MORE
6 THAN THREE CUBIC FEET; AND

7 (II) PRIMARY EQUIPMENT ENCLOSURES ARE NO LARGER THAN
8 SEVENTEEN CUBIC FEET IN VOLUME. THE FOLLOWING ASSOCIATED
9 EQUIPMENT MAY BE LOCATED OUTSIDE OF THE PRIMARY EQUIPMENT
10 ENCLOSURE AND, IF SO LOCATED, IS NOT INCLUDED IN THE CALCULATION
11 OF EQUIPMENT VOLUME: ELECTRIC METER, CONCEALMENT,
12 TELECOMMUNICATIONS DEMARCATION BOX, GROUND-BASED ENCLOSURES,
13 BACK-UP POWER SYSTEMS, GROUNDING EQUIPMENT, POWER TRANSFER
14 SWITCH, AND CUT-OFF SWITCH.

15 (5) "SMALL CELL NETWORK" MEANS A COLLECTION OF
16 INTERRELATED SMALL CELL FACILITIES DESIGNED TO DELIVER WIRELESS
17 SERVICE.

18 (6) "STRUCTURE" MEANS ANY FACILITY, TOWER, POLE, BUILDING,
19 OR OTHER STRUCTURE CONSTRUCTED FOR THE SOLE OR PRIMARY PURPOSE
20 OF SUPPORTING BROADBAND FACILITIES OR WIRELESS SERVICE FACILITIES.

21 (7) "WIRELESS SERVICE FACILITY" MEANS A FACILITY FOR THE
22 PROVISION OF WIRELESS SERVICES.

23 **29-27-403. Permit - approval - deadline - exception.** (1) A
24 LOCAL GOVERNMENT MAY TAKE UP TO:

25 (a) NINETY DAYS TO PROCESS A COMPLETE APPLICATION THAT
26 INVOLVES A COLLOCATION OF A TOWER, BUILDING, STRUCTURE, OR
27 REPLACEMENT STRUCTURE; OR

1 (b) ONE HUNDRED FIFTY DAYS TO PROCESS A COMPLETE
2 APPLICATION THAT INVOLVES A NEW STRUCTURE OR A NEW WIRELESS
3 SERVICE FACILITY OTHER THAN A COLLOCATION.

4 (2) THE TIME IT TAKES FOR AN APPLICANT TO RESPOND TO THE
5 FIRST REQUEST FOR ADDITIONAL INFORMATION WILL NOT COUNT TOWARD
6 THE APPLICABLE DEADLINE SET FORTH IN SUBSECTION (1) OF THIS SECTION
7 ONLY IF THE LOCAL GOVERNMENT NOTIFIES THE APPLICANT WITHIN
8 THIRTY DAYS AFTER THE INITIAL FILING THAT THE APPLICATION IS
9 INCOMPLETE. ALL OTHER REQUESTS FOR ADDITIONAL INFORMATION
10 COUNT TOWARD SUCH DEADLINES.

11 (3) AN APPLICANT AND A LOCAL GOVERNMENT MAY MUTUALLY
12 AGREE THAT AN APPLICATION MAY BE PROCESSED IN A LONGER PERIOD
13 THAN SET FORTH IN SUBSECTION (1) OF THIS SECTION.

14 **29-27-404. Permit process.** (1) FOR SMALL CELL NETWORKS
15 INVOLVING MULTIPLE INDIVIDUAL SMALL CELL FACILITIES WITHIN THE
16 JURISDICTION OF A SINGLE LOCAL GOVERNMENT, THE LOCAL GOVERNMENT
17 SHALL ALLOW THE APPLICANT, AT THE APPLICANT'S DISCRETION, TO FILE
18 A CONSOLIDATED APPLICATION AND RECEIVE A SINGLE PERMIT FOR THE
19 SMALL CELL NETWORK INSTEAD OF FILING SEPARATE APPLICATIONS FOR
20 EACH INDIVIDUAL SMALL CELL FACILITY.

21 (2) IF A WIRELESS SERVICE PROVIDER APPLIES TO COLLOCATE
22 SEVERAL WIRELESS SERVICE FACILITIES WITHIN THE JURISDICTION OF A
23 SINGLE LOCAL GOVERNMENT, THE LOCAL GOVERNMENT SHALL:

24 (a) ALLOW THE APPLICANT, AT THE APPLICANT'S DISCRETION, TO
25 FILE A SINGLE SET OF DOCUMENTS THAT WILL APPLY TO ALL THE WIRELESS
26 SERVICE FACILITIES TO BE SITED; AND

27 (b) RENDER A DECISION REGARDING ALL THE WIRELESS SERVICE

1 FACILITIES IN A SINGLE ADMINISTRATIVE PROCEEDING, UNLESS LOCAL
2 REQUIREMENTS CALL FOR AN ELECTED OR APPOINTED BODY TO RENDER
3 SUCH DECISION.

4 **SECTION 4.** In Colorado Revised Statutes, 38-5.5-102, **amend**
5 (1); and **add** (1.3) and (1.7) as follows:

6 **38-5.5-102. Definitions.** As used in this article, unless the context
7 otherwise requires:

8 (1) ~~"Political subdivision" means a county, city and county, city,~~
9 ~~town, service authority, school district, local improvement district, law~~
10 ~~enforcement authority, water, sanitation, fire protection, metropolitan,~~
11 ~~irrigation, drainage, or other special district, or any other kind of~~
12 ~~municipal, quasi-municipal, or public corporation organized pursuant to~~
13 ~~law~~ "BROADBAND" OR "BROADBAND SERVICE" HAS THE SAME MEANING
14 AS SET FORTH IN 7 U.S.C. SEC. 950bb (b) (1) AS OF THE EFFECTIVE DATE
15 OF THIS SUBSECTION (1), AS AMENDED, AND INCLUDES "CABLE SERVICE",
16 AS DEFINED IN 47 U.S.C. SEC. 522 (6) AS OF THE EFFECTIVE DATE OF THIS
17 SUBSECTION (1), AS AMENDED.

18 (1.2) "BROADBAND FACILITY" MEANS ANY INFRASTRUCTURE USED
19 TO DELIVER BROADBAND SERVICE OR FOR THE PROVISION OF BROADBAND
20 SERVICE.

21 (1.3) "BROADBAND PROVIDER" MEANS A PERSON THAT PROVIDES
22 BROADBAND SERVICE, AND INCLUDES A "CABLE OPERATOR", AS DEFINED
23 IN 47 U.S.C. SEC. 522 (5) AS OF THE EFFECTIVE DATE OF THIS SUBSECTION
24 (1.3).

25 (1.7) "POLITICAL SUBDIVISION" MEANS A COUNTY, CITY AND
26 COUNTY, CITY, TOWN, SERVICE AUTHORITY, SCHOOL DISTRICT, LOCAL
27 IMPROVEMENT DISTRICT, LAW ENFORCEMENT AUTHORITY, WATER,

1 SANITATION, FIRE PROTECTION, METROPOLITAN, IRRIGATION, DRAINAGE,
2 OR OTHER SPECIAL DISTRICT, OR ANY OTHER KIND OF MUNICIPAL,
3 QUASI-MUNICIPAL, OR PUBLIC CORPORATION ORGANIZED PURSUANT TO
4 LAW.

5 **SECTION 5.** In Colorado Revised Statutes, 38-5.5-103, **amend**
6 (1) as follows:

7 **38-5.5-103. Use of public highways - discrimination prohibited**
8 **- content regulation prohibited.** (1) Any domestic or foreign
9 telecommunications provider OR BROADBAND PROVIDER authorized to do
10 business under the laws of this state shall have the right to construct,
11 maintain, and operate conduit, cable, switches, and related appurtenances
12 and facilities along, across, upon, and under any public highway in this
13 state, subject to the provisions of this article and of article 1.5 of title 9,
14 C.R.S.; and the construction, maintenance, operation, and regulation of
15 such facilities, including the right to occupy and utilize the public
16 rights-of-way, by telecommunications providers AND BROADBAND
17 PROVIDERS are hereby declared to be matters of statewide concern. Such
18 facilities shall be so constructed and maintained as not to obstruct or
19 hinder the usual travel on such highway.

20 **SECTION 6.** In Colorado Revised Statutes, 38-5.5-107, **amend**
21 (1) (b), (2), (3), and (4); and **add** (5) as follows:

22 **38-5.5-107. Permissible taxes, fees, and charges.** (1) (b) All
23 fees and charges levied by a political subdivision shall be reasonably
24 related to the costs directly incurred by the political subdivision in
25 providing services relating to the granting or administration of permits.
26 Such fees and charges also shall be reasonably related in time to the
27 occurrence of such costs. In any controversy concerning the

1 appropriateness of a fee or charge, the political subdivision shall have the
2 burden of proving that the fee or charge is reasonably related to the direct
3 costs incurred by the political subdivision. All costs of construction shall
4 be borne by the TELECOMMUNICATIONS provider OR BROADBAND
5 PROVIDER.

6 (2) (a) Any tax, fee, or charge imposed by a political subdivision
7 shall be competitively neutral among telecommunications providers AND
8 BROADBAND PROVIDERS.

9 (b) Nothing in this article or in article 32 of title 31, C.R.S., shall
10 invalidate a tax or fee imposed if such tax or fee cannot legally be
11 imposed upon another TELECOMMUNICATIONS provider, BROADBAND
12 PROVIDER, or service because of the requirements of state or federal law
13 or because such other provider is exempt from taxation or lacks a taxable
14 nexus with the political subdivision imposing the tax or fee.

15 (c) If a political subdivision imposes a tax on a
16 TELECOMMUNICATIONS provider OR BROADBAND PROVIDER and such tax
17 does not apply to other providers of comparable telecommunications
18 services OR BROADBAND SERVICES due to the language of the ordinance
19 or resolution that imposes the tax, then the governing body of the political
20 subdivision shall take one of the following two courses of action:

21 (I) If it can do so without violating the election requirements of
22 section 20 of article X of the state constitution, the governing body shall
23 amend the ordinance or resolution that imposes the tax so as to extend the
24 tax to providers of comparable telecommunications services OR
25 BROADBAND SERVICES; or

26 (II) If an election is required under section 20 of article X of the
27 state constitution, the governing body shall cause an election to be held

1 in accordance with said section 20 to authorize the extension of the tax to
2 providers of comparable telecommunications services OR BROADBAND
3 SERVICES. If the extension of the tax is not approved by the voters at such
4 election, then the existing tax shall no longer apply to the providers that
5 had been subject to the tax immediately before the election.

6 (3) Taxes, fees, and charges imposed shall not be collected
7 through the provision of in-kind services by telecommunications
8 providers OR BROADBAND PROVIDERS, nor shall any political subdivision
9 require the provision of in-kind services as a condition of consent to use
10 a highway.

11 (4) The terms of all agreements between political subdivisions and
12 telecommunications providers OR BROADBAND PROVIDERS regarding use
13 of highways shall be matters of public record and shall be made available
14 upon request pursuant to article 72 of title 24, C.R.S.

15 (5) NOTHING IN THIS ARTICLE AFFECTS THE ABILITY OF A
16 POLITICAL SUBDIVISION TO REQUIRE AND GRANT A CABLE FRANCHISE TO
17 A CABLE OPERATOR SEEKING TO PROVIDE CABLE TELEVISION SERVICE
18 WITHIN THE POLITICAL SUBDIVISION AND TO OBTAIN ANY CONSIDERATION
19 OR IMPOSE ANY CONDITIONS IN A CABLE FRANCHISE, UNLESS OTHERWISE
20 PROHIBITED BY FEDERAL LAW.

21 **SECTION 7.** In Colorado Revised Statutes, **add** 38-5.5-109 as
22 follows:

23 **38-5.5-109. Notice of trenching - permitted access.** (1) (a) THE
24 STATE OR A POLITICAL SUBDIVISION SHALL PROVIDE NOTICE ON A
25 COMPETITIVELY NEUTRAL BASIS TO BROADBAND PROVIDERS OF ANY
26 UTILITY TRENCHING PROJECT THAT IT CONDUCTS, BUT NOTICE IS NOT
27 REQUIRED FOR EMERGENCY REPAIR PROJECTS. THE STATE OR POLITICAL

1 SUBDIVISION SHALL PROVIDE THE NOTICE TEN BUSINESS DAYS PRIOR TO
2 THE START OF THE PROJECT.

3 (b) THE DEPARTMENT OF TRANSPORTATION SHALL MAINTAIN A
4 PUBLIC LIST OF ALL BROADBAND PROVIDERS THAT WOULD LIKE TO
5 RECEIVE NOTICE OF A UTILITY TRENCHING PROJECT AND THE PROVIDERS'
6 ADDRESSES ON THE WEB SITE IT MAINTAINS. TO BE ELIGIBLE TO RECEIVE
7 NOTICE UNDER PARAGRAPH (a) OF THIS SUBSECTION (1), A BROADBAND
8 PROVIDER MUST REQUEST THE DEPARTMENT OF TRANSPORTATION TO BE
9 INCLUDED IN THE DEPARTMENT LIST. A POLITICAL SUBDIVISION MAY RELY
10 ON THE DEPARTMENT LIST WHEN MAKING ITS NOTIFICATIONS, AND SUCH
11 NOTIFICATIONS MAY BE MADE BY ELECTRONIC MAIL.

12 (2) (a) FOR ANY TRENCHING PROJECT CONDUCTED BY THE STATE
13 OR A POLITICAL SUBDIVISION, THE STATE OR POLITICAL SUBDIVISION SHALL
14 ALLOW JOINT TRENCHING BY BROADBAND PROVIDERS ON A NONEXCLUSIVE
15 AND NONDISCRIMINATORY BASIS FOR THE PLACEMENT OF BROADBAND
16 FACILITIES, EXCEPT AS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION
17 (2). THIS SUBSECTION (2) DOES NOT LIMIT THE ABILITY OF THE STATE,
18 POLITICAL SUBDIVISION, OR ANY PRIVATE ENTITY TO SHARE THE COSTS OF
19 CONSTRUCTION RELATED TO THE TRENCHING PROJECT WITH THE
20 BROADBAND PROVIDER.

21 (b) THE STATE OR A POLITICAL SUBDIVISION MAY DENY JOINT
22 TRENCHING BY BROADBAND PROVIDERS IF THE JOINT TRENCHING WILL
23 HINDER OR OBSTRUCT HIGHWAY SAFETY OR THE CONSTRUCTION,
24 MAINTENANCE, OPERATIONS, OR RELATED REGULATION OF HIGHWAY
25 FACILITIES OR IF IT IS NOT FEASIBLE BECAUSE IT WILL DELAY THE REPAIR
26 OR CONSTRUCTION OF A WATER OR WASTEWATER LINE OR BECAUSE
27 COLLOCATION WITH A WATER OR WASTEWATER LINE WILL HINDER OR

1 OBSTRUCT THE MAINTENANCE OR OPERATIONS OF WATER OR
2 WASTEWATER FACILITIES.

3 (3) (a) NOTHING IN THIS SECTION IS INTENDED TO PREEMPT OR
4 OTHERWISE REPLACE REQUIREMENTS FOR JOINT TRENCHING THAT MAY BE
5 IMPOSED BY A POLITICAL SUBDIVISION.

6 (b) NOTHING IN THIS SECTION REQUIRES A PRIVATE ENTITY
7 UNDERTAKING A TRENCHING PROJECT TO ALLOW A BROADBAND PROVIDER
8 TO PARTICIPATE IN THE TRENCHING PROJECT.

9 (c) ANY PROVISION IN THIS SECTION THAT CONFLICTS WITH
10 FEDERAL LAW IS UNENFORCEABLE.

11 **SECTION 8.** In Colorado Revised Statutes, **add** 39-26-709.5 as
12 follows:

13 **39-26-709.5. Broadband provider - property used in**
14 **broadband service - legislative declaration - definitions.** (1) THE
15 GENERAL ASSEMBLY DECLARES THAT THE INTENDED PURPOSE OF THE TAX
16 EXEMPTION CREATED IN THIS SECTION IS TO ENCOURAGE BROADBAND
17 PROVIDERS TO DEPLOY BROADBAND INFRASTRUCTURE IN GEOGRAPHIC
18 AREAS OF THE STATE THAT DO NOT CONTAIN ANY BROADBAND
19 INFRASTRUCTURE AND TO UPGRADE INFRASTRUCTURE FOR UNDERSERVED
20 AREAS WHOSE SERVICE DOES NOT MEET THE DEFINITION OF BROADBAND
21 SERVICE SET FORTH IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS
22 SECTION.

23 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
24 REQUIRES:

25 (a) "BROADBAND PROVIDER" MEANS A PERSON THAT PROVIDES
26 BROADBAND SERVICE.

27 (b) "BROADBAND SERVICE" MEANS ANY COMMUNICATIONS

1 SERVICE HAVING THE CAPACITY TO TRANSMIT DATA TO ENABLE A
2 SUBSCRIBER TO THE SERVICE TO ORIGINATE AND RECEIVE HIGH-QUALITY
3 VOICE, DATA, GRAPHICS, AND VIDEO AT SPEEDS THAT ARE GREATER THAN
4 OR EQUAL TO FOUR MEGABITS PER SECOND FOR DOWNLOAD AND ONE
5 MEGABIT PER SECOND FOR UPLOAD.

6 (3) A SALE OR LEASE TO A BROADBAND PROVIDER OF TANGIBLE
7 PERSONAL PROPERTY THAT IS USED DIRECTLY IN THE PROVIDER'S
8 NETWORK FOR THE PROVISION OF BROADBAND SERVICE IS EXEMPT FROM
9 TAXATION UNDER PART 1 OF THIS ARTICLE. THE BROADBAND PROVIDER'S
10 STORAGE OR USE OF THIS TANGIBLE PERSONAL PROPERTY IS EXEMPT FROM
11 TAXATION UNDER PART 2 OF THIS ARTICLE.

12 **SECTION 9. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2014 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.