

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 16-0339.01 Ed DeCecco x4216

SENATE BILL 16-067

SENATE SPONSORSHIP

Scheffel and Heath, Hill, Holbert, Lundberg, Roberts, Woods

HOUSE SPONSORSHIP

Williams, Brown, Conti, Lawrence, Priola, Rankin, Saine, Thurlow, Van Winkle, Willett

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING A PROPERTY TAX EXEMPTION FOR PERSONAL PROPERTY**
102 **USED TO PROVIDE BROADBAND SERVICE.**

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>.)

Section 2 of the bill creates a property tax exemption for any locally assessed personal property that:

- ! A broadband provider acquires on or after January 1, 2016;
and
- ! Is directly used by the broadband provider or any other person to provide broadband 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.

SENATE
3rd Reading Unamended
April 8, 2016

SENATE
Amended 2nd Reading
April 7, 2016

Electronics, equipment, transmission facilities, and fiber optic and copper cables are examples of property that may qualify for the exemption.

Section 3 of the bill creates the same exemption for a public utility that is assessed statewide by excluding personal property from the factors that the property tax administrator uses to value the public utility.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that broadband service should be made widely available to all citizens of the state and that this is in the public interest and a matter of statewide concern. The general assembly also recognizes that broadband deployment is capital intensive and a key economic driver and workforce development tool, which creates additional tax revenue through economic development at the local level. Now, therefore, the intended purpose of this property tax exemption is to encourage and maximize capital investment in broadband service infrastructure and to improve and expand broadband service in the state.

(2) The general assembly hereby finds and declares that the reduction in the valuation for assessment of a public utility that the property tax administrator allocates to a county as required in this act is a reasonable way to apply the property tax exemption for locally assessed companies to a public utility that is assessed statewide.

SECTION 2. In Colorado Revised Statutes, 22-54-106, amend (9) as follows:

22-54-106. Local and state shares of district total program.
(9) If a district reduces or ends business personal property taxes through action taken pursuant to section 20 (8) (b) of article X of the state constitution OR IF BUSINESS PERSONAL PROPERTY IS EXEMPT FROM A DISTRICT'S PROPERTY TAX IN ACCORDANCE WITH SECTION 39-3-118.9,

1 C.R.S., the state's share of the district's total program for the budget year
2 in which such action is taken and any budget year thereafter shall be the
3 amount by which the district's total program exceeds the amount of
4 specific ownership tax revenue paid to the district and the amount of
5 property tax revenue which THAT the district would have been entitled to
6 receive if such action had not been taken by the district OR IF SECTIONS
7 39-3-118.9 AND 39-4-106 (9), C.R.S., DID NOT APPLY.

8 **SECTION 3.** In Colorado Revised Statutes, **add** 39-3-118.9 as
9 follows:

10 **39-3-118.9. Broadband service - installed - personal property**
11 **- exemption - definitions.** (1) AS USED IN THIS SECTION:

12 (a) "BROADBAND SERVICE" MEANS ANY COMMUNICATIONS
13 SERVICE HAVING THE CAPACITY TO TRANSMIT DATA TO ENABLE A
14 SUBSCRIBER TO THE SERVICE TO ORIGINATE AND RECEIVE HIGH-QUALITY
15 VOICE, DATA, GRAPHICS, AND VIDEO AT SPEEDS OF AT LEAST TEN
16 MEGABITS PER SECOND FOR DOWNLOAD AND ONE MEGABIT PER SECOND
17 FOR UPLOAD.

18 (b) "COUNTY" MEANS ANY COUNTY IN THIS STATE AND INCLUDES
19 A CITY AND COUNTY.

20 (c) "EXEMPTION" MEANS THE EXEMPTION CREATED IN THIS
21 SECTION.

22 (d) "MUNICIPALITY" MEANS A HOME RULE OR STATUTORY CITY OR
23 TOWN, OR A TERRITORIAL CHARTER CITY.

24 (2) EXCEPT AS SET FORTH IN SUBSECTION (4) OF THIS SECTION, FOR
25 PROPERTY TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2018, BUT
26 BEFORE JANUARY 1, 2025, ANY PERSONAL PROPERTY, SUCH AS
27 ELECTRONICS, EQUIPMENT, TRANSMISSION FACILITIES, AND FIBER OPTIC OR

1 COPPER CABLES, IS EXEMPT FROM THE LEVY AND COLLECTION OF
2 PROPERTY TAX BY A COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT
3 IDENTIFIED IN SUBSECTION (3) OF THIS SECTION IF:

4 (a) THE BROADBAND PROVIDER THAT OWNS THE PERSONAL
5 PROPERTY HAS AN AGREEMENT WITH A COUNTY TO PROVIDE BROADBAND
6 SERVICE WITHIN THE COUNTY;

7 (b) THE BROADBAND PROVIDER ACQUIRES THE PERSONAL
8 PROPERTY ON OR AFTER JANUARY 1, 2017;

9 (c) THE PERSONAL PROPERTY IS INSTALLED WITHIN THE
10 BOUNDARIES OF THE COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT; AND

11 (d) THE PERSONAL PROPERTY IS DIRECTLY USED BY THE
12 BROADBAND PROVIDER OR ANY OTHER PERSON TO PROVIDE BROADBAND
13 SERVICE.

14 (3) (a) PROPERTY IS NOT EXEMPT UNDER THIS SECTION FROM THE
15 TAX LEVIED BY A COUNTY FOR A PROPERTY TAX YEAR, UNLESS:

16 (I) THE COUNTY HAS A POPULATION OF LESS THAN SIXTY
17 THOUSAND PEOPLE;

18 (II) THE COUNTY HAS AN AGREEMENT WITH A BROADBAND
19 SERVICE PROVIDER TO PROVIDE BROADBAND SERVICE WITHIN THE
20 COUNTY; AND

21 (III) PRIOR TO THE PROPERTY TAX YEAR, THE BOARD OF COUNTY
22 COMMISSIONERS OF THE COUNTY ADOPTS A RESOLUTION APPROVING THE
23 EXEMPTION.

24 (b) THE BOARD OF COUNTY COMMISSIONERS SHALL SEND A COPY
25 OF A RESOLUTION APPROVING THE EXEMPTION UNDER SUBPARAGRAPH (III)
26 OF PARAGRAPH (a) OF THIS SUBSECTION (3) TO EACH SCHOOL DISTRICT AND
27 MUNICIPALITY LOCATED WITHIN THE COUNTY AS SOON AS POSSIBLE AFTER

1 ITS ADOPTION.

2 (c) IF THE BOARD OF COUNTY COMMISSIONERS ADOPTS A
3 RESOLUTION APPROVING THE EXEMPTION, THEN THE EXEMPTION ALSO
4 APPLIES TO THE TAX LEVIED BY A MUNICIPALITY AND SCHOOL DISTRICT
5 LOCATED WITHIN THE COUNTY, UNLESS, WITHIN NINETY DAYS AFTER IT
6 RECEIVES NOTICE FROM THE COUNTY AS SPECIFIED IN PARAGRAPH (b) OF
7 THIS SUBSECTION (3), THE GOVERNING BODY OF THE MUNICIPALITY OR
8 SCHOOL DISTRICT ADOPTS A RESOLUTION STATING THAT THE EXEMPTION
9 DOES NOT APPLY TO THE MUNICIPALITY OR SCHOOL DISTRICT.

10 (d) AN EXEMPTION TO THE PROPERTY TAX LEVIED BY A COUNTY,
11 MUNICIPALITY, OR SCHOOL DISTRICT FOR A PROPERTY TAX YEAR UNDER
12 THIS SUBSECTION (3) APPLIES FOR ALL PROPERTY TAX YEARS THAT BEGIN
13 THEREAFTER PRIOR TO JANUARY 1, 2025.

14 (4) THE EXEMPTION DOES NOT APPLY TO PERSONAL PROPERTY
15 THAT IS SOLD AND REPURCHASED OR LEASED BACK BY THE SAME
16 TAXPAYER. PERSONAL PROPERTY THAT IS TRANSFERRED AS PART OF A
17 MERGER OR ACQUISITION IS INELIGIBLE FOR THE EXEMPTION, UNLESS IT
18 WAS ORIGINALLY ACQUIRED ON OR AFTER JANUARY 1, 2017.

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20 **SECTION 4.** In Colorado Revised Statutes, 39-4-102, **add (4)** as
21 follows:

22 **39-4-102. Valuation of public utilities.** (4) FOR THE PURPOSE OF
23 APPLYING SECTION 39-4-106 (9), THE ADMINISTRATOR SHALL DETERMINE
24 THE VALUE OF PERSONAL PROPERTY THAT IS INCLUDED IN A PUBLIC
25 UTILITY'S VALUE AS UNIT, BUT THAT WOULD BE EXEMPT UNDER SECTION
26 39-3-118.9, IF THE PUBLIC UTILITY WAS LOCALLY ASSESSED.

27 **SECTION 5.** In Colorado Revised Statutes, 39-4-103, **add (1)(c)**

1 as follows:

2 **39-4-103. Schedules of property - confidential records - late**
3 **filing penalties. (1) (c) FOR PROPERTY TAX YEARS BEGINNING ON OR**
4 **AFTER JANUARY 1, 2018, BUT PRIOR TO JANUARY 1, 2025, A PUBLIC**
5 **UTILITY SHALL ANNUALLY IDENTIFY ANY PERSONAL PROPERTY BY COUNTY**
6 **THAT WOULD BE EXEMPT UNDER SECTION 39-3-118.9, IF THE PUBLIC**
7 **UTILITY WAS LOCALLY ASSESSED.**

8 **SECTION 6. In Colorado Revised Statutes, 39-4-106, add (9) as**
9 **follows:**

10 **39-4-106. Valuation of utilities - apportionment. (9) (a) IF A**
11 **PUBLIC UTILITY HAS PROPERTY IN A COUNTY THAT WOULD BE EXEMPT**
12 **UNDER SECTION 39-3-118.9, IF THE PUBLIC UTILITY WAS LOCALLY**
13 **ASSESSED, THEN THE ADMINISTRATOR SHALL PROVIDE THE COUNTY WITH**
14 **TWO VALUATIONS FOR ASSESSMENT:**

15 **(I) THE VALUATION FOR ASSESSMENT OF THE PUBLIC UTILITY THAT**
16 **IS DETERMINED UNDER PARAGRAPH (b) OF THIS SUBSECTION (9), WHICH**
17 **AMOUNT IS USED FOR THE COUNTY AND ANY MUNICIPALITY OR SCHOOL**
18 **DISTRICT LOCATED WITHIN THE COUNTY THAT DOES NOT OPT OUT OF THE**
19 **EXEMPTION IN ACCORDANCE WITH SECTION 39-3-118.9 (3) (c); AND**

20 **(II) THE VALUATION FOR ASSESSMENT OF THE PUBLIC UTILITY**
21 **THAT IS OTHERWISE DETERMINED WITHOUT APPLICATION OF THIS**
22 **SUBSECTION (9), WHICH AMOUNT IS USED FOR ANY MUNICIPALITY OR**
23 **SCHOOL DISTRICT THAT OPTS OUT OF THE EXEMPTION IN ACCORDANCE**
24 **WITH SECTION 39-3-118.9 (3) (c) AND ALL SPECIAL DISTRICTS.**

25 **(b) AFTER DETERMINING THE ACTUAL VALUE OF THE PUBLIC**
26 **UTILITY IN THIS STATE, THE ADMINISTRATOR SHALL:**

27 **(I) APPORTION THE ACTUAL VALUE OF THE PUBLIC UTILITY TO THE**

1 COUNTY, UTILIZING COMMONLY RECOGNIZED METHODS OF ALLOCATION
2 AS IN HIS OR HER JUDGEMENT ARE JUST AND EQUITABLE;

3 (II) REDUCE THE ACTUAL VALUE OF THE PUBLIC UTILITY IN THE
4 COUNTY BASED ON THE NET-BOOK VALUE OF THE COMPANY'S PERSONAL
5 PROPERTY IN THE COUNTY THAT WOULD BE EXEMPT UNDER SECTION
6 39-3-118.9, IF THE COMPANY WAS LOCALLY ASSESSED, MULTIPLIED BY
7 THE MARKET-TO-BOOK RATIO OF THE COMPANY; AND

8 (c) COMPUTE THE VALUATION FOR ASSESSMENT OF THE PUBLIC
9 UTILITY IN THE COUNTY AS PROVIDED IN SECTION 39-1-104.

10 **SECTION 7. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part will not take effect
17 unless approved by the people at the general election to be held in
18 November 2016 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.