

Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0015.01 Bob Lackner

HOUSE BILL 00-1050

STATE OF COLORADO

BY REPRESENTATIVES McElhany, Paschall, and May, and May.

A BILL FOR AN ACT

101 CONCERNING THE ELIMINATION OF THE STATE SALES AND USE TAX ON
102 TELEPHONE AND TELEGRAPH SERVICES.

Bill Summary

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

Repeals the state sales and use tax on telephone and telegraph services. Requires any local governmental entity that presently imposes a sales and use tax on such services to continue to impose such tax unless it adopts an ordinance or resolution that explicitly exempts such services from the sales and use tax.

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

2 **SECTION 1. Repeal.** 39-26-104 (1) (c), Colorado Revised
3 Statutes, is repealed as follows:

4 **39-26-104. Property and services taxed.** (1) There is levied and
5 there shall be collected and paid a tax in the amount stated in section
6 39-26-106 as follows:

7 (c) ~~Upon telephone and telegraph services, whether furnished by~~
8 ~~public or private corporations or enterprises for all intrastate telephone~~
9 ~~and telegraph service;~~

10 **SECTION 2.** 29-2-105 (1) (d), Colorado Revised Statutes, is

1 amended to read:

2 **29-2-105. Contents of sales tax ordinances and proposals.**

3 (1) The sales tax ordinance or proposal of any incorporated town, city,
4 or county adopted pursuant to this article shall be imposed on the sale of
5 tangible personal property at retail or the furnishing of services, as
6 provided in paragraph (d) of this subsection (1). Any countywide or
7 incorporated town or city sales tax ordinance or proposal shall include the
8 following provisions:

9 (d) A provision that the tangible personal property and services
10 taxable pursuant to this article shall be the same as the tangible personal
11 property and services taxable pursuant to section 39-26-104, C.R.S.,
12 except as otherwise provided in this paragraph (d). The tangible personal
13 property and services taxable pursuant to this article are subject to the
14 same exemptions as those specified in section 39-26-114, C.R.S., except
15 the exemption allowed by section 39-26-114 (11), C.R.S., for purchases
16 of machinery or machine tools, the exemption of sales and purchases of
17 those items in section 39-26-114 (1) (a) (XXI), C.R.S., the exemption for
18 sales of food specified in section 39-26-114 (1) (a) (XX), C.R.S., the
19 exemption for vending machine sales of food set forth in section
20 39-26-114 (7.5), C.R.S., the exemption for occasional sales by a
21 charitable organization set forth in section 39-26-114 (18), C.R.S., the
22 exemption for sales and purchases of farm equipment and farm equipment
23 under lease or contract specified in section 39-26-114 (20), C.R.S., and
24 the exemption for sales of low-emitting motor vehicles, power sources,
25 or parts used for converting such power sources as specified in section
26 39-26-114 (22), C.R.S. Sales of food, as defined in section 39-26-102

1 (4.5), C.R.S., exempted from the state sales tax pursuant to section
2 39-26-114 (1) (a) (XX), C.R.S., vending machine sales of food as
3 described in section 39-26-114 (7.5), C.R.S., sales and purchases of those
4 items exempted from the state sales tax pursuant to section 39-26-114 (1)
5 (a) (XXI), C.R.S., purchases of machinery or machine tools as provided
6 in section 39-26-114 (11), C.R.S., occasional sales by a charitable
7 organization as provided in section 39-26-114 (18), C.R.S., sales and
8 purchases of farm equipment or farm equipment under lease or contract
9 exempted from the state sales tax pursuant to section 39-26-114 (20),
10 C.R.S., or sales of low-emitting motor vehicles, power sources, or parts
11 used for converting such power sources as specified in section 39-26-114
12 (22), C.R.S., may be exempted from said town, city, or county sales tax
13 only by the express inclusion of such exemption either at the time of
14 adoption of the initial sales tax ordinance or resolution or by amendment
15 thereto. Any such amendment shall be adopted in the same manner as the
16 initial ordinance or resolution. In the absence of an express provision for
17 the exemption for sales of food, as defined in section 39-26-102 (4.5),
18 C.R.S., or for the exemption of vending machine sales of food as
19 provided in section 39-26-114 (7.5), C.R.S., or for the exemption of
20 purchases of machinery or machine tools as provided in section
21 39-26-114 (11), C.R.S., or for the exemption of sales and purchases of
22 those items in section 39-26-114 (1) (a) (XXI), C.R.S., or for the
23 exemption of occasional sales by a charitable organization as provided in
24 section 39-26-114 (18), C.R.S., or exemption of sales and purchases of
25 farm equipment or farm equipment under lease or contract as provided in
26 section 39-26-114 (20), C.R.S., or exemption of sales of low-emitting

1 motor vehicles, power sources, or parts used for converting such power
2 sources as specified in section 39-26-114 (22), C.R.S., all sales tax
3 ordinances or resolutions, whether adopted prior to, on, or subsequent to
4 July 1, 1979, which provide in substance that the tangible personal
5 property and services taxed shall be the same as the tangible personal
6 property and services taxable pursuant to section 39-26-104, C.R.S., or
7 any predecessor statute, except as otherwise provided in this paragraph
8 (d), and subject to the same exemptions as those specified in section
9 39-26-114, C.R.S., or any predecessor statute, shall be construed as
10 imposing or continuing to impose the town, city, or county sales tax on
11 food, as defined in section 39-26-102 (4.5), C.R.S., vending machine
12 sales of food as described in section 39-26-114 (7.5), C.R.S., purchases
13 of machinery and machine tools as described in section 39-26-114 (11),
14 C.R.S., sales or purchases of those items described in section 39-26-114
15 (1) (a) (XXI), C.R.S., occasional sales by a charitable organization as
16 described in section 39-26-114 (18), C.R.S., sales and purchases of farm
17 equipment and farm equipment under lease or contract as described in
18 section 39-26-114 (20), C.R.S., and sales of low-emitting motor vehicles,
19 power sources, or parts used for converting such power sources as
20 specified in section 39-26-114 (22), C.R.S. Any incorporated town, city,
21 or county that adopts or has adopted a sales tax ordinance or resolution
22 pursuant to this article shall levy a sales tax on pesticides that are
23 registered by the commissioner of agriculture for use in the production of
24 agricultural and livestock products pursuant to the provisions of the
25 "Pesticide Act", article 9 of title 35, C.R.S., and offered for sale by
26 dealers licensed to sell such pesticides pursuant to section 35-9-115,

1 C.R.S., notwithstanding the removal of such pesticides from the state
2 sales tax base pursuant to House Bill 99-1381, enacted at the first regular
3 session of the sixty-second general assembly, unless exempted by local
4 ordinance or resolution. ANY INCORPORATED TOWN, CITY, OR COUNTY
5 THAT ADOPTS OR HAS ADOPTED A SALES TAX ORDINANCE OR RESOLUTION
6 PURSUANT TO THIS ARTICLE SHALL LEVY A SALES TAX UPON TELEPHONE
7 AND TELEGRAPH SERVICES, WHETHER FURNISHED BY PUBLIC OR PRIVATE
8 CORPORATIONS OR ENTERPRISES FOR ALL INTRASTATE TELEPHONE AND
9 TELEGRAPH SERVICES, NOTWITHSTANDING THE REMOVAL OF SUCH
10 SERVICES FROM THE STATE SALES TAX BASE PURSUANT TO HOUSE BILL
11 00-____, ENACTED AT THE SECOND REGULAR SESSION OF THE
12 SIXTY-SECOND GENERAL ASSEMBLY, UNLESS EXEMPTED BY LOCAL
13 ORDINANCE OR RESOLUTION. The regional transportation district may, in
14 its discretion, continue to levy a sales tax on vending machine sales of
15 food as described in section 39-26-114 (7.5), C.R.S., and on purchases of
16 machinery or machine tools, as provided in section 39-26-114 (11),
17 C.R.S.

18 **SECTION 3.** 29-2-106 (4) (a), Colorado Revised Statutes, is
19 amended to read:

20 **29-2-106. Collection - administration - enforcement.**

21 (4) (a) The executive director of the department of revenue shall, at no
22 charge, administer, collect, and distribute the sales tax of any home rule
23 municipality, upon request of the governing body of such municipality,
24 if the provisions of the sales tax ordinance of said municipality, other
25 than those provisions relating to local procedures followed in adopting
26 the ordinance and whether or not the ordinance applies the sales tax to the

1 sale of food, as defined in section 39-26-102 (4.5), C.R.S., or purchases
2 of machinery or machine tools as provided in section 39-26-114 (11),
3 C.R.S., or sales or purchases of electricity, coal, wood, gas, fuel oil, or
4 coke as provided in section 39-26-114 (1) (a) (XXI), C.R.S., or vending
5 machine sales of food as described in section 39-26-114 (7.5), C.R.S., or
6 sales or purchases of farm equipment or farm equipment under lease or
7 contract as provided in section 39-26-114 (20), C.R.S., or sales of
8 low-emitting motor vehicles, power sources, or parts used for converting
9 such power sources as specified in section 39-26-114 (22), C.R.S., or to
10 pesticides that are registered by the commissioner of agriculture for use
11 in the production of agricultural and livestock products pursuant to the
12 provisions of the "Pesticide Act", article 9 of title 35, C.R.S., and offered
13 for sale by dealers licensed to sell such pesticides pursuant to section
14 35-9-115, C.R.S., OR SALES OF TELEPHONE AND TELEGRAPH SERVICES,
15 WHETHER FURNISHED BY PUBLIC OR PRIVATE CORPORATIONS OR
16 ENTERPRISES FOR ALL INTRASTATE TELEPHONE AND TELEGRAPH SERVICES,
17 NOTWITHSTANDING THE REMOVAL OF SUCH SERVICES FROM THE STATE
18 SALES TAX BASE PURSUANT TO HOUSE BILL 00-____, ENACTED AT THE
19 SECOND REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY, as
20 provided in section 29-2-105 (1) (d), correspond to the requirements of
21 this article for sales taxes imposed by counties, towns, and cities and if
22 no use tax is to be collected by the department except as provided in
23 section 39-26-208, C.R.S. At the time of making such request, said
24 governing body shall certify to the executive director of the department
25 of revenue a true copy of said sales tax ordinance.

26 **SECTION 4.** 32-9-119 (2) (a), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

2 **32-9-119. Additional powers of district.** (2) (a) To provide
3 revenue to finance the operations of the district, to defray the cost of
4 construction of capital improvements and acquisition of capital
5 equipment, and to pay the interest and principal on securities of the
6 district, the board, for and on behalf of the district after approval by
7 election held pursuant to articles 1 to 13 of title 1, C.R.S., shall have the
8 power to levy uniformly throughout the district a sales tax at the rate of
9 six-tenths of one percent upon every transaction or other incident with
10 respect to which a sales tax is now levied by the state, pursuant to the
11 provisions of article 26 of title 39, C.R.S.; except that:

12 (III) THE BOARD SHALL CONTINUE TO LEVY A SALES TAX UPON
13 TELEPHONE AND TELEGRAPH SERVICES, WHETHER FURNISHED BY PUBLIC
14 OR PRIVATE CORPORATIONS OR ENTERPRISES FOR ALL INTRASTATE
15 TELEPHONE AND TELEGRAPH SERVICES, NOTWITHSTANDING THE REMOVAL
16 OF SUCH SERVICES FROM THE STATE SALES TAX BASE PURSUANT TO HOUSE
17 BILL 00-____, ENACTED AT THE SECOND REGULAR SESSION OF THE
18 SIXTY-SECOND GENERAL ASSEMBLY, UNLESS THE DISTRICT ADOPTS A
19 RESOLUTION THAT EXEMPTS SUCH SERVICES FROM THE SALES TAX.

20 **SECTION 5.** 32-13-105 (4) (a), Colorado Revised Statutes, is
21 amended to read:

22 **32-13-105. Authorizing elections - repeal.** (4) (a) For purposes
23 of complying with the provisions of section 20 (4) of article X of the state
24 constitution and upon proper submittal of a valid initiative petition to or
25 upon the adoption of a resolution by the board of the district created in
26 section 32-13-104, the district may submit to the registered electors

1 within the geographical boundaries of the district, at a general election or
2 an election held on the first Tuesday in November of an odd-numbered
3 year, the question of whether the district shall be authorized to levy and
4 collect the following sales and use taxes in lieu of the sales and use taxes
5 specified in subsection (1) of this section for a period of time not to
6 exceed ten years from the date upon which the authority of the district to
7 levy and collect the sales and use taxes specified in subsection (1) of this
8 section is scheduled to expire:

9 (I) A uniform sales and use tax throughout said geographical area
10 at a rate of fifty-nine one-thousandths of one percent upon every
11 transaction or other incident with respect to which a sales and use tax is
12 levied by the state, pursuant to the provisions of article 26 of title 39,
13 C.R.S., except such sales and use tax shall be levied on purchases of
14 machinery or machine tools which are otherwise exempt pursuant to
15 section 39-26-114 (11), C.R.S., to the extent such purchases are subject
16 to a sales and use tax levied by the regional transportation district
17 pursuant to section 29-2-105 (1) (d), C.R.S. ~~to~~ FOR AS LONG AS SUCH
18 SALES AND USE TAX IS LEVIED, IT SHALL ALSO BE LEVIED UPON TELEPHONE
19 AND TELEGRAPH SERVICES, WHETHER FURNISHED BY PUBLIC OR PRIVATE
20 CORPORATIONS OR ENTERPRISES FOR ALL INTRASTATE TELEPHONE AND
21 TELEGRAPH SERVICES, NOTWITHSTANDING THE REMOVAL OF SUCH
22 SERVICES FROM THE STATE SALES TAX BASE PURSUANT TO HOUSE BILL
23 00-____, ENACTED AT THE SECOND REGULAR SESSION OF THE
24 SIXTY-SECOND GENERAL ASSEMBLY, UNLESS THE DISTRICT ADOPTS A
25 RESOLUTION THAT EXEMPTS SUCH SERVICES FROM THE SALES AND USE
26 TAX. THE REVENUES GENERATED BY THE SALES AND USE TAX SHALL be

1 distributed to the Denver museum of natural history, the Denver
2 zoological gardens, the Denver art museum, and the Denver botanical
3 gardens pursuant to the provisions of section 32-13-107 (3) (a).

4 (II) A uniform sales and use tax throughout said geographical area
5 at a rate of twenty-eight one-thousandths of one percent upon every
6 transaction or other incident with respect to which a sales and use tax is
7 levied by the state, pursuant to the provisions of article 26 of title 39,
8 C.R.S., except such sales and use tax shall be levied on purchases of
9 machinery or machine tools which are otherwise exempt pursuant to
10 section 39-26-114 (11), C.R.S., to the extent such purchases are subject
11 to a sales and use tax levied by the regional transportation district
12 pursuant to section 29-2-105 (1) (d), C.R.S. ~~to~~ FOR AS LONG AS SUCH
13 SALES AND USE TAX IS LEVIED, IT SHALL ALSO BE LEVIED UPON TELEPHONE
14 AND TELEGRAPH SERVICES, WHETHER FURNISHED BY PUBLIC OR PRIVATE
15 CORPORATIONS OR ENTERPRISES FOR ALL INTRASTATE TELEPHONE AND
16 TELEGRAPH SERVICES, NOTWITHSTANDING THE REMOVAL OF SUCH
17 SERVICES FROM THE STATE SALES TAX BASE PURSUANT TO HOUSE BILL
18 00-____, ENACTED AT THE SECOND REGULAR SESSION OF THE
19 SIXTY-SECOND GENERAL ASSEMBLY, UNLESS THE DISTRICT ADOPTS A
20 RESOLUTION THAT EXEMPTS SUCH SERVICES FROM THE SALES AND USE
21 TAX. THE REVENUES GENERATED BY THE SALES AND USE TAX SHALL be
22 distributed to scientific and cultural facilities pursuant to the provisions
23 of section 32-13-107 (3) (b).

24 (III) A uniform sales and use tax throughout said geographical
25 area at a rate of thirteen one-thousandths of one percent upon every
26 transaction or other incident with respect to which a sales and use tax is

1 levied by the state, pursuant to the provisions of article 26 of title 39,
2 C.R.S., except such sales and use tax shall be levied on purchases of
3 machinery or machine tools which are otherwise exempt pursuant to
4 section 39-26-114 (11), C.R.S., to the extent such purchases are subject
5 to a sales and use tax levied by the regional transportation district
6 pursuant to section 29-2-105 (1) (d), C.R.S. ~~to~~ FOR AS LONG AS SUCH
7 SALES AND USE TAX IS LEVIED, IT SHALL ALSO BE LEVIED UPON TELEPHONE
8 AND TELEGRAPH SERVICES, WHETHER FURNISHED BY PUBLIC OR PRIVATE
9 CORPORATIONS OR ENTERPRISES FOR ALL INTRASTATE TELEPHONE AND
10 TELEGRAPH SERVICES, NOTWITHSTANDING THE REMOVAL OF SUCH
11 SERVICES FROM THE STATE SALES TAX BASE PURSUANT TO HOUSE BILL
12 00-____, ENACTED AT THE SECOND REGULAR SESSION OF THE
13 SIXTY-SECOND GENERAL ASSEMBLY, UNLESS THE DISTRICT ADOPTS A
14 RESOLUTION THAT EXEMPTS SUCH SERVICES FROM THE SALES AND USE
15 TAX. THE REVENUES GENERATED BY THE SALES AND USE TAX SHALL be
16 distributed to scientific and cultural facilities pursuant to the provisions
17 of section 32-13-107 (3) (c).

18 **SECTION 6.** 32-13-107 (1) (a), Colorado Revised Statutes, is
19 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

20 **32-13-107. Sales and use tax imposed - collection -**
21 **administration of tax - use.** (1) (a) Except as otherwise provided in
22 paragraph (b) of this subsection (1), upon the approval of the registered
23 electors pursuant to the provisions of section 32-13-105, the board shall
24 have the power to levy such uniform sales and use taxes throughout the
25 district created in section 32-13-104 upon every transaction or other
26 incident with respect to which a sales and use tax is levied by the state,

1 pursuant to the provisions of article 26 of title 39, C.R.S.; except that
2 such sales and use tax shall be levied on:

3 (IV) TELEPHONE AND TELEGRAPH SERVICES, WHETHER FURNISHED
4 BY PUBLIC OR PRIVATE CORPORATIONS OR ENTERPRISES FOR ALL
5 INTRASTATE TELEPHONE AND TELEGRAPH SERVICES, NOTWITHSTANDING
6 THE REMOVAL OF SUCH SERVICES FROM THE STATE SALES TAX BASE
7 PURSUANT TO HOUSE BILL 00-____, ENACTED AT THE SECOND REGULAR
8 SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY, UNLESS THE DISTRICT
9 ADOPTS A RESOLUTION THAT EXEMPTS SUCH SERVICES FROM THE SALES
10 AND USE TAXES.

11 **SECTION 7.** 32-14-114 (1), Colorado Revised Statutes, is
12 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13 **32-14-114. Sales tax imposed - collection - administration of**
14 **tax - discontinuance.** (1) Upon the approval of the registered electors
15 pursuant to the provisions of section 32-14-105 and upon the granting of
16 a major league baseball franchise by major league baseball to be located
17 in the district, the board shall have the power to levy such uniform sales
18 tax for a period not to exceed twenty years throughout the district created
19 in section 32-14-104 upon every transaction or other incident with respect
20 to which a sales tax is levied by the state, pursuant to the provisions of
21 article 26 of title 39, C.R.S.; except that such sales tax shall be levied on:

22 (d) TELEPHONE AND TELEGRAPH SERVICES, WHETHER FURNISHED
23 BY PUBLIC OR PRIVATE CORPORATIONS OR ENTERPRISES FOR ALL
24 INTRASTATE TELEPHONE AND TELEGRAPH SERVICES, NOTWITHSTANDING
25 THE REMOVAL OF SUCH SERVICES FROM THE STATE SALES TAX BASE
26 PURSUANT TO HOUSE BILL 00-____, ENACTED AT THE SECOND REGULAR

1 SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY, UNLESS THE DISTRICT
2 ADOPTS A RESOLUTION THAT EXEMPTS SUCH SERVICES FROM THE SALES
3 TAX.

4 **SECTION 8.** 32-15-110 (1), Colorado Revised Statutes, is
5 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6 **32-15-110. Sales tax imposed - collection - administration of**
7 **tax - discontinuance.** (1) Upon the approval of the registered electors
8 pursuant to the provisions of section 32-15-107, the board shall have the
9 power to levy such uniform sales tax upon the adoption of a resolution for
10 a period commencing after the termination of the sales tax levied and
11 collected by the Denver metropolitan major league baseball stadium
12 district pursuant to section 32-14-105 and continuing for a period not to
13 extend beyond January 1, 2012, throughout the district created in section
14 32-15-104 upon every transaction or other incident with respect to which
15 a sales tax is levied by the state, pursuant to the provisions of article 26
16 of title 39, C.R.S.; except that such sales tax shall be levied on:

17 (d) TELEPHONE AND TELEGRAPH SERVICES, WHETHER FURNISHED
18 BY PUBLIC OR PRIVATE CORPORATIONS OR ENTERPRISES FOR ALL
19 INTRASTATE TELEPHONE AND TELEGRAPH SERVICES, NOTWITHSTANDING
20 THE REMOVAL OF SUCH SERVICES FROM THE STATE SALES TAX BASE
21 PURSUANT TO HOUSE BILL 00-____, ENACTED AT THE SECOND REGULAR
22 SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY, UNLESS THE DISTRICT
23 ADOPTS A RESOLUTION THAT EXEMPTS SUCH SERVICES FROM THE SALES
24 TAX.

25 **SECTION 9.** 30-20-604.5 (1), Colorado Revised Statutes, is
26 amended to read:

1 **30-20-604.5. District sales tax.** (1) The board of any county
2 having a population greater than one hundred thousand, for the purpose
3 of funding all or a portion of the cost of any improvements constructed
4 pursuant to section 30-20-603 (1) (a) and (1) (c), may levy a sales tax
5 throughout the district upon every transaction or other incident with
6 respect to which a sales tax is authorized pursuant to section 29-2-105,
7 C.R.S.; except that such tax may be levied only upon those transactions
8 specified in section 39-26-104 (1) (a), (1) (b), (1) (e), and (1) (f), C.R.S.
9 The board may, in its discretion, levy or continue to levy a sales tax on:

10 (a) The sales of low-emitting motor vehicles, power sources, or
11 parts used for converting such power sources as specified in section
12 39-26-114 (22), C.R.S.; AND

13 (b) TELEPHONE AND TELEGRAPH SERVICES, WHETHER FURNISHED
14 BY PUBLIC OR PRIVATE CORPORATIONS OR ENTERPRISES FOR ALL
15 INTRASTATE TELEPHONE AND TELEGRAPH SERVICES, NOTWITHSTANDING
16 THE REMOVAL OF SUCH SERVICES FROM THE STATE SALES TAX BASE
17 PURSUANT TO HOUSE BILL 00-____, ENACTED AT THE SECOND REGULAR
18 SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY, UNLESS THE DISTRICT
19 ADOPTS A RESOLUTION THAT EXEMPTS SUCH SERVICES FROM THE SALES
20 TAX.

21 **SECTION 10. Effective date.** This act shall take effect July 1,
22 2000.

23 **SECTION 11. Safety clause.** The general assembly hereby
24 finds, determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.