

## CHAPTER 204

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**PUBLIC UTILITIES**

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## SENATE BILL 98-177

BY SENATORS Lacy, Rizzuto, Blickensderfer, Feeley, and Rupert;  
also REPRESENTATIVES Grampas, Owen, Romero, Dyer, George, Salaz, and Young.

**AN ACT**

CONCERNING THE ADMINISTRATION BY THE PUBLIC UTILITIES COMMISSION OF MECHANISMS FOR THE SUPPORT OF UNIVERSAL TELEPHONE SERVICE IN HIGH COST AREAS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

**SECTION 1.** 40-15-208, Colorado Revised Statutes, is amended to read:

**40-15-208. High cost support mechanism - Colorado high cost administration fund - creation - purpose - operation - repeal.** (1) ~~There is hereby created, in the state treasury, the Colorado high cost fund, referred to in this section as the "fund", which shall be distributed as determined by rules promulgated by the commission. Any fund created prior to April 16, 1992, for a similar purpose by the commission pursuant to rule is hereby validated.~~ ALL MONEYS REMAINING IN THE COLORADO HIGH COST FUND AS OF JULY 1, 1998, AND NOT PREVIOUSLY ENCUMBERED BY THE COMMISSION FOR PAYMENT TO PROVIDERS OF TELECOMMUNICATIONS SERVICE SHALL BE TRANSFERRED TO THE COLORADO HIGH COST ADMINISTRATION FUND, CREATED IN SUBSECTION (3) OF THIS SECTION.

(2) (a) THE COMMISSION IS HEREBY AUTHORIZED TO ESTABLISH A MECHANISM FOR THE SUPPORT OF UNIVERSAL SERVICE, ALSO REFERRED TO IN THIS SECTION AS THE "HIGH COST SUPPORT MECHANISM", WHICH SHALL OPERATE IN ACCORDANCE WITH RULES ADOPTED BY THE COMMISSION. ~~The purpose of the fund created in this section~~ HIGH COST SUPPORT MECHANISM is to provide financial assistance to local exchange ~~carriers~~ 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, after taking into account any amounts received by such providers under price support mechanisms

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

established by the federal government and by this state. The commission shall ensure that no local exchange provider is receiving funds from this or any other source that, together with local exchange service revenues, exceeds the cost of providing local exchange service to customers of such provider. THE HIGH COST SUPPORT MECHANISM SHALL BE SUPPORTED AND DISTRIBUTED EQUITABLY AND ON A NONDISCRIMINATORY, COMPETITIVELY NEUTRAL BASIS THROUGH A RATE ELEMENT ASSESSED ON ALL TELECOMMUNICATIONS SERVICE PROVIDERS IN COLORADO.

(b) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMISSION SHALL SUBMIT A WRITTEN REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH SECTION 24-1-136, C.R.S., ACCOUNTING FOR THE OPERATION OF THE HIGH-COST SUPPORT MECHANISM DURING THE PRECEDING CALENDAR YEAR AND CONTAINING THE FOLLOWING INFORMATION, AT A MINIMUM:

(I) THE TOTAL AMOUNT OF MONEY THAT THE COMMISSION DETERMINED SHOULD CONSTITUTE THE HIGH-COST SUPPORT MECHANISM FROM WHICH DISTRIBUTIONS WOULD BE MADE;

(II) THE TOTAL AMOUNT OF MONEY ORDERED TO BE CONTRIBUTED THROUGH A RATE ELEMENT ASSESSMENT COLLECTED BY EACH TELECOMMUNICATIONS SERVICE PROVIDER;

(III) THE BASIS ON WHICH THE CONTRIBUTION OF EACH TELECOMMUNICATIONS SERVICE PROVIDER WAS CALCULATED;

(IV) THE BENCHMARKS USED AND THE BASIS ON WHICH THE BENCHMARKS WERE DETERMINED;

(V) THE TOTAL AMOUNT OF MONEY THAT THE COMMISSION DETERMINED SHOULD BE DISTRIBUTED FROM THE HIGH-COST SUPPORT MECHANISM;

(VI) THE TOTAL AMOUNT OF MONEY DISTRIBUTED TO EACH TELECOMMUNICATIONS SERVICE PROVIDER FROM THE HIGH-COST SUPPORT MECHANISM;

(VII) THE BASIS ON WHICH THE DISTRIBUTION TO TELECOMMUNICATIONS SERVICE PROVIDERS WAS CALCULATED;

(VIII) AS TO EACH TELECOMMUNICATIONS SERVICE PROVIDER RECEIVING A DISTRIBUTION, THE AMOUNT RECEIVED BY GEOGRAPHIC SUPPORT AREA AND TYPE OF CUSTOMER, THE WAY IN WHICH THE BENEFIT OF THE DISTRIBUTION WAS APPLIED OR ACCOUNTED FOR;

(IX) THE PROPOSED BENCHMARKS, THE PROPOSED CONTRIBUTIONS TO BE COLLECTED THROUGH A RATE ELEMENT ASSESSMENT BY EACH TELECOMMUNICATIONS PROVIDER, AND THE PROPOSED TOTAL AMOUNT OF THE HIGH-COST SUPPORT MECHANISM FROM WHICH DISTRIBUTIONS ARE TO BE MADE FOR THE FOLLOWING CALENDAR YEAR; AND

(X) THE TOTAL AMOUNT OF DISTRIBUTIONS MADE FROM THE HIGH COST FUND, DIRECTLY OR INDIRECTLY, AND HOW THEY ARE BALANCED BY RATE REDUCTIONS BY ALL PROVIDERS FOR THE SAME PERIOD AND A FULL ACCOUNTING OF AND

JUSTIFICATION FOR ANY DIFFERENCE.

(c) IF THE REPORT SUBMITTED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) CONTAINS A PROPOSAL FOR AN INCREASE IN ANY OF THE AMOUNTS LISTED IN SUBPARAGRAPH (IX) OF SAID PARAGRAPH (b), SUCH INCREASE SHALL BE SUSPENDED UNTIL MARCH 31 OF THE FOLLOWING YEAR.

(d) (I) THE HIGH-COST SUPPORT MECHANISM FROM WHICH DISTRIBUTIONS ARE TO BE MADE SHALL NOT EXCEED SIXTY MILLION DOLLARS DURING EACH OF THE CALENDAR YEARS 1998 AND 1999; EXCEPT THAT, IF ADDITIONAL SERVICES OR CAPABILITIES ARE INCLUDED IN THE DEFINITION OF BASIC SERVICE PURSUANT TO THE COMMISSION'S REVIEW AS PROVIDED IN SECTION 40-15-502 (2), CONTRIBUTIONS TO AND DISTRIBUTIONS FROM THE HIGH-COST SUPPORT MECHANISM MAY INCREASE AS MAY BE REASONABLY NECESSARY, AFTER ANY CHANGES IN BASIC LOCAL EXCHANGE SERVICE OR OTHER RATES ARE MADE, TO COVER THE COST AND ACCOUNT FOR THE INCLUSION OF SUCH ADDITIONAL SERVICES AND CAPABILITIES IN THE HIGH-COST SUPPORT MECHANISM. THE REVIEW PROVIDED FOR IN SECTION 40-15-502 (2) AND ANY RELATED CHANGE IN COSTS TO BE RECOVERED THROUGH RATES OF THE HIGH-COST SUPPORT MECHANISM SHALL BE SUBJECT TO NOTICE AND HEARING PURSUANT TO COMMISSION RULES. IN ADDITION, IF THE COMMISSION MAKES ANY CHANGE IN THE DEFINITION OF BASIC LOCAL EXCHANGE SERVICE WHICH, EITHER ALONE OR IN COMBINATION WITH A RECOMMENDED CHANGE IN THE CONTRIBUTIONS TO OR DISTRIBUTIONS FROM THE HIGH-COST SUPPORT MECHANISM, WILL RESULT IN AN INCREASE IN RATES FOR RESIDENTIAL BASIC LOCAL EXCHANGE SERVICE, THE COMMISSION SHALL REPORT SUCH FACT IN WRITING TO THE HOUSE AND SENATE BUSINESS AFFAIRS AND LABOR COMMITTEES TOGETHER WITH A STATEMENT OF THE COMMISSION'S FINDINGS SUPPORTING SUCH CHANGE AND A JUSTIFICATION FOR SUCH RATE INCREASE.

(II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE DECEMBER 31, 1999.

(3) THERE IS HEREBY CREATED, IN THE STATE TREASURY, THE COLORADO HIGH COST ADMINISTRATION FUND, REFERRED TO IN THIS SECTION AS THE "FUND", WHICH SHALL BE USED TO REIMBURSE THE COMMISSION AND ITS CONTRACTORS FOR REASONABLE EXPENSES INCURRED IN THE ADMINISTRATION OF THE HIGH COST SUPPORT MECHANISM AS DETERMINED BY RULES OF THE COMMISSION. The moneys in the fund that are to be used for THE DIRECT AND INDIRECT administrative costs incurred by the ~~fund~~ COMMISSION AND ITS CONTRACTORS shall be appropriated annually by the general assembly. ~~and the moneys in the fund that are to be used for the payment of benefits are hereby continuously appropriated to the commission for the purposes of this section.~~ At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. BASED UPON THE BALANCE REMAINING IN THE FUND AND THE AMOUNT APPROPRIATED ANNUALLY BY THE GENERAL ASSEMBLY FOR USE BY THE COMMISSION, each year the commission shall determine ~~the costs incurred in administering the fund and shall determine, together with any surplus revenues from any prior year, the charge to subscribers~~ THE NONDISCRIMINATORY, COMPETITIVELY NEUTRAL ASSESSMENT ON ALL TELECOMMUNICATIONS SERVICE PROVIDERS IN COLORADO that will be necessary to cover the cost of implementing ~~this section~~ THE HIGH COST SUPPORT MECHANISM. ONLY the moneys from such ~~charge~~ ASSESSMENT shall be transmitted to the state

treasurer, who shall credit the same to the Colorado high cost fund. ~~The commission shall be reimbursed from the fund for reasonable expenses incurred in its administration.~~ All interest derived from the deposit and investment of this fund shall remain in the fund and shall not revert to the general fund.

**SECTION 2.** 40-15-502 (5) (a), Colorado Revised Statutes, is amended to read:

**40-15-502. Expressions of state policy. (5) Universal service support mechanisms.** (a) In order to accomplish the goals of universal basic service, universal access to advanced service, and any revision of the definition of basic service under subsection (2) of this section, the commission shall create a system of support mechanisms to assist in the provision of such services in high-cost areas. These support mechanisms shall be funded equitably and on a nondiscriminatory, competitively neutral basis through assessments, WHICH MAY INCLUDE A RATE ELEMENT, on all telecommunications service providers in Colorado and shall be distributed equitably and on a nondiscriminatory, competitively neutral basis. For purposes of administering such support mechanisms, the commission shall divide the state into reasonably compact, competitively neutral geographic support areas. A provider's eligibility to receive support under the support mechanisms shall be conditioned upon the provider's offering basic service throughout an entire support area. The commission shall review the costs of basic service and shall administer such support mechanisms.

**SECTION 3. Appropriation - adjustment in 1998 long bill.** (1) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 1998, shall be adjusted as follows:

(a) The appropriation made to the department of regulatory agencies, public utilities commission, high cost fund payments, is decreased by seventeen million seven hundred forty-six thousand one hundred seventy dollars (\$17,746,170). Said sum shall be cash funds from the high cost fund.

(b) The appropriation made to the department of regulatory agencies, public utilities commission, high cost administration, is increased by eleven thousand five hundred forty-one dollars (\$11,541) and 0.2 FTE. Said sum shall be cash funds exempt from reserves in the high cost administration fund.

(2) As the result of the passage of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 1998, shall be adjusted as follows:

(a) The high cost fund payments budget line shall be called the high cost administration budget line.

(b) The \$158,663 cash funds and 1.6 FTE associated with the high cost fund payment line shall be cash funds exempt from reserves in the high cost administration fund.

**SECTION 4. Effective date.** This act shall take effect July 1, 1998.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 18, 1998