

1                                   A bill to be entitled  
2           An act relating to taxation of Internet access,  
3           electronic mail, electronic bulletin board, or  
4           similar on-line computer services; amending s.  
5           203.012, F.S.; providing that  
6           "telecommunication service" does not include  
7           such services for purposes of gross receipts  
8           taxes; revising the definition of  
9           "teletypewriter or computer exchange service"  
10          to remove computer exchange service; reenacting  
11          s. 166.231(10), F.S., relating to the municipal  
12          public service tax on telecommunication  
13          service, and s. 212.05(1)(e)1., F.S., relating  
14          to the sales and use tax on telecommunication  
15          service, to incorporate the amendment to s.  
16          203.012, F.S., in references thereto; providing  
17          intent; providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21           Section 1. Subsections (3), (5), and (6) of section  
22 203.012, Florida Statutes, are amended to read:

23           203.012 Definitions.--As used in this chapter:

24           (3) The term "local telephone service" means:

25           (a) The access to a local telephone system, and the  
26 privilege of telephonic-quality communication with  
27 substantially all persons having telephone or radio telephone  
28 stations constituting a part of such local telephone system;  
29 or

30           (b) Any facility or service provided in connection  
31 with a service described in paragraph (a).

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2 The term "local telephone service" does not include any  
3 service which is a toll telephone service; private  
4 communication service; cellular mobile telephone or  
5 telecommunication service; specialized mobile radio, or pagers  
6 and paging, service, including but not limited to "beepers"  
7 and any other form of mobile and portable one-way or two-way  
8 communication; or teletypewriter ~~or computer exchange~~ service.

9 (5) The term "telecommunication service" means:

10 (a) Local telephone service, toll telephone service,  
11 telegram or telegraph service, teletypewriter ~~or computer~~  
12 ~~exchange~~ service, or private communication service; or

13 (b) Cellular mobile telephone or telecommunication  
14 service; or specialized mobile radio, and pagers and paging,  
15 service, including but not limited to "beepers" and any other  
16 form of mobile and portable one-way or two-way communication;  
17 but does not include services or equipment incidental to  
18 telecommunication services enumerated in this paragraph such  
19 as maintenance of customer premises equipment, whether owned  
20 by the customer or not, or equipment sales or rental for which  
21 charges are separately stated, itemized, or described on the  
22 bill, invoice, or other tangible evidence of the provision of  
23 such service.

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25 The term "telecommunication service" does not include any  
26 Internet access service, electronic mail service, electronic  
27 bulletin board service, or similar on-line computer service.

28 (6) The term "teletypewriter ~~or computer exchange~~  
29 service" means the access from a teletypewriter, telephone,  
30 ~~computer~~, or other data station of which such station is a  
31 part, and the privilege of intercommunication by such station

1 with substantially all persons having teletypewriter,  
2 telephone, ~~computer~~, or other data stations constituting a  
3 part of the same teletypewriter ~~or computer exchange~~ system,  
4 to which the subscriber or user is entitled upon payment of a  
5 charge or charges, whether such charge or charges are  
6 determined as a flat periodic amount, on the basis of distance  
7 and elapsed transmission time, or some other method. The term  
8 "teletypewriter ~~or computer exchange~~ service" does not include  
9 local telephone service or toll telephone service.

10 Section 2. For the purpose of incorporating the  
11 amendment to section 203.012, Florida Statutes, in a reference  
12 thereto, subsection (10) of section 166.231, Florida Statutes,  
13 1996 Supplement, is reenacted to read:

14 166.231 Municipalities; public service tax.--

15 (10) A municipality may levy a tax on the purchase of  
16 telecommunication services as defined in s. 203.012 as  
17 follows:

18 (a)1. Only upon purchases within the municipality of  
19 local telephone service as defined in s. 203.012(3) at a rate  
20 not to exceed 10 percent of the monthly recurring customer  
21 service charges, excluding public telephone charges collected  
22 on site, access charges, and any customer access line charges  
23 paid to a local telephone company; or

24 2. Only upon purchases within the municipality of  
25 telecommunications service which originates and terminates in  
26 this state at a rate not to exceed 7 percent of the total  
27 amount charged for any telecommunications service provided  
28 within the municipality or, if the location of the  
29 telecommunications service provided cannot be determined, the  
30 total amount billed for such telecommunications service to a  
31 telephone or telephone number, a telecommunications number or

1 device, or a customers' billing address located within the  
2 municipality, excluding public telephone charges collected on  
3 site, charges for any foreign exchange service or any private  
4 line service except when such services are used or sold as a  
5 substitute for any telephone company switched service or  
6 dedicated facility by which a telephone company provides a  
7 communication path, access charges, and any customer access  
8 line charges paid to a local telephone company. However,  
9 telecommunications service as defined in s. 203.012(5)(b)  
10 shall be taxed only on the monthly recurring customer service  
11 charges excluding variable usage charges.

12 (b) For the purpose of compensating the seller, the  
13 seller shall be allowed 1 percent of the amount of the tax  
14 collected and due to the municipality in the form of a  
15 deduction from the amount collected for remittance. The  
16 deduction shall be allowed as compensation for the keeping of  
17 records and for the collection of, and the remitting of, the  
18 tax.

19 (c) A municipality shall elect by ordinance the tax  
20 specified in subparagraph (a)1. or subparagraph (a)2., and any  
21 such election shall not be changed until after the expiration  
22 of at least 12 months after the effective date of the  
23 ordinance levying the tax specified in such subparagraph. A  
24 municipality shall notify the companies responsible for  
25 collecting such tax at least 120 days prior to such change of  
26 election.

27 (d) A municipality electing by ordinance the tax  
28 specified in subparagraph (a)2. shall provide to a  
29 telecommunications service provider who is responsible for  
30 collecting the tax, upon its request, a printed alphabetical  
31 listing of all street names including block numbers and street

1 numbers for streets which cross or form municipal boundaries  
2 within the municipality for use by the provider of the  
3 telecommunications service in calculating the proper amount of  
4 tax payable to the municipality. The municipality shall be  
5 responsible for updating this listing as changes occur and for  
6 providing this information to the telecommunications service  
7 provider. The provider, in turn, shall be responsible for  
8 charging the tax only to service and billing addresses  
9 contained in this listing. The municipality shall be entitled  
10 to collect a fee not to exceed the actual cost of providing  
11 the information to the telecommunications service provider  
12 requesting it.

13 (e) A municipality may audit the records of any  
14 provider of telecommunications service taxable by such  
15 municipality; each such provider shall provide to the  
16 municipality, upon 60 days' notice, access to all applicable  
17 records for such telecommunications service. In an audit, the  
18 telecommunications service provider shall be liable only for  
19 its taxable accounts collected corresponding to the  
20 information provided to it by the municipality. However, any  
21 information received by the municipality or its agent in  
22 connection with such audit is confidential and exempt from the  
23 provisions of s. 119.07(1).

24 (f)1. If the sale of a taxable telecommunication  
25 service also involves the sale of an exempt cable television  
26 service, the tax shall be applied to the value of the taxable  
27 service when it is sold separately.

28 2. If the company does not offer this service  
29 separately, the consideration paid shall be separately  
30 identified and stated with respect to the taxable and exempt  
31 portions of the transaction as a condition of the exemption.

1           3. The amounts identified as taxable in subparagraph  
2 2. shall not be less than the statewide average tariff rates  
3 set forth by the local exchange telecommunications companies  
4 in the tariffs filed with the Public Service Commission on  
5 January 1, 1995, and on January 1 of each year thereafter for  
6 the equivalent services subject to this section. The Public  
7 Service Commission shall publish the statewide average tariff  
8 rates annually, beginning on January 1, 1996.

9           4. If the total amount of municipal utility tax  
10 collected by a municipality or charter county from  
11 telecommunication services pursuant to this subsection for the  
12 period of July 1, 1995, to June 30, 1996, is less than the  
13 amount collected for the period July 1, 1994, to June 30,  
14 1995, the municipality or charter county shall assess each  
15 company that remits such tax a pro rata share of the  
16 shortfall. The shortfall shall be prorated based on the  
17 amount of tax remitted by each company for the period July 1,  
18 1995, to June 30, 1996, and the total amount of tax remitted  
19 for the same period. By September 1, 1996, the municipality  
20 or charter county shall certify to each company the amount of  
21 additional tax owed and the tax shall be remitted to the  
22 municipality or charter county by October 1, 1996. Provided,  
23 however, that this assessment may only be imposed if, in  
24 addition to the conditions above, a municipality or charter  
25 county has levied the applicable maximum tax rate allowed  
26 under this paragraph during the period July 1, 1995, and June  
27 30, 1996, and has not switched between the two options allowed  
28 under subparagraph (f)1. or subparagraph (f)2. during the  
29 period July 1, 1995, and June 30, 1996.

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1 Purchases of local telephone service or other  
2 telecommunications service for use in the conduct of a  
3 telecommunications service for hire or otherwise for resale  
4 are exempt from the tax imposed by this subsection.

5 Section 3. For the purpose of incorporating the  
6 amendment to section 203.012, Florida Statutes, in a reference  
7 thereto, subparagraph 1. of paragraph (e) of subsection (1) of  
8 section 212.05, Florida Statutes, 1996 Supplement, is  
9 reenacted to read:

10 212.05 Sales, storage, use tax.--It is hereby declared  
11 to be the legislative intent that every person is exercising a  
12 taxable privilege who engages in the business of selling  
13 tangible personal property at retail in this state, including  
14 the business of making mail order sales, or who rents or  
15 furnishes any of the things or services taxable under this  
16 chapter, or who stores for use or consumption in this state  
17 any item or article of tangible personal property as defined  
18 herein and who leases or rents such property within the state.

19 (1) For the exercise of such privilege, a tax is  
20 levied on each taxable transaction or incident, which tax is  
21 due and payable as follows:

22 (e)1. At the rate of 6 percent on charges for:

23 a. All telegraph messages and long-distance telephone  
24 calls beginning and terminating in this state,  
25 telecommunication service as defined in s. 203.012, and those  
26 services described in s. 203.012(2)(a), except that the tax  
27 rate for charges for telecommunication service is 7 percent.

28 b. Any television system program service.

29 c. The installation of telecommunication and  
30 telegraphic equipment.

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1           d. Electrical power or energy, except that the tax  
2 rate for charges for electrical power or energy is 7 percent.

3           Section 4. It is the intent of the Legislature that  
4 this act is remedial and is intended to clarify existing law.

5           Section 5. This act shall take effect upon becoming a  
6 law.

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