

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
Appropriations

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"**
104 **AND MAKING AN APPROPRIATION.**

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

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

structure or a new wireless service facility other than a collocation within 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:

1 PART 4

2 PERMIT APPROVAL - PROCESS AND DEADLINE

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

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

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

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

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

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

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

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

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

1 (c) "WIRELESS SERVICE", WHICH MEANS DATA AND
2 TELECOMMUNICATIONS SERVICES, INCLUDING COMMERCIAL MOBILE
3 SERVICES, COMMERCIAL MOBILE DATA SERVICES, UNLICENSED WIRELESS
4 SERVICES, AND COMMON CARRIER WIRELESS EXCHANGE ACCESS SERVICES,
5 AS ALL OF THESE TERMS ARE DEFINED BY FEDERAL LAW AND
6 REGULATIONS.

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

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

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

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

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

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

1 TELECOMMUNICATIONS DEMARCATION BOX, GROUND-BASED ENCLOSURES,
2 BACK-UP POWER SYSTEMS, GROUNDING EQUIPMENT, POWER TRANSFER
3 SWITCH, AND CUT-OFF SWITCH.

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

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

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

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

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

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

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

27 (3) AN APPLICANT AND A LOCAL GOVERNMENT MAY MUTUALLY

1 AGREE THAT AN APPLICATION MAY BE PROCESSED IN A LONGER PERIOD
2 THAN SET FORTH IN SUBSECTION (1) OF THIS SECTION.

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

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

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

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

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

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

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

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

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

10 (1.3) "BROADBAND PROVIDER" MEANS A PERSON THAT PROVIDES
11 BROADBAND SERVICE, AND INCLUDES A "CABLE OPERATOR", AS DEFINED
12 IN 47 U.S.C. SEC. 522 (5) AS OF THE EFFECTIVE DATE OF THIS SUBSECTION
13 (1.3).

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

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

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

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

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

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

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

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

1 PROVIDER, or service because of the requirements of state or federal law
2 or because such other provider is exempt from taxation or lacks a taxable
3 nexus with the political subdivision imposing the tax or fee.

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

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

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

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

27 (4) The terms of all agreements between political subdivisions and

1 telecommunications providers OR BROADBAND PROVIDERS regarding use
2 of highways shall be matters of public record and shall be made available
3 upon request pursuant to article 72 of title 24, C.R.S.

4 (5) NOTHING IN THIS SECTION AFFECTS THE MANNER IN WHICH THE
5 PROPERTY TAX ADMINISTRATOR VALUES A PUBLIC UTILITY UNDER ARTICLE
6 4 OF TITLE 39, C.R.S.

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

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

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

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

26 (b) THE DEPARTMENT OF TRANSPORTATION SHALL MAINTAIN A
27 PUBLIC LIST OF ALL BROADBAND PROVIDERS THAT WOULD LIKE TO

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

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

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

27 (3) (a) NOTHING IN THIS SECTION IS INTENDED TO PREEMPT OR

1 OTHERWISE REPLACE REQUIREMENTS FOR JOINT TRENCHING THAT MAY BE
2 IMPOSED BY A POLITICAL SUBDIVISION.

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

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

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

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

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

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

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

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

1 BROADBAND SERVICE.

2 (b) "BROADBAND SERVICE" MEANS ANY COMMUNICATIONS
3 SERVICE HAVING THE CAPACITY TO TRANSMIT DATA TO ENABLE A
4 SUBSCRIBER TO THE SERVICE TO ORIGINATE AND RECEIVE HIGH-QUALITY
5 VOICE, DATA, GRAPHICS, AND VIDEO AT SPEEDS THAT ARE OF AT LEAST
6 FOUR MEGABITS PER SECOND FOR DOWNLOAD AND ONE MEGABIT PER
7 SECOND FOR UPLOAD OR THE FEDERAL COMMUNICATIONS COMMISSION'S
8 DEFINITION OF BROADBAND SERVICE, WHICHEVER IS FASTER.


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

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

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

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

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

19 
20 **SECTION 8. Appropriation.** (1) In addition to any other
21 appropriation, there is hereby appropriated, out of any moneys in the
22 general fund, not otherwise appropriated, to the department of revenue,
23 for the fiscal year beginning July 1, 2014, the sum of \$73,725 and 0.9
24 FTE, or so much thereof as may be necessary, to be allocated for the
25 implementation of this act as follows:

26 (a) \$38,012 and 0.9 FTE to the taxation business group, taxpayer
27 services division for personal services;

1 (b) \$5,843 to the taxation business group, taxpayer services
2 division for operating expenses and capital outlay; and

3 (c) \$29,870 to the taxation business group, administration, CITA
4 annual maintenance and support for gentax contractor costs.

5 **SECTION 9. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly (August
8 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within such period, then the act, item, section, or part will not take effect
12 unless approved by the people at the general election to be held in
13 November 2014 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.