

CHAPTER 149

TAXATION

HOUSE BILL 14-1327

BY REPRESENTATIVE(S) Williams and Murray, Buckner, Coram, Hullinghorst, Labuda, Lee, McLachlan, Melton, Pabon, Pettersen, Rosenthal, Schafer, Stephens, Young, Fields, Ryden, Tyler;
also SENATOR(S) Scheffel and Tochtrop, Crowder, Guzman, Heath, Hodge, Kefalas, Kerr, Rivera, Zenzinger, Carroll.

AN ACT

CONCERNING MEASURES TO EXPAND THE DEPLOYMENT OF COMMUNICATION NETWORKS, AND, IN CONNECTION THEREWITH, ENACTING THE "BROADBAND DEPLOYMENT ACT" AND MAKING AN APPROPRIATION.

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

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

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

**PART 4
PERMIT APPROVAL - PROCESS AND DEADLINE**

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

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

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

(c) THE PERMITTING, CONSTRUCTION, MODIFICATION, MAINTENANCE, AND OPERATION OF THESE FACILITIES, TO THE EXTENT SPECIFICALLY ADDRESSED IN THIS

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

PART 4, ARE DECLARED TO BE MATTERS OF STATEWIDE CONCERN AND INTEREST.

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

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

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

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

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

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

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

(4) "SMALL CELL FACILITY" MEANS EITHER:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. In Colorado Revised Statutes, 38-5.5-102, **amend** (1); and **add** (1.2), (1.3), and (1.7) as follows:

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

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

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

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

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

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

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

SECTION 5. In Colorado Revised Statutes, 38-5.5-107, **amend** (1) (b), (2), (3), and (4); and **add** (5), (6), and (7) as follows:

38-5.5-107. Permissible taxes, fees, and charges. (1) (b) All fees and charges levied by a political subdivision shall be reasonably related to the costs directly incurred by the political subdivision in providing services relating to the granting or administration of permits. Such fees and charges also shall be reasonably related

in time to the occurrence of such costs. In any controversy concerning the appropriateness of a fee or charge, the political subdivision shall have the burden of proving that the fee or charge is reasonably related to the direct costs incurred by the political subdivision. All costs of construction shall be borne by the TELECOMMUNICATIONS provider OR BROADBAND PROVIDER.

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

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

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

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

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

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

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

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

(6) NOTHING IN THIS ARTICLE AFFECTS THE ABILITY OF A POLITICAL SUBDIVISION

TO REQUIRE AND GRANT A CABLE FRANCHISE TO A CABLE OPERATOR SEEKING TO PROVIDE CABLE TELEVISION SERVICE WITHIN THE POLITICAL SUBDIVISION AND TO OBTAIN ANY CONSIDERATION OR IMPOSE ANY CONDITIONS IN A CABLE FRANCHISE, UNLESS OTHERWISE PROHIBITED BY FEDERAL LAW.

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

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

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

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

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

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

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

(b) NOTHING IN THIS SECTION REQUIRES A PRIVATE ENTITY UNDERTAKING A

TRENCHING PROJECT TO ALLOW A BROADBAND PROVIDER TO PARTICIPATE IN THE TRENCHING PROJECT.

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

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

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

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

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

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

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

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

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

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

(4) TO CLAIM THE REFUND ALLOWED BY SUBSECTION (3) OF THIS SECTION, A TAXPAYER MUST SUBMIT A REFUND APPLICATION TO THE DEPARTMENT OF REVENUE,

ON A FORM PROVIDED BY THE DEPARTMENT, NO EARLIER THAN JANUARY 1 AND NO LATER THAN APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE TAX IS PAID. ALONG WITH THE APPLICATION, THE TAXPAYER MUST PROVIDE PROOF OF THE STATE SALES AND USE TAXES PAID BY THE BROADBAND PROVIDER IN THE IMMEDIATELY PRECEDING CALENDAR YEAR AND PROOF THAT THE TANGIBLE PERSONAL PROPERTY WAS DEPLOYED IN A TARGET AREA FOR THE PROVISION OF BROADBAND SERVICE. A TAXPAYER MUST ALSO PROVIDE ANY ADDITIONAL INFORMATION WITH THE APPLICATION THAT THE DEPARTMENT OF REVENUE REQUIRES BY RULE, WHICH MAY INCLUDE, WITHOUT LIMITATION, A DETAILED LIST OF ALL EXPENDITURES THAT SUPPORT A CLAIM FOR A REFUND, THE NAME AND ADDRESSES OF AN INDIVIDUAL WHO MAINTAINS RECORDS OF SUCH EXPENDITURES, AND A STATEMENT THAT THE TAXPAYER AGREES TO FURNISH RECORDS OF ALL SUCH EXPENDITURES TO THE DEPARTMENT OF REVENUE UPON REQUEST. THE DEPARTMENT SHALL NOT REFUND ANY MONEYS TO A TAXPAYER UNLESS THE TAXPAYER HAS COMPLIED WITH THIS SUBSECTION (4).

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

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

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

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

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

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

Approved: May 9, 2014