

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0177.01 Ed DeCecco x4216

HOUSE BILL 13-1059

HOUSE SPONSORSHIP

Gerou,

SENATE SPONSORSHIP

(None),

House Committees

Business, Labor, Economic, & Workforce Development

Finance

Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A SALES AND USE TAX EXEMPTION FOR EQUIPMENT USED**
102 **BY A TELECOMMUNICATIONS PROVIDER IN THE PROVISION OF**
103 **TELECOMMUNICATIONS SERVICES.**

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://www.leg.state.co.us/billsummaries>.)

The bill creates a sales and use tax exemption for a telecommunications provider's equipment that is used directly in the provision of telephone service, cable television service, broadband communications service, or mobile telecommunications service.

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.

Statutory towns, cities, and counties are currently authorized to create a similar sales and use tax exemption. The bill does not change this authority, but the law is reorganized to be consistent with other instances where a local government has authority to enact an exemption based on a state exemption.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-26-709.5 as
3 follows:

4 **39-26-709.5. Telecommunications provider - equipment -**
5 **legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY DECLARES
6 THAT THE INTENDED PURPOSE OF THE TAX EXPENDITURE IN THIS SECTION
7 IS TO INCREASE ACCESS TO TECHNOLOGY FOR PEOPLE LIVING IN RURAL
8 AREAS IN ORDER TO PROMOTE ECONOMIC DEVELOPMENT AND TO
9 FACILITATE THE ADVANCEMENT OF TELEHEALTH AND ASSESSMENT
10 TESTING FOR STUDENTS IN KINDERGARTEN THROUGH TWELFTH GRADE.

11 (2) A SALE TO A TELECOMMUNICATIONS PROVIDER OF EQUIPMENT
12 THAT IS USED DIRECTLY IN THE PROVISION OF BROADBAND
13 COMMUNICATIONS SERVICE THAT IS CAPABLE OF SPEEDS THAT ARE
14 GREATER THAN OR EQUAL TO FOUR MEGABITS PER SECOND FOR
15 DOWNLOAD AND ONE MEGABIT PER SECOND FOR UPLOAD IS EXEMPT FROM
16 TAXATION UNDER PART 1 OF THIS ARTICLE. THE TELECOMMUNICATIONS
17 PROVIDER'S STORAGE OR USE OF THIS EQUIPMENT IS EXEMPT FROM
18 TAXATION UNDER PART 2 OF THIS ARTICLE.

19 **SECTION 2.** In Colorado Revised Statutes, 29-2-105, **amend** (1)
20 (d) (I) (K), (1) (d) (I) (L), and (10); and **add** (1) (d) (I) (M) as follows:

21 **29-2-105. Contents of sales tax ordinances and proposals -**
22 **repeal.** (1) The sales tax ordinance or proposal of any incorporated town,
23 city, or county adopted pursuant to this article shall be imposed on the

1 sale of tangible personal property at retail or the furnishing of services,
2 as provided in paragraph (d) of this subsection (1). Any countywide or
3 incorporated town or city sales tax ordinance or proposal shall include the
4 following provisions:

5 (d) (I) A provision that the sale of tangible personal property and
6 services taxable pursuant to this article shall be the same as the sale of
7 tangible personal property and services taxable pursuant to section
8 39-26-104, C.R.S., except as otherwise provided in this paragraph (d).

9 The sale of tangible personal property and services taxable pursuant to
10 this article shall be subject to the same sales tax exemptions as those
11 specified in part 7 of article 26 of title 39, C.R.S.; except that the sale of
12 the following may be exempted from a town, city, or county sales tax only
13 by the express inclusion of the exemption either at the time of adoption
14 of the initial sales tax ordinance or resolution or by amendment thereto:

15 (K) The exemption for sales that benefit a Colorado school
16 specified in section 39-26-725, C.R.S.; and

17 (L) The exemption for sales by an association or organization of
18 parents and teachers of public school students that is a charitable
19 organization as specified in section 39-26-718 (1) (c), C.R.S.; AND

20 (M) THE EXEMPTION FOR SALES TO A TELECOMMUNICATIONS
21 PROVIDER OF EQUIPMENT THAT IS USED DIRECTLY IN THE PROVISION OF
22 BROADBAND COMMUNICATIONS SERVICE AS SPECIFIED IN SECTION
23 39-26-709.5, C.R.S. █

24 (10) (a) Notwithstanding any provision of this section to the
25 contrary, and except as provided in paragraph (b) of this subsection (10),
26 a town, city, or county may exempt from its sales tax sales to a
27 telecommunications provider of equipment used directly in the provision

1 of telephone service, cable television service, ~~broadband communications~~
2 ~~service~~, or mobile telecommunications service.

3 (b) A town, city, or county may not adopt a sales tax exemption
4 pursuant to the authority set forth in paragraph (a) of this subsection (10)
5 unless the exemption applies in a uniform and nondiscriminatory manner
6 to the telecommunications providers of telephone service, cable television
7 service, ~~broadband communications service~~, and mobile
8 telecommunications service.

9 **SECTION 3. Act subject to petition - effective date.** This act
10 takes effect September 1, 2013; except that, if a referendum petition is
11 filed pursuant to section 1 (3) of article V of the state constitution against
12 this act or an item, section, or part of this act within the ninety-day period
13 after final adjournment of the general assembly, then the act, item,
14 section, or part will not take effect unless approved by the people at the
15 general election to be held in November 2014 and, in such case, will take
16 effect on the date of the official declaration of the vote thereon by the
17 governor.