

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0013.01 Jennifer Berman x3286

SENATE BILL 17-081

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SENATE SPONSORSHIP

Donovan, Crowder, Fenberg, Garcia, Guzman, Kefalas, Kerr, Merrifield

HOUSE SPONSORSHIP

Arndt and Becker K.,

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Senate Committees

Business, Labor, & Technology

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE USE OF HIGH COST SUPPORT MECHANISM FUNDS FOR  
102 RURAL BROADBAND DEPLOYMENT.

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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://leg.colorado.gov/>.)*

**Section 1** of the bill updates the definition of a broadband network for purposes of telecommunications regulation and deregulation.

**Section 2** updates how the public utilities commission (commission) makes an effective competition determination for high cost support mechanism (HCSM) funding, which is financial assistance provided to telecommunications companies that provide basic telephone

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.*

service or broadband service in areas that lack effective competition.

**Section 3** establishes that HCSM funding cannot be used to support more than one wireline and one wireless line per individual household or individual business.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-15-102, **amend**  
3 the introductory portion and (3.7) introductory portion as follows:

4 **40-15-102. Definitions.** As used in this ~~article~~ ARTICLE 15, unless  
5 the context otherwise requires:

6 (3.7) "Broadband network" means the plant, equipment,  
7 components, facilities, hardware, and software used to provide broadband  
8 internet service at measurable speeds of at least ~~four~~ TEN megabits per  
9 second downstream and one megabit per second upstream or at  
10 measurable speeds at least equal to the federal communications  
11 commission's definition of high-speed internet access or broadband,  
12 whichever is faster, with:

13 **SECTION 2.** In Colorado Revised Statutes, **amend** 40-15-207 as  
14 follows:

15 **40-15-207. Reclassification of services and products.**

16 (1) ~~(a)~~ Notwithstanding any other provision of this ~~title~~ TITLE 40, upon  
17 its own motion or upon application by any person, the commission shall  
18 regulate, pursuant to part 3 of this ~~article~~ ARTICLE 15, specific  
19 telecommunications services regulated under this part 2 upon a finding  
20 that there is effective competition in the relevant market for ~~such~~ THE  
21 service and that ~~such~~ THE regulation under part 3 of this ~~article~~ ARTICLE  
22 15 will promote the public interest and the provision of adequate and  
23 reliable service at just and reasonable rates.

1           ~~(b)~~ (2) In determining whether MONEY FROM THE HIGH COST  
2 SUPPORT MECHANISM, ESTABLISHED UNDER SECTION 40-15-208, MAY BE  
3 USED TO SUPPORT EACH HOUSEHOLD OR BUSINESS IN THE RELEVANT  
4 MARKET, THE COMMISSION, ON OR BEFORE JANUARY 1, 2018, SHALL  
5 DETERMINE, AFTER PROVIDING NOTICE AND AN OPPORTUNITY TO BE  
6 HEARD, WHETHER effective competition for a specific telecommunications  
7 service exists ~~the commission shall make findings, after notice and~~  
8 ~~opportunity for hearing, and shall issue an order~~ FOR EACH HOUSEHOLD  
9 OR BUSINESS IN THE RELEVANT MARKET based upon ~~consideration of the~~  
10 ~~following factors~~ A DETERMINATION THAT EFFECTIVE COMPETITION FOR  
11 AN INDIVIDUAL HOUSEHOLD OR BUSINESS EXISTS:

12           ~~(I)~~ (a) ~~The extent of economic, technological, or other barriers to~~  
13 ~~market entry and exit~~ FOR WIRELINE SERVICE, IF THE INDIVIDUAL  
14 HOUSEHOLD OR BUSINESS HAS ACCESS TO SERVICE FROM TWO OR MORE  
15 FACILITIES-BASED WIRELINE PROVIDERS; AND

16           ~~(H)~~ (b) ~~The number of other providers offering similar services in~~  
17 ~~the relevant geographic area;~~ FOR WIRELESS SERVICE, IF THE INDIVIDUAL  
18 HOUSEHOLD OR BUSINESS HAS ACCESS TO SERVICE FROM TWO OR MORE  
19 FACILITIES-BASED WIRELESS PROVIDERS.

20           ~~(II)~~ ~~The ability of consumers in the relevant geographic area to~~  
21 ~~obtain the service from other providers at reasonable and comparable~~  
22 ~~rates, on comparable terms, and under comparable conditions;~~

23           ~~(IV)~~ ~~The ability of any provider of such telecommunications~~  
24 ~~service to affect prices or deter competition; and~~

25           ~~(V)~~ ~~Such other factors as the commission deems appropriate.~~

26           (c) ~~In determining geographic areas under paragraph (b) of this~~  
27 ~~subsection (1), the commission shall not be unduly restrictive.~~

1 (3) FOR PURPOSES OF THIS SECTION, AN INDIVIDUAL HOUSEHOLD  
2 OR BUSINESS HAS ACCESS TO:

3 (a) A WIRELINE PROVIDER IF THE WIRELINE PROVIDER OFFERS  
4 FACILITIES-BASED VOICE SERVICE TO THE HOUSEHOLD OR BUSINESS; AND

5 (b) A WIRELESS PROVIDER IF THE WIRELESS PROVIDER OFFERS  
6 FACILITIES-BASED WIRELESS SERVICE TO THE HOUSEHOLD OR BUSINESS  
7 WITH REASONABLY GOOD COVERAGE, AS DETERMINED BY THE  
8 COMMISSION, BASED ON THE ENVIRONMENTAL SYSTEMS RESEARCH  
9 INSTITUTE'S SHAPEFILES, AT THE NINETY-EIGHT DECIBEL-MILLIWATTS  
10 PROPAGATION LEVEL THAT IS GENERALLY SUFFICIENT TO CARRY AN  
11 INDOOR WIRELESS SIGNAL FOR EACH CARRIER.

12 **SECTION 3.** In Colorado Revised Statutes, 40-15-502, **amend**  
13 (5)(a); and **add** (5)(a.5) as follows:

14 **40-15-502. Expressions of state policy. (5) Universal service**  
15 **support mechanisms.** (a) In order to accomplish the goals of universal  
16 basic service, universal access to advanced service under section  
17 40-15-509.5, and any revision of the definition of basic service under  
18 subsection (2) of this section, the commission shall create a system of  
19 support mechanisms to assist in the provision of basic service in high-cost  
20 areas that are without effective competition for basic service, applying the  
21 factors stated in section 40-15-207; except that support provided ~~in a~~  
22 ~~particular geographic support area~~ FOR ANY INDIVIDUAL HOUSEHOLD OR  
23 BUSINESS is not affected until the commission makes a ~~finding applying~~  
24 ~~the factors listed in~~ DETERMINATION OF EFFECTIVE COMPETITION UNDER  
25 section 40-15-207 (2). The commission shall fund these support  
26 mechanisms equitably and on a nondiscriminatory, competitively neutral  
27 basis through assessments, which may include a rate element, on all

1 telecommunications service providers in Colorado, and the commission  
2 shall distribute the funds equitably and on a nondiscriminatory,  
3 competitively neutral basis. ~~For purposes of administering the support~~  
4 ~~mechanisms, the commission shall divide the state into reasonably~~  
5 ~~compact, competitively neutral geographic support areas.~~ A provider's  
6 eligibility to receive support under the support mechanisms is conditioned  
7 upon the provider's offering basic service throughout an entire support  
8 area. The commission shall review the costs of basic service and shall  
9 administer the support mechanisms.

10 (a.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE  
11 15, THE HIGH COST SUPPORT MECHANISM OR ANY OTHER MECHANISM  
12 CREATED BY THE COMMISSION SHALL NOT BE USED TO SUPPORT MORE  
13 THAN ONE WIRELINE AND ONE WIRELESS LINE AT ANY INDIVIDUAL  
14 HOUSEHOLD OR INDIVIDUAL BUSINESS.

15 **SECTION 4. Act subject to petition - effective date -**  
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
17 the expiration of the ninety-day period after final adjournment of the  
18 general assembly (August 9, 2017, if adjournment sine die is on May 10,  
19 2017); except that, if a referendum petition is filed pursuant to section 1  
20 (3) of article V of the state constitution against this act or an item, section,  
21 or part of this act within such period, then the act, item, section, or part  
22 will not take effect unless approved by the people at the general election  
23 to be held in November 2018 and, in such case, will take effect on the  
24 date of the official declaration of the vote thereon by the governor.

25 (2) This act applies to reviews of effective competition by the  
26 public utilities commission commenced on or after the applicable  
27 effective date of this act.