

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

Business, Labor, & Technology
State, Veterans, & Military Affairs

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.

HOUSE
3rd Reading Unamended
April 9, 2014

HOUSE
Amended 2nd Reading
April 8, 2014

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 
5 **SECTION 2.** In Colorado Revised Statutes, **add** part 4 to article
6 27 of title 29 as follows:

7 PART 4

1 PERMIT APPROVAL - PROCESS AND DEADLINE

2 **29-27-401. Legislative declaration.** (1) THE GENERAL ASSEMBLY
3 FINDS AND DECLARES THAT:

4 (a) THE PERMITTING, CONSTRUCTION, MODIFICATION,
5 MAINTENANCE, AND OPERATION OF BROADBAND FACILITIES ARE CRITICAL
6 TO ENSURING THAT ALL CITIZENS IN THE STATE HAVE TRUE ACCESS TO
7 ADVANCED TECHNOLOGY AND INFORMATION;

8 (b) THESE FACILITIES ARE CRITICAL TO ENSURING THAT
9 BUSINESSES AND SCHOOLS THROUGHOUT THE STATE REMAIN COMPETITIVE
10 IN THE GLOBAL ECONOMY; AND

11 (c) THE PERMITTING, CONSTRUCTION, MODIFICATION,
12 MAINTENANCE, AND OPERATION OF THESE FACILITIES, TO THE EXTENT
13 SPECIFICALLY ADDRESSED IN THIS PART 4, ARE DECLARED TO BE MATTERS
14 OF STATEWIDE CONCERN AND INTEREST.

15 **29-27-402. Definitions.** AS USED IN THIS PART 4, UNLESS THE
16 CONTEXT OTHERWISE REQUIRES:

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

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

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

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

27 (c) "WIRELESS SERVICE", WHICH MEANS DATA AND

1 TELECOMMUNICATIONS SERVICES, INCLUDING COMMERCIAL MOBILE
2 SERVICES, COMMERCIAL MOBILE DATA SERVICES, UNLICENSED WIRELESS
3 SERVICES, AND COMMON CARRIER WIRELESS EXCHANGE ACCESS SERVICES,
4 AS ALL OF THESE TERMS ARE DEFINED BY FEDERAL LAW AND
5 REGULATIONS.

6 (3) "COLLOCATION" MEANS THE MOUNTING OR INSTALLATION OF
7 BROADBAND SERVICE EQUIPMENT ON A TOWER, BUILDING, OR STRUCTURE
8 WITH EXISTING BROADBAND SERVICE EQUIPMENT FOR THE PURPOSE OF
9 TRANSMITTING OR RECEIVING RADIO FREQUENCY SIGNALS FOR
10 COMMUNICATIONS PURPOSES.

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

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

15 (b) A WIRELESS SERVICE FACILITY THAT MEETS BOTH OF THE
16 FOLLOWING QUALIFICATIONS:

17 (I) EACH ANTENNA IS LOCATED INSIDE AN ENCLOSURE OF NO MORE
18 THAN THREE CUBIC FEET IN VOLUME OR, IN THE CASE OF AN ANTENNA
19 THAT HAS EXPOSED ELEMENTS, THE ANTENNA AND ALL OF ITS EXPOSED
20 ELEMENTS COULD FIT WITHIN AN IMAGINARY ENCLOSURE OF NO MORE
21 THAN THREE CUBIC FEET; AND

22 (II) PRIMARY EQUIPMENT ENCLOSURES ARE NO LARGER THAN
23 SEVENTEEN CUBIC FEET IN VOLUME. THE FOLLOWING ASSOCIATED
24 EQUIPMENT MAY BE LOCATED OUTSIDE OF THE PRIMARY EQUIPMENT
25 ENCLOSURE AND, IF SO LOCATED, IS NOT INCLUDED IN THE CALCULATION
26 OF EQUIPMENT VOLUME: ELECTRIC METER, CONCEALMENT,
27 TELECOMMUNICATIONS DEMARCATION BOX, GROUND-BASED ENCLOSURES,

1 BACK-UP POWER SYSTEMS, GROUNDING EQUIPMENT, POWER TRANSFER
2 SWITCH, AND CUT-OFF SWITCH.

3 (5) "SMALL CELL NETWORK" MEANS A COLLECTION OF
4 INTERRELATED SMALL CELL FACILITIES DESIGNED TO DELIVER WIRELESS
5 SERVICE.

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

9 (7) "WIRELESS SERVICE FACILITY" MEANS A FACILITY FOR THE
10 PROVISION OF WIRELESS SERVICES.

11 **29-27-403. Permit - approval - deadline - exception.** (1) A
12 LOCAL GOVERNMENT MAY TAKE UP TO:

13 (a) NINETY DAYS TO PROCESS A COMPLETE APPLICATION THAT
14 INVOLVES A COLLOCATION OF A TOWER, BUILDING, STRUCTURE, OR
15 REPLACEMENT STRUCTURE; OR

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

19 (2) THE TIME IT TAKES FOR AN APPLICANT TO RESPOND TO THE
20 FIRST REQUEST FOR ADDITIONAL INFORMATION WILL NOT COUNT TOWARD
21 THE APPLICABLE DEADLINE SET FORTH IN SUBSECTION (1) OF THIS SECTION
22 ONLY IF THE LOCAL GOVERNMENT NOTIFIES THE APPLICANT WITHIN
23 THIRTY DAYS AFTER THE INITIAL FILING THAT THE APPLICATION IS
24 INCOMPLETE. ALL OTHER REQUESTS FOR ADDITIONAL INFORMATION
25 COUNT TOWARD SUCH DEADLINES.

26 (3) AN APPLICANT AND A LOCAL GOVERNMENT MAY MUTUALLY
27 AGREE THAT AN APPLICATION MAY BE PROCESSED IN A LONGER PERIOD

1 THAN SET FORTH IN SUBSECTION (1) OF THIS SECTION.

2 **29-27-404. Permit process.** (1) FOR SMALL CELL NETWORKS
3 INVOLVING MULTIPLE INDIVIDUAL SMALL CELL FACILITIES WITHIN THE
4 JURISDICTION OF A SINGLE LOCAL GOVERNMENT, THE LOCAL GOVERNMENT
5 SHALL ALLOW THE APPLICANT, AT THE APPLICANT'S DISCRETION, TO FILE
6 A CONSOLIDATED APPLICATION AND RECEIVE A SINGLE PERMIT FOR THE
7 SMALL CELL NETWORK INSTEAD OF FILING SEPARATE APPLICATIONS FOR
8 EACH INDIVIDUAL SMALL CELL FACILITY.

9 (2) IF A WIRELESS SERVICE PROVIDER APPLIES TO COLLOCATE
10 SEVERAL WIRELESS SERVICE FACILITIES WITHIN THE JURISDICTION OF A
11 SINGLE LOCAL GOVERNMENT, THE LOCAL GOVERNMENT SHALL:

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

15 (b) RENDER A DECISION REGARDING ALL THE WIRELESS SERVICE
16 FACILITIES IN A SINGLE ADMINISTRATIVE PROCEEDING, UNLESS LOCAL
17 REQUIREMENTS CALL FOR AN ELECTED OR APPOINTED BODY TO RENDER
18 SUCH DECISION.

19 **SECTION 3.** In Colorado Revised Statutes, 38-5.5-102, **amend**
20 (1); and **add** (1.3) and (1.7) as follows:

21 **38-5.5-102. Definitions.** As used in this article, unless the context
22 otherwise requires:

23 (1) ~~"Political subdivision" means a county, city and county, city,~~
24 ~~town, service authority, school district, local improvement district, law~~
25 ~~enforcement authority, water, sanitation, fire protection, metropolitan,~~
26 ~~irrigation, drainage, or other special district, or any other kind of~~
27 ~~municipal, quasi-municipal, or public corporation organized pursuant to~~

1 law "BROADBAND" OR "BROADBAND SERVICE" HAS THE SAME MEANING
2 AS SET FORTH IN 7 U.S.C. SEC. 950bb (b) (1) AS OF THE EFFECTIVE DATE
3 OF THIS SUBSECTION (1), AS AMENDED, AND INCLUDES "CABLE SERVICE",
4 AS DEFINED IN 47 U.S.C. SEC. 522 (6) AS OF THE EFFECTIVE DATE OF THIS
5 SUBSECTION (1), AS AMENDED.

6 (1.2) "BROADBAND FACILITY" MEANS ANY INFRASTRUCTURE USED
7 TO DELIVER BROADBAND SERVICE OR FOR THE PROVISION OF BROADBAND
8 SERVICE.

9 (1.3) "BROADBAND PROVIDER" MEANS A PERSON THAT PROVIDES
10 BROADBAND SERVICE, AND INCLUDES A "CABLE OPERATOR", AS DEFINED
11 IN 47 U.S.C. SEC. 522 (5) AS OF THE EFFECTIVE DATE OF THIS SUBSECTION
12 (1.3).

13 (1.7) "POLITICAL SUBDIVISION" MEANS A COUNTY, CITY AND
14 COUNTY, CITY, TOWN, SERVICE AUTHORITY, SCHOOL DISTRICT, LOCAL
15 IMPROVEMENT DISTRICT, LAW ENFORCEMENT AUTHORITY, WATER,
16 SANITATION, FIRE PROTECTION, METROPOLITAN, IRRIGATION, DRAINAGE,
17 OR OTHER SPECIAL DISTRICT, OR ANY OTHER KIND OF MUNICIPAL,
18 QUASI-MUNICIPAL, OR PUBLIC CORPORATION ORGANIZED PURSUANT TO
19 LAW.

20 **SECTION 4.** In Colorado Revised Statutes, 38-5.5-103, **amend**
21 (1) as follows:

22 **38-5.5-103. Use of public highways - discrimination prohibited**
23 **- content regulation prohibited.** (1) Any domestic or foreign
24 telecommunications provider OR BROADBAND PROVIDER authorized to do
25 business under the laws of this state shall have the right to construct,
26 maintain, and operate conduit, cable, switches, and related appurtenances
27 and facilities along, across, upon, and under any public highway in this

1 state, subject to the provisions of this article and of article 1.5 of title 9,
2 C.R.S.; and the construction, maintenance, operation, and regulation of
3 such facilities, including the right to occupy and utilize the public
4 rights-of-way, by telecommunications providers AND BROADBAND
5 PROVIDERS are hereby declared to be matters of statewide concern. Such
6 facilities shall be so constructed and maintained as not to obstruct or
7 hinder the usual travel on such highway.

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

10 **38-5.5-107. Permissible taxes, fees, and charges.** (1) (b) All
11 fees and charges levied by a political subdivision shall be reasonably
12 related to the costs directly incurred by the political subdivision in
13 providing services relating to the granting or administration of permits.
14 Such fees and charges also shall be reasonably related in time to the
15 occurrence of such costs. In any controversy concerning the
16 appropriateness of a fee or charge, the political subdivision shall have the
17 burden of proving that the fee or charge is reasonably related to the direct
18 costs incurred by the political subdivision. All costs of construction shall
19 be borne by the TELECOMMUNICATIONS provider OR BROADBAND
20 PROVIDER.

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

24 (b) Nothing in this article or in article 32 of title 31, C.R.S., shall
25 invalidate a tax or fee imposed if such tax or fee cannot legally be
26 imposed upon another TELECOMMUNICATIONS provider, BROADBAND
27 PROVIDER, or service because of the requirements of state or federal law

1 or because such other provider is exempt from taxation or lacks a taxable
2 nexus with the political subdivision imposing the tax or fee.

3 (c) If a political subdivision imposes a tax on a
4 TELECOMMUNICATIONS provider OR BROADBAND PROVIDER and such tax
5 does not apply to other providers of comparable telecommunications
6 services OR BROADBAND SERVICES due to the language of the ordinance
7 or resolution that imposes the tax, then the governing body of the political
8 subdivision shall take one of the following two courses of action:

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

14 (II) If an election is required under section 20 of article X of the
15 state constitution, the governing body shall cause an election to be held
16 in accordance with said section 20 to authorize the extension of the tax to
17 providers of comparable telecommunications services OR BROADBAND
18 SERVICES. If the extension of the tax is not approved by the voters at such
19 election, then the existing tax shall no longer apply to the providers that
20 had been subject to the tax immediately before the election.

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

26 (4) The terms of all agreements between political subdivisions and
27 telecommunications providers OR BROADBAND PROVIDERS regarding use

1 of highways shall be matters of public record and shall be made available
2 upon request pursuant to article 72 of title 24, C.R.S.

3 (5) NOTHING IN THIS SECTION AFFECTS THE MANNER IN WHICH THE
4 PROPERTY TAX ADMINISTRATOR VALUES A PUBLIC UTILITY UNDER ARTICLE
5 4 OF TITLE 39, C.R.S.

6 (6) NOTHING IN THIS ARTICLE AFFECTS THE ABILITY OF A
7 POLITICAL SUBDIVISION TO REQUIRE AND GRANT A CABLE FRANCHISE TO
8 A CABLE OPERATOR SEEKING TO PROVIDE CABLE TELEVISION SERVICE
9 WITHIN THE POLITICAL SUBDIVISION AND TO OBTAIN ANY CONSIDERATION
10 OR IMPOSE ANY CONDITIONS IN A CABLE FRANCHISE, UNLESS OTHERWISE
11 PROHIBITED BY FEDERAL LAW.

12 (7) AS USED IN THIS SECTION, "PUBLIC HIGHWAY" OR "HIGHWAY"
13 AS OTHERWISE DEFINED IN SECTION 38-5.5-102 (2), DOES NOT INCLUDE
14 EXCESS AND REMAINDER RIGHTS-OF-WAY UNDER THE DEPARTMENT OF
15 TRANSPORTATION'S JURISDICTION.

16 **SECTION 6.** In Colorado Revised Statutes, **add** 38-5.5-109 as
17 follows:

18 **38-5.5-109. Notice of trenching - permitted access.** (1) (a) THE
19 STATE OR A POLITICAL SUBDIVISION SHALL PROVIDE NOTICE ON A
20 COMPETITIVELY NEUTRAL BASIS TO BROADBAND PROVIDERS OF ANY
21 UTILITY TRENCHING PROJECT THAT IT CONDUCTS, BUT NOTICE IS NOT
22 REQUIRED FOR EMERGENCY REPAIR PROJECTS. THE STATE OR POLITICAL
23 SUBDIVISION SHALL PROVIDE THE NOTICE A MINIMUM OF TEN BUSINESS
24 DAYS PRIOR TO THE START OF THE PROJECT INVOLVING TRENCHING.

25 (b) THE DEPARTMENT OF TRANSPORTATION SHALL MAINTAIN A
26 PUBLIC LIST OF ALL BROADBAND PROVIDERS THAT WOULD LIKE TO
27 RECEIVE NOTICE OF A UTILITY TRENCHING PROJECT AND THE PROVIDERS'

1 ADDRESSES ON THE WEB SITE IT MAINTAINS. TO BE ELIGIBLE TO RECEIVE
2 NOTICE UNDER PARAGRAPH (a) OF THIS SUBSECTION (1), A BROADBAND
3 PROVIDER MUST REQUEST THE DEPARTMENT OF TRANSPORTATION TO BE
4 INCLUDED IN THE DEPARTMENT LIST. A POLITICAL SUBDIVISION MAY RELY
5 ON THE DEPARTMENT LIST WHEN MAKING ITS NOTIFICATIONS, AND SUCH
6 NOTIFICATIONS MAY BE MADE BY ELECTRONIC MAIL.

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

16 (b) THE STATE OR A POLITICAL SUBDIVISION MAY DENY JOINT
17 TRENCHING BY BROADBAND PROVIDERS IF THE JOINT TRENCHING WILL
18 HINDER OR OBSTRUCT HIGHWAY SAFETY OR THE CONSTRUCTION,
19 MAINTENANCE, OPERATIONS, OR RELATED REGULATION OF HIGHWAY
20 FACILITIES OR IF IT IS NOT FEASIBLE BECAUSE IT WILL DELAY THE REPAIR
21 OR CONSTRUCTION OF A POLITICAL SUBDIVISION'S WATER, WASTEWATER,
22 ELECTRICITY, OR GAS LINE OR BECAUSE COLLOCATION WITH A POLITICAL
23 SUBDIVISION'S WATER, WASTEWATER, ELECTRICITY, OR GAS LINE WILL
24 HINDER OR OBSTRUCT THE MAINTENANCE OR OPERATIONS OF A POLITICAL
25 SUBDIVISION'S WATER, WASTEWATER, ELECTRICITY, OR GAS FACILITIES.

26 (3) (a) NOTHING IN THIS SECTION IS INTENDED TO PREEMPT OR
27 OTHERWISE REPLACE REQUIREMENTS FOR JOINT TRENCHING THAT MAY BE

1 IMPOSED BY A POLITICAL SUBDIVISION.

2 (b) NOTHING IN THIS SECTION REQUIRES A PRIVATE ENTITY
3 UNDERTAKING A TRENCHING PROJECT TO ALLOW A BROADBAND PROVIDER
4 TO PARTICIPATE IN THE TRENCHING PROJECT.

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

7 (d) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT
8 OR DELAY COMMENCEMENT OR PROGRESS OF A CONSTRUCTION,
9 MAINTENANCE, OR TRENCHING PROJECT.

10 (4) AS USED IN THIS SECTION, "TRENCHING" MEANS A
11 CONSTRUCTION PROJECT IN WHICH A HIGHWAY RIGHT-OF-WAY SURFACE
12 IS OPENED OR REMOVED FOR THE PURPOSE OF LAYING OR INSTALLING
13 CONDUIT, FIBER, OR SIMILAR INFRASTRUCTURE IN EXCESS OF ONE MILE IN
14 LENGTH. "TRENCHING" DOES NOT MEAN ANY OTHER ACTIVITY OR PROJECT
15 FOR THE CONSTRUCTION OR MAINTENANCE, INCLUDING DRAINAGE OR
16 CULVERT WORK, OF A HIGHWAY FACILITY.

17 **SECTION 7. In Colorado Revised Statutes, add 39-26-129 as**
18 **follows:**

19 **39-26-129. Refund of property used in rural broadband**
20 **service - legislative declaration - definitions. (1) THE GENERAL**
21 **ASSEMBLY DECLARES THAT THE INTENDED PURPOSE OF THE TAX REFUND**
22 **CREATED IN THIS SECTION IS TO ENCOURAGE BROADBAND PROVIDERS TO**
23 **DEPLOY BROADBAND INFRASTRUCTURE IN RURAL AREAS OF THE STATE.**

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

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

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

7 (c) "TARGET AREA" MEANS THE UNINCORPORATED PART OF A
8 COUNTY OR A MUNICIPALITY WITH A POPULATION OF LESS THAN FIFTY
9 THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE
10 POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS.

11 (3) EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, FOR
12 THE CALENDAR YEAR COMMENCING JANUARY 1, 2014, AND FOR EACH
13 CALENDAR YEAR THEREAFTER, A BROADBAND PROVIDER IS ALLOWED TO
14 CLAIM A REFUND OF ALL THE STATE SALES AND USE TAX THE PROVIDER
15 PAYS PURSUANT TO PARTS 1 AND 2 OF THIS ARTICLE FOR TANGIBLE
16 PERSONAL PROPERTY THAT IS INSTALLED IN A TARGET AREA FOR THE
17 PROVISION OF BROADBAND SERVICE.

18 (4) TO CLAIM THE REFUND ALLOWED BY SUBSECTION (3) OF THIS
19 SECTION, A TAXPAYER MUST SUBMIT A REFUND APPLICATION TO THE
20 DEPARTMENT OF REVENUE, ON A FORM PROVIDED BY THE DEPARTMENT,
21 NO EARLIER THAN JANUARY 1 AND NO LATER THAN APRIL 1 OF THE
22 CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE TAX IS
23 PAID. ALONG WITH THE APPLICATION, THE TAXPAYER MUST PROVIDE
24 PROOF OF THE STATE SALES AND USE TAXES PAID BY THE BROADBAND
25 PROVIDER IN THE IMMEDIATELY PRECEDING CALENDAR YEAR AND PROOF
26 THAT THE TANGIBLE PERSONAL PROPERTY WAS DEPLOYED IN A TARGET
27 AREA FOR THE PROVISION OF BROADBAND SERVICE. A TAXPAYER MUST

1 ALSO PROVIDE ANY ADDITIONAL INFORMATION WITH THE APPLICATION
2 THAT THE DEPARTMENT OF REVENUE REQUIRES BY RULE, WHICH MAY
3 INCLUDE, WITHOUT LIMITATION, A DETAILED LIST OF ALL EXPENDITURES
4 THAT SUPPORT A CLAIM FOR A REFUND, THE NAME AND ADDRESSES OF AN
5 INDIVIDUAL WHO MAINTAINS RECORDS OF SUCH EXPENDITURES, AND A
6 STATEMENT THAT THE TAXPAYER AGREES TO FURNISH RECORDS OF ALL
7 SUCH EXPENDITURES TO THE DEPARTMENT OF REVENUE UPON REQUEST.
8 THE DEPARTMENT SHALL NOT REFUND ANY MONEYS TO A TAXPAYER
9 UNLESS THE TAXPAYER HAS COMPLIED WITH THIS SUBSECTION (4).

10 (5) THE TOTAL AMOUNT OF THE REFUNDS MADE UNDER THIS
11 SECTION MAY NOT EXCEED ONE MILLION DOLLARS FOR A CALENDAR YEAR.
12 THE DEPARTMENT OF REVENUE SHALL NOT PAY A REFUND FOR A
13 CALENDAR YEAR UNTIL AFTER THE APPLICATION DEADLINE SET FORTH IN
14 SUBSECTION (4) OF THIS SECTION HAS PASSED. IF THE TOTAL AMOUNT OF
15 APPROVED REFUNDS EXCEEDS ONE MILLION DOLLARS, THE DEPARTMENT
16 SHALL PRORATE THE REFUNDS MADE TO ALL TAXPAYERS.

17 

18 **SECTION 8. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part will not take effect
25 unless approved by the people at the general election to be held in
26 November 2014 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.