

CHAPTER 209

PUBLIC UTILITIES

SENATE BILL 09-272

BY SENATOR(S) White, Keller, Tapia;
also REPRESENTATIVE(S) Marostica, Ferrandino, Pommer.

AN ACT

CONCERNING THE COLORADO HIGH COST SUPPORT MECHANISM, AND, IN CONNECTION THEREWITH, TRANSFERRING TO THE STATE TREASURER MONEYS ADMINISTERED UNDER THE DIRECTION OF THE PUBLIC UTILITIES COMMISSION FOR THE SUPPORT OF UNIVERSAL BASIC TELEPHONE SERVICE IN HIGH COST AREAS OF THE STATE.

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

SECTION 1. 40-15-208 (2) (a), (2) (b) (II), (2) (b) (IX), (2) (b) (X), and (3), Colorado Revised Statutes, are amended to read:

40-15-208. High cost support mechanism - Colorado high cost administration fund - creation - purpose - operation - rules - repeal.
(2) (a) (I) 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 primary purpose of the high cost support mechanism is to provide financial assistance AS A SUPPORT MECHANISM to local exchange 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 established by the federal government and by this state. The high cost support mechanism may also be used, to the extent necessary, to supplement any gifts, grants, and donations received pursuant to section 24-37.5-106 (3) (f), C.R.S., in assisting the office of information technology in preparing the statewide inventory of available broadband services as provided in section 24-37.5-106 (3), C.R.S.

(II) The commission shall ensure that no local exchange provider is receiving

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

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~~ NEUTRAL ASSESSMENT 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 committees of reference in the senate and house of representatives that are assigned to hear telecommunications issues, 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:

(II) The total amount of money ordered to be contributed through a ~~rate element~~ NEUTRAL assessment collected by each telecommunications service provider;

(IX) The proposed benchmarks, the proposed contributions to be collected through a ~~rate element~~ NEUTRAL assessment ~~by~~ ON 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~~ SUPPORT MECHANISM, 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.

(3) (a) 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 commission and its contractors shall be appropriated annually by the general assembly. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain ~~therein~~ IN THE FUND and shall not be credited or transferred to the general fund or any other fund. Based upon the HIGH COST SUPPORT MECHANISM, 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 nondiscriminatory, competitively neutral assessment on all telecommunications service providers in Colorado that will be necessary to cover the cost of implementing AND ADMINISTERING the high cost support mechanism. Only the moneys from such assessment FOR ADMINISTERING THE HIGH COST SUPPORT MECHANISM shall be transmitted to the state treasurer, who shall credit the same to the fund. All interest derived from the deposit and investment of ~~this~~ THE fund shall remain in the fund and shall not revert to the general fund.

(b) (I) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (I), THE COMMISSION SHALL TRANSMIT, OR CAUSE TO BE TRANSMITTED, ALL MONEYS FROM THE HIGH COST SUPPORT MECHANISM, NOT TO EXCEED FIFTEEN MILLION DOLLARS,

INTO THE FUND.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2010.

SECTION 2. 24-75-402 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-75-402. Cash funds - limit on uncommitted reserves - reduction in amount of fees - exclusions. (5) Notwithstanding any provision of this section to the contrary, the following cash funds are excluded from the limitations specified in this section:

(x) THE COLORADO HIGH COST ADMINISTRATION FUND CREATED IN SECTION 40-15-208 (3), C.R.S.

SECTION 3. Effective date. This act shall take effect upon passage; except that Section 1 of this act shall not take effect unless Senate Bill 09-279 is enacted and becomes law.

SECTION 4. 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 1, 2009