A BILL FOR AN ACT

Concerning enactment of the "Voice Over Internet Protocol Tax Freedom Act".

Bill Summary

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

Exempts voice-over-internet-protocol (VoIP) service from state regulation under telecommunications statutes, and from state and local taxation except for purposes of funding emergency telephone services, also known as E9-1-1 services. Directs local governments to amend their E9-1-1 surcharge provisions to conform to applicable standards of the federal communications commission, if the commission adopts those standards.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Short title. This act shall be known and may be cited as the "Voice Over Internet Protocol Tax Freedom Act".

SECTION 2. 40-15-102, Colorado Revised Statutes, is amended by the addition of the following new subsections to read:

40-15-102. Definitions. As used in this article, unless the context otherwise requires:

(14.5) "INTERNET" HAS THE MEANING SET FORTH IN SECTION 24-79-102 (2) (a), C.R.S.

(32) "VOIP" OR "VOICE OVER INTERNET PROTOCOL" MEANS THE USE OF SOFTWARE, HARDWARE, OR NETWORK EQUIPMENT FOR REAL-TIME, TWO-WAY OR MULTIDIRECTIONAL VOICE COMMUNICATIONS OVER THE PUBLIC INTERNET OR A PRIVATE NETWORK UTILIZING INTERNET PROTOCOL, OR ANY SUCCESSOR PROTOCOL, IN WHOLE OR PART, TO CONNECT USERS, NOTWITHSTANDING ANY OF THE FOLLOWING:

(a) THE UNDERLYING TRANSMISSION TECHNOLOGY USED TO TRANSMIT THE COMMUNICATIONS;

(b) WHETHER THE PACKETIZING AND DEPACKETIZING OF THE COMMUNICATIONS OCCURS AT THE CUSTOMER PREMISE OR NETWORK LEVEL; OR

(c) THE SOFTWARE, HARDWARE, OR NETWORK EQUIPMENT USED TO CONNECT USERS.

SECTION 3. 40-15-401 (1), Colorado Revised Statutes, is amended by the addition of a new paragraph to read:

40-15-401. Services, products, and providers exempt from
regulation.  (1) The following products, services, and providers are
exempt from regulation under this article or under the "Public Utilities
Law" of the state of Colorado:

(b.5) VoIP SERVICES;

SECTION 4. 29-11-101 (10), Colorado Revised Statutes, is
amended to read:

29-11-101. Definitions. As used in this article, unless the context
otherwise requires:

(10) "Telecommunications service" has the meaning set forth in
section 40-15-102 (29), C.R.S., and includes VoIP services, as
defined in section 40-15-102 (32), C.R.S.

SECTION 5. 29-11-102 (2) (a), Colorado Revised Statutes, is
amended to read:

29-11-102. Imposition of charge - liability of user for charge -
collection - uncollected amounts. (2) (a) The governing body is hereby
authorized, by ordinance in the case of cities and by resolution in the case
of counties or special districts, to impose such charge on
telecommunications service in an amount not to exceed seventy cents
per month per exchange access facility, per customer billing address,
or per wireless communications access in those portions of the governing
body's jurisdiction for which emergency telephone service will be
provided. If the Federal Communications Commission promulgates
standards for the collection of emergency telephone service
surcharges from customers of VoIP services, the governing body
shall amend its ordinance or resolution within six months
thereafter to conform to such standards.

SECTION 6. 24-79-102 (1.5) and (2), Colorado Revised Statutes,
are amended to read:

24-79-102. Limitation on sources of revenue. (1.5) On and after April 30, 2001, The state shall not impose, assess, or collect any tax, regulation, fee, or charge upon:

(a) The direct charges for provision of internet access services OR VOIP SERVICES, whether offered separately or as part of a package or bundle of services; or

(b) Any provider of internet access services as a means of collecting sales or use taxes from persons who purchase taxable property or services through use of the internet unless such provider acts as a vendor of taxable property or services.

(2) As used in this section:

(a) "Internet" means the international computer network consisting of federal and nonfederal, interoperable, packet-controlled, switched data networks.

(b) "Internet access services" means services that provide or enable computer access by multiple users to the internet, but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of internet access services.

(c) "VOIP" HAS THE MEANING SET FORTH IN SECTION 40-15-102 (32), C.R.S.

SECTION 7. 29-1-1001 (1.5) (a) and (3), Colorado Revised Statutes, are amended to read:

29-1-1001. Moratorium on taxes, fees, and charges - internet and on-line services. (1.5) (a) On and after April 30, 2001, No statutory or home rule city and county, county, city, or town, or any political
subdivision of the state, including, without limitation, a special purpose
authority, special district, or school district, shall impose, assess, or
collect any tax, fee, or charge, however designated, upon the direct
charges for provision of internet access services OR VOIP SERVICES,
whether offered separately or as part of a package or bundle of services.

(3) As used in this section:

(a) "Internet" means the international computer network
consisting of federal and nonfederal, interoperable, packet-controlled,
switched data networks.

(b) "Internet access services" means services that provide or
enable computer access by multiple users to the internet, but shall not
include that portion of packaged or bundled services providing phone or
television cable services when the package or bundle includes the sale of
internet access services.

(c) "VOIP" HAS THE MEANING SET FORTH IN SECTION 40-15-102
(32), C.R.S.

SECTION 8. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, and safety.