

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

**INTRODUCED**

LLS NO. 09-0303.01 Ed DeCecco

**SENATE BILL 09-081**

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**SENATE SPONSORSHIP**

**Shaffer B.,**

**HOUSE SPONSORSHIP**

**Rice,**

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**Senate Committees**

Business, Labor and Technology

**House Committees**

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**A BILL FOR AN ACT**

101    **CONCERNING THE EXEMPTION FROM SALES AND USE TAX OF**  
102            **MACHINERY USED TO PROVIDE TELECOMMUNICATIONS**  
103            **SERVICES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Creates a phased-in exemption from the sales and use tax for purchases in excess of a specified amount of machinery and machine tools to be used in the state directly and predominantly for providing telephone and telegraph services for sale or profit. Requires the division of property taxation in the department of local affairs to submit a specified number of annual reports to specified legislative committees

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.*



describing the new investments made by telecommunications companies in the rural areas of the state.

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

2           **SECTION 1.** 39-26-709 (1) (a) (II), (1) (a) (IV), and (1) (c) (II),  
3 Colorado Revised Statutes, are amended, and the said 39-26-709 (1) (a)  
4 is further amended BY THE ADDITION OF A NEW  
5 SUBPARAGRAPH, to read:

6           **39-26-709. Machinery and machine tools - definitions -**  
7 **legislative declaration.** (1) (a) The following shall be exempt from  
8 taxation under the provisions of part 1 of this article:

9           (II) Except as allowed in section 39-30-106, on or after July 1,  
10 1996, purchases of machinery or machine tools, or parts thereof, in excess  
11 of five hundred dollars to be used in Colorado directly and predominantly  
12 in manufacturing tangible personal property, for sale or profit; and

13           (IV) Purchases of machinery and machine tools, or parts thereof,  
14 used in the production of electricity in a facility for which a long-term  
15 power purchase agreement was fully executed between February 5, 2001,  
16 and November 7, 2006, whether or not such purchases are capitalized or  
17 expensed; AND

18           (V) (A) EXCEPT AS QUALIFIED BY SUB-SUBPARAGRAPH (B) OF THIS  
19 SUBPARAGRAPH (V), PURCHASES OF MACHINERY OR MACHINE TOOLS, OR  
20 PARTS THEREOF, IN EXCESS OF FIVE HUNDRED DOLLARS TO BE USED IN  
21 COLORADO DIRECTLY AND PREDOMINANTLY FOR PROVIDING TELEPHONE  
22 OR TELEGRAPH SERVICES FOR SALE OR PROFIT.

23           (B) FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2010,  
24 ONE-THIRD OF THE PURCHASE PRICE OF MACHINERY OR MACHINE TOOLS  
25 DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V) SHALL



1 BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 1 OF THIS  
2 ARTICLE. FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2011,  
3 TWO-THIRDS OF THE PURCHASE PRICE OF SUCH MACHINERY OR MACHINE  
4 TOOLS SHALL BE EXEMPT FROM SUCH TAXATION. FOR THE STATE FISCAL  
5 YEAR COMMENCING ON JULY 1, 2012, AND FOR EACH STATE FISCAL YEAR  
6 THEREAFTER, THE ENTIRE PURCHASE PRICE OF SUCH MACHINERY OR  
7 MACHINE TOOLS SHALL BE EXEMPT FROM SUCH TAXATION.

8 (c) As used in this subsection (1):

9 (II) "Machinery" means any apparatus consisting of interrelated  
10 parts used to produce an article of tangible personal property ~~The term~~ OR  
11 TO PROVIDE TELEPHONE OR TELEGRAPH SERVICES. MACHINERY includes  
12 both the basic unit and any adjunct or attachment necessary for the basic  
13 unit to accomplish its intended function. AS IT RELATES TO THE  
14 PROVISION OF TELEPHONE OR TELEGRAPH SERVICES, MACHINERY  
15 INCLUDES BUT IS NOT LIMITED TO:

16 (A) MACHINERY, EQUIPMENT, AND FIXTURES USED TO RECEIVE,  
17 INITIATE, AMPLIFY, PROCESS, TRANSMIT, RETRANSMIT, RECORD, SWITCH,  
18 OR MONITOR TELEPHONE OR TELEGRAPH SERVICES, SUCH AS COMPUTERS,  
19 TRANSFORMERS, AMPLIFIERS, ROUTERS, BRIDGES, REPEATERS,  
20 MULTIPLEXERS, AND OTHER DEVICES PERFORMING COMPARABLE  
21 FUNCTIONS;

22 (B) MACHINERY, EQUIPMENT, AND FIXTURES USED IN THE  
23 TRANSPORTATION OF TELEPHONE OR TELEGRAPH SERVICES, SUCH AS  
24 RADIO TRANSMITTERS AND RECEIVERS, SATELLITE EQUIPMENT,  
25 MICROWAVE EQUIPMENT, AND OTHER TRANSMISSION MEDIA, INCLUDING  
26 WIRE, CABLE, FIBER, POLES, AND CONDUIT;

27 (C) ANCILLARY MACHINERY, EQUIPMENT, AND FIXTURES THAT



1 REGULATE, CONTROL, OR PROTECT THE MACHINERY DESCRIBED IN  
2 SUB-SUBPARAGRAPHS (A) AND (B) OF THIS SUBPARAGRAPH (II) OR ENABLE  
3 THAT MACHINERY TO ACCOMPLISH ITS INTENDED FUNCTION, SUCH AS  
4 AUXILIARY POWER SUPPLY DEVICES; TEST EQUIPMENT; TOWERS; HEATING,  
5 VENTILATING, AND AIR CONDITIONING EQUIPMENT NECESSARY TO THE  
6 OPERATION OF THE MACHINERY; AND SOFTWARE NECESSARY TO THE  
7 OPERATION OF THE MACHINERY; AND

8 (D) REPAIR AND REPLACEMENT PARTS, INCLUDING ACCESSORIES,  
9 WHETHER PURCHASED AS SPARE PARTS, REPAIR PARTS, OR AS UPGRADES  
10 OR MODIFICATIONS TO THE MACHINERY DESCRIBED IN THIS  
11 SUBPARAGRAPH (II).

12 **SECTION 2.** 39-26-709, Colorado Revised Statutes, is amended  
13 BY THE ADDITION OF A NEW SUBSECTION to read:

14 **39-26-709. Machinery and machine tools - definitions -**  
15 **legislative declaration.** (3) (a) THE GENERAL ASSEMBLY HEREBY FINDS  
16 AND DECLARES THAT THE PURPOSE OF EXTENDING THE EXEMPTION  
17 GRANTED BY THIS SECTION TO MACHINERY AND MACHINE TOOLS USED TO  
18 PROVIDE TELEPHONE AND TELEGRAPH SERVICES IS TO ENCOURAGE THE  
19 TELECOMMUNICATIONS INDUSTRY TO INVEST IN IMPROVEMENTS TO THE  
20 TELECOMMUNICATIONS INFRASTRUCTURE IN RURAL AREAS OF THE STATE.

21 (b) ON OR BEFORE JANUARY 1, 2011, AND ON OR BEFORE EACH  
22 JANUARY 1 OF THE NEXT FOUR SUCCEEDING YEARS, THE DIVISION OF  
23 PROPERTY TAXATION IN THE DEPARTMENT OF LOCAL AFFAIRS SHALL  
24 SUBMIT AN ANNUAL REPORT TO THE FINANCE COMMITTEES OF THE SENATE  
25 AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES,  
26 DESCRIBING THE NEW INVESTMENTS MADE BY TELECOMMUNICATIONS  
27 COMPANIES IN THE RURAL AREAS OF THE STATE BASED ON THE DATA





1 COMPILED FROM THE ANNUAL STATEMENTS OF PROPERTY SUBMITTED TO  
2 THE DIVISION BY TELECOMMUNICATIONS COMPANIES.

3       **SECTION 3. Act subject to petition - effective date.** This act  
4 shall take effect at 12:01 a.m. on the day following the expiration of the  
5 ninety-day period after final adjournment of the general assembly that is  
6 allowed for submitting a referendum petition pursuant to article V,  
7 section 1 (3) of the state constitution, (August 4, 2009, if adjournment  
8 sine die is on May 6, 2009); except that, if a referendum petition is filed  
9 against this act or an item, section, or part of this act within such period,  
10 then the act, item, section, or part, if approved by the people, shall take  
11 effect on the date of the official declaration of the vote thereon by  
12 proclamation of the governor.



*Colorado Legislative Council Staff Fiscal Note*

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 09-0303  
**Prime Sponsor(s):** Sen. Shaffer B.  
 Rep. Rice

**Date:** January 29, 2009  
**Bill Status:** Senate Business Labor & Technology  
**Fiscal Analyst:** Harry Zeid (303-866-4753)

**TITLE:** CONCERNING THE EXEMPTION FROM SALES AND USE TAX OF MACHINERY USED TO PROVIDE TELECOMMUNICATIONS SERVICES.

| <b>Fiscal Impact Summary</b>   | <b>FY2009-2010</b> | <b>FY 2010-2011</b> | <b>FY 2011-2012</b> |
|--|--------------------|---------------------|---------------------|
| <b>State Revenue</b><br>General Fund - reduction   |                    | (\$2,200,000)       | (\$4,400,000)       |
| <b>State Expenditures</b><br>General Fund  |                    | \$3,040             | \$3,040             |
| <b>FTE Position Change</b>   | 0.0 FTE            | 0.0 FTE             | 0.0 FTE             |
| <b>Effective Date:</b> August 4, 2009, assuming the General Assembly adjourns sine die as scheduled on May 6, 2009, unless a referendum petition is filed. |                    |                     |                     |
| <b>Appropriation Summary for FY 2009-2010:</b> None required.  |                    |                     |                     |
| <b>Local Government Impact:</b> See the Local Government Impact section.   |                    |                     |                     |

**Summary of Legislation**

Under current law, purchases of machinery or machine tools, or parts thereof, in excess of \$500 to be used in Colorado directly and predominantly in manufacturing tangible personal property for sale or profit is specifically exempt from the imposition of sales and use tax. Beginning July 1, 2010, SB09-081 adds language that phases in over a three-year period, a sales and use tax exemption for machinery and machine tools in excess of \$500 to be used in the state directly and predominantly for providing telephone and telegraph services for sale or profit.

On or before January 1, 2011, and by each January 1 of the next four succeeding years, the bill requires the Division of Property Taxation in the Department of Local Affairs to submit an annual report to the Finance Committees of the General Assembly that describes the new investments made by telecommunications companies in rural areas of the state based on the data compiled from the annual statements of property submitted to the division by telecommunications companies.

### **State Revenue**

On average, use tax paid by telecommunications companies in FY 2006-07 and FY 2007-08 was approximately \$6.6 million. Most of the items covered by the use tax are specialized in nature and are procured from out-of-state vendors. While this amount may overstate the items that are covered by the sales and use tax exemption provided in the bill, other items that are purchased in-state are assumed to offset the overstatement of use tax purchases. On balance, due to the phase-in provision of the sales and use tax exemption, it is assumed that **the bill will reduce General Fund revenue by \$2.2 million in FY 2010-11, \$4.4 million in FY 2011-12, and \$6.6 million in FY 2012-13 and fiscal years thereafter.**

Based on the December 2008 Legislative Council Staff revenue forecast, there will be insufficient revenue to fully fund the 6 percent spending limit for FY 2009-10. This bill reduces General Fund revenue by reducing sales tax collections. Therefore, the decrease in revenue under this bill will further reduce the amount of money available for General Fund appropriations. In FY 2010-11, this amount is \$2.2 million.

### **State Expenditures**

Beginning January 1, 2011, the bill requires the Division of Property Taxation to submit an annual report to the Finance Committees of the General Assembly that describes the new investments made by telecommunications companies in rural areas of the state. The Division of Property Taxation currently collects information on a form from public utilities doing business in Colorado. The Annual Statement of Property is completed by each public utility and filed with the division. There are between 200 and 250 telecommunications companies in Colorado that would be affected by the new data compilation. The additional work required of the division to revise its form, present and explain the revision to industry, compile information, and distribute the report to legislative groups is estimated to require approximately 80 hours of staff time beginning in FY 2010-11. Staff time is estimated at \$3,040 General Fund annually to complete the task.

### **Local Government Impact**

The state collects sales taxes for most non-home rule cities and counties, as well as for several special districts like RTD and the Scientific and Cultural Facilities District. The change in the definition of machinery and machine tools will result in a reduction in sales tax collections for those public entities where machinery and machine tools on telephone and telegraph services has been collected in the past. The amount of reduced revenue to local governments has not been estimated.

### **Departments Contacted**

Revenue            Local Affairs