

conduct a study of the effects of this article. Following each such study, the office of regulatory reform shall include the findings in its annual report required pursuant to section 24-34-904 (1) (j), C.R.S.

Source: Added, L. 85, p. 1307, § 1.

ARTICLE 17

Colorado Disabled Telephone Users Fund

40-17-101.	Legislative declaration.	40-17-104.	Commission - creation - powers and duties.
40-17-102.	Definitions.	40-17-105.	Division - powers and duties.
40-17-103.	Colorado disabled telephone users fund - creation - purpose - operation.	40-17-106.	Repeal of article.

40-17-101. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that many of Colorado's residents are unable to utilize telecommunications facilities without assistance and are therefore disabled telephone users. Disabled telephone users include but are not limited to the hearing-impaired, the speech-impaired, the deaf-blind, and those with central nervous system disabilities. Disabled telephone users constitute a substantial and valuable resource within the United States and the state of Colorado, and this segment of our population needs access to telecommunications facilities in order to be contributing and productive members of our society. The role of telecommunications in our world today is inestimable. Telecommunications is the primary vehicle of commerce and industry, the means to convey and receive information and knowledge, and the way we connect with others on a personal as well as business level. Telecommunications results in greater independence and self-sufficiency by expanding the channels for employment opportunities, the market for goods and services, human contact, and fellowship. Disabled telephone users should have equal access to this critical tool, not only for their own sake, but for the benefit of society at large. The ability to use telecommunications will enhance the business and personal lives of disabled telephone users, while stimulating and promoting economic development in Colorado. The general assembly recognizes the vitality and potential of Colorado's disabled, including disabled telephone users. Telecommunications is vital to our society, and its availability to disabled telephone users is an investment of benefit to all of Colorado.

(2) The general assembly therefore concludes that it is appropriate to provide access to telecommunications for disabled telephone users by creating a Colorado disabled telephone users fund to establish and maintain a state-wide dual party relay service and to study how to best provide specialized telecommunications equipment for the telephone-disabled.

Source: Added, L. 89, p. 1545, § 1.

40-17-102. Definitions. As used in this article, unless the context otherwise requires:

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(1) "Commission" means the Colorado commission for disabled telephone users created in section 40-17-104.

(2) "Division" means the division of telecommunications in the department of administration, which is responsible for providing relay services for disabled telephone users.

(3) "Dual party relay system" means a service that permits full and simultaneous communication between those using telecommunications devices for the deaf (TDD) and those using conventional telephone equipment.

(4) "Fund" means the Colorado disabled telephone users fund created in section 40-17-103.

(5) "Local exchange company" means a telecommunications company that provides telephone access lines to members of the general public who are its customers.

(6) "Specialized telecommunications equipment" means any telecommunications device which enables or assists disabled telephone users to communicate with others through utilization of the conventional telephone network. Such devices include, but are not limited to: Telecommunications devices for the deaf (TDD), amplifiers, signaling devices, puff blow devices, electronic artificial larynx devices, and telebraille.

(7) "Telephone access line" means the access to the local exchange network, as defined in tariffs approved by the public utilities commission, from the premises of an end user customer of a local exchange company to the telecommunications network to effect the transfer of information.

Source: Added, L. 89, p. 1546, § 1.

40-17-103. Colorado disabled telephone users fund - creation - purpose - operation. (1) There is hereby created a fund to be known as the Colorado disabled telephone users fund, referred to in this article as the "fund", which shall be administered by the commission, except as provided under section 40-17-105 (4), and which shall consist of moneys that may be available to it for the purpose of establishing and maintaining a statewide dual party relay system and to study how to best provide specialized telecommunications equipment to disabled telephone users. Additionally, the fund shall be used to reimburse the commission for any expenditures incurred by the division in the performance of its duties under this article.

(2) The commission each year shall determine the charge that, together with any surplus revenues carried forward from the previous year, is necessary to cover the direct and indirect costs of implementing the provisions of this article. The commission, in determining the appropriate charge, shall consider the recommendation from the division pursuant to section 40-17-105 (2) concerning an appropriate charge for providing relay services. The charge for the first year of operation of the fund shall be ten cents per month and shall be deemed approved by the commission. Thereafter, the commission shall determine the charge each year no later than September 1, with such charge to take effect beginning the first billing period of each customer on or following the next January 1. Such charge shall not exceed ten cents per month upon each telephone access line provided by each local exchange company, and no such charge shall be imposed upon more than

one hundred access lines or their equivalent per customer. The commission shall promptly publish this new charge, including the charge for the first year of operation of the fund, and shall notify each local exchange company by certified mail at least ninety days before such new charge is to become effective. The duty to collect the initial charge imposed under this article shall begin after July 1, 1989, as specified by the division.

(3) Each customer of a local exchange company shall be liable for any charge imposed under this article until it has been paid to the local exchange company. The local exchange company shall not be liable for such uncollected charge, nor shall it have any obligation to take any legal action to enforce the collection of any such charge. The commission may bring such action on its own behalf.

(4) Except as provided in subsection (5) of this section, all charges billed by a local exchange company for any calendar month less the difference, if any, between the previous month's billed charges and the charges actually collected for that month shall be transmitted to the state treasurer no later than thirty days after the last day of the month in which they were billed, along with a written return on a form agreed upon by the state treasurer and the company. The company shall maintain a record of the charges billed and collected pursuant to this article for a period of one year from the date of billing or collection, respectively. The commission may require an annual audit of the local exchange company's records concerning the charges authorized by this article. Such audit will be conducted at the expense of the commission.

(5) The local exchange company may deduct and retain up to three-quarters of one percent of the total amount collected each month for its administrative expenses.

(6) (a) The local exchange company shall transmit collected charges as provided under subsections (4) and (5) of this section to the state treasurer, who shall credit the same to the fund. The moneys in the fund shall be subject to annual appropriation by the general assembly to the department of social services for allocation to the commission and the division for the disbursement of funds consistent with the annual budget prepared by the commission pursuant to section 40-17-104 (5) in order to carry out the purposes of this article. 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. Any interest earned on the investment or deposit of money in the fund shall also remain in the fund and shall not be credited to the general fund of the state.

(b) Contributions of money, property, or services may be received from any state agency, county, municipality, federal agency, association, corporation, or person for use in carrying out the purposes of this article.

Source: Added, L. 89, p. 1546, § 1.

40-17-104. Commission - creation - powers and duties. (1) There is hereby created the Colorado commission for disabled telephone users. The commission shall exercise its powers and perform its function specified in this article under the department of social services as if the same were transferred to the department by a type 1 transfer as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

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(2) The commission shall consist of five members who shall be appointed by the governor and shall serve for three-year terms. The members shall be selected as follows: Two members from among disabled telephone users, one of whom is a member from the hearing-impaired community and one from among those who are otherwise unable to use the conventional telephone network; one member from the business community other than a business engaged in the telecommunications industry; one member from the largest local exchange company in Colorado; and one member from the Colorado public utilities commission. One member shall be appointed and shall serve as chairman of the commission at the pleasure of the governor.

(3) Any member of the commission may be removed by the appointing authority for malfeasance in office, for failure to regularly attend meetings, or for any cause that renders said member incapable of or unfit to discharge the duties of the office.

(4) The commission may adopt and from time to time amend or repeal rules and regulations the commission considers necessary to carry out the provisions of this article.

(5) (a) The commission shall oversee the operation of the disabled telephone users fund by each year analyzing and preparing a budget, which incorporates relevant budgeting information obtained from the division, pursuant to section 40-17-105 (2) for the administration of the fund, after determining an appropriate charge pursuant to section 40-17-103 (2), proper public notice and hearing, and performing such other duties as authorized in this article.

(b) The commission shall conduct a study to be completed by January 1, 1990, to determine what specialized telecommunications equipment is necessary and economically feasible for users and how such equipment can best be provided for users. The commission, in conducting the study, may contract with any person, agency, organization, or corporation considered by the commission to be necessary to accomplish the purpose of this section. The study shall be presented to the general assembly during the 1990 regular legislative session.

(6) The committee shall prepare and submit an annual report to the general assembly concerning the operation and effectiveness of the fund.

(7) Commission members shall receive no compensation for their services on the commission; except that consumer members who do not serve as commission members in the course of their regular paid employment shall be paid for time actually spent in the performance of duties under this article at the same rate of per diem compensation or percentage thereof as is provided by section 2-2-307 (9), C.R.S., for members of interim legislative committees.

(8) Any person, agency, organization, or corporation with whom the commission contracts for services shall be compensated for such services in accordance with applicable state laws.

Source: Added, L. 89, p. 1548, § 1.

40-17-105. Division - powers and duties. (1) The division shall implement a dual party relay service within one year after January 1, 1990. The

division may contract for such services with a provider selected by the division but shall require that such provider relay all messages promptly and accurately, maintain the privacy of persons using the service, and preserve the confidentiality of all telephone communications, except in such instances as would constitute the furtherance of a violation of the law.

(2) Subject to appropriations by the general assembly as provided in section 40-17-103 (6) (a) and subject to the oversight of the commission as provided in section 40-17-104, the division shall administer the disabled telephone users fund in connection with the dual party relay system, for the purposes specified in this article, and shall annually prepare a budget that includes a recommendation concerning an appropriate charge for relay services, and shall submit such budget to the commission by August 1 of each year. The cost of any long-distance service or other usage not included as basic local exchange service shall be borne by the customer.

(3) The division shall promulgate rules and regulations to implement the dual relay system in accordance with this article.

(4) The division shall continue to maintain and upgrade existing dual party relay services during the transition to a statewide system, as funds become available pursuant to section 40-17-103.

Source: Added, L. 89, p. 1549, § 1.

40-17-106. Repeal of article. Unless continued by the general assembly, this article is repealed, effective July 1, 1992, and those powers, duties, and functions of the division specified in this article are abolished.

Source: Added, L. 89, p. 1549, § 1.

RAILROADS

ARTICLE 27

Killing Stock - Fencing

40-27-101. Owner driving stock on track. If the owner of any stock drives any stock on the line of the track of any railway company or corporation, with intent to injure such company or corporation, and if said stock is killed or injured, the owner shall not receive any damages from the railroad company or corporation therefor, and shall be liable to such company or corporation for all damage such company or corporation may suffer in consequence of said act, and commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S.; but nothing in this section shall be construed to prevent any person from allowing his stock to pasture on the lands adjacent to the line of such railroads or to drive his stock over or across any such track at suitable times and places.

Source: Amended, L. 89, p. 853, § 147.

Editor's note: Section 157 of chapter 148, Session Laws of Colorado 1989, provides that the