SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 988

SPONSOR: Regulated Industries Committee and Senator Campbell

SUBJECT: Telecommunications Switched Network Access Charges

DATE: February 20, 2002 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Caldwell	RI	Favorable/CS
2.				
3.				
4.				
5.				
6.				

I. Summary:

Section 364.163, F.S., provides for network access services. Switched network access rates refer to the charges for network access that are paid by providers of long distance telephone service (interexchange telecommunications carriers or IXCs) to the local exchange telecommunications companies (LECs) for connection to their network and facilities. The charges are for originating a call and terminating a call for both intrastate and interstate calls. The Federal Communications Commission (FCC) has jurisdiction over interstate calls and the Florida Public Service Commission (PSC or commission) has jurisdiction over intrastate calls.

The bill provides for expanded Lifeline Assistance Plan eligibility to 125 percent of federal poverty guidelines and requires distribution of information regarding the lifeline program to increase its subscribership.

The bill requires LECs with more than 1 million access lines in service to establish a revenue category and allows LECs with less than 1 million access lines to establish a revenue category that include basic local telecommunications service and intrastate-switched network access revenues and to establish a timetable for reducing access rates to or below "parity" as defined in the bill. The access rates are capped for 3 years after the rates reach parity. Parity for BellSouth is .98 cents per minute, for Verizon and Sprint, it is 2 cents per minute and for the small LECs, it is 8 cents per minute.

The PSC approves the timetable if it reaches parity or below in 2-5 years and the access rates are reduced on an annual basis in equal amounts. Upon approval of the timetable, the LECs may adjust their prices and rates for the residential and single-line business service and access service within the category once in any 12-month period in a revenue neutral manner to reduce the access rates. Revenue neutral means that the total revenue within the category remains the same

before and after any rate adjustment. The PSC still has authority over quality of service criteria and customer service complaints.

The IXCs whose access rates are reduced are required to reduce their long distance revenues in an amount to return the benefits of the reduction to the companies' residential and business customers proportionally according to the respective proportion of residential and business access lines. Any current in-state connection fees are to be eliminated first and may not be offset by any access charge decrease.

The bill does not appear to have a fiscal impact on state or local governments.

This bill substantially amends sections 364.10 and 364.163 of the Florida Statutes and creates section 364.164 of the Florida Statutes.

II. Present Situation:

In 1995, the Legislature enacted chapter 95-402, Laws of Florida, that opened up the local monopoly telecommunications market to competition by allowing competing telephone companies, called alternative local exchange companies (ALECs), to operate in Florida. Prior to that time, the LECs were rate of return regulated companies that had a telecommunications monopoly within established service areas. Under the 1995 revisions, the rates for basic local service were capped at the rates in effect on July 1, 1995, until January 1, 2000, for all companies except BellSouth and until January 1, 2001, for BellSouth.

Section 364.163, F.S., provides for network access services. Under this section "network access service" means "any service provided by a local exchange telecommunications company to a telecommunications company certificated under chapter 364 or licensed by the Federal Communications Commission." It does not include local interconnection arrangements, provided in section 364.16, F.S., or the resale arrangements provided in s. 364.161, F.S. Each local exchange telecommunications company subject to s. 364.051, F.S., (price regulation) is required to maintain tariffs with the commission that contain the terms, conditions, and rates for each of its network access services.

A "local exchange telecommunications company" is defined by s. 364.02(6), F.S., as "any company certificated by the commission to provide local exchange telecommunications service in this state before June 30, 1995."

A "telecommunications company" is defined by s. 364.02(12), F.S., as:

> every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. . . .

Companies that provide telecommunications facilities exclusively to certificated telecommunications companies and companies excluded from the definition of telecommunications companies are not included in this definition. Companies specifically excluded from the definition include: commercial mobile radio service providers, facsimile transmission services, private computer data networks not offering services to the public for hire, and cable television companies providing cable service as defined in 47 U.S.C. § 522.

Switched network access rates refer to the charges for network access that are paid by IXCs to the LECs for connection to their network and facilities. The charges are for originating a call and terminating a call for both intrastate and interstate calls. The FCC has jurisdiction over interstate telecommunication services and the PSC has jurisdiction over intrastate telecommunication services. In Florida, the intrastate charge is a per minute charge and the interstate charge established by the FCC is both a per minute charge and a per line charge.

There are currently ten local exchange companies operating in Florida. They are: BellSouth Telecommunications, Inc., Verizon (merger of GTE and Bell Atlantic), Sprint-Florida Inc., ALLTEL Florida, Inc., GT Com (formerly St. Joseph Telephone & Telegraph Company, Florala Telephone Company, Inc., and Gulf Telephone Company), TDS/Quincy Telephone Company, Smart City Telecom (formerly Vista-United Telecommunications), Northeast Florida Telephone Company, Inc., Frontier Communications of the South, Inc., and ITS Telecommunications Systems, Inc. (formerly Indiantown Telephone System, Inc.).

The following is the number of total access lines for the Florida local exchange companies as of December 2000 according to the PSC:

BellSouth	6,617,173	Smart City Telecom	18,706
Verizon	2,443,575	TDS/Quincy	13,623
Sprint	1,710,409	NE Florida	9,280
ALLTEL	82,719	Frontier	4,537
GT Com	49,020	ITS	3,705

According to the PSC, the number of residence and business basic local telecommunications access lines for the local exchange companies with more than one million access lines is as follows:

BellSouth	4,353,136 - residence and 92,242 - business
Sprint	1,454,103 - residence and 252,463 - business
Verizon	1,700,000 - residence and 327,000 - business

Basic local telecommunications service is defined by s. 364.02(2), F.S., as:

> voice-grade, flat-rate residential, and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing, and access to the following: emergency services such as "911," all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a

local exchange telecommunications company, such term shall include any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995.

According to the PSC, the monthly rates for basic local telecommunications service in Florida are as follows:

	Lowest Rate Group	Highest Rate Group
BellSouth	$7.41	$10.81
Verizon	$9.67	$12.00
Sprint	$6.58	$10.41
ALLTEL	$9.22	$11.15
Frontier	$10.85	$10.95
GT Com	$6.30	$9.15
ITS	$8.96	$8.96
Northeast	$9.00	$9.00
Quincy	$12.90	$12.90
Smart City Telecom	$7.20	$11.23

Basic local telecommunication service is subject to price regulation to the extent provided in s. 364.051, F.S. Section 364.051(1), F.S., allows local exchange companies to choose "price regulation" instead of "rate base, rate of return" regulation. Subsection (1)(c) provides that each company subject to this section is exempt from rate base, rate of return regulation and the requirements of several sections dealing with rates and revenues. The rates for basic local telecommunications service are capped for local exchange companies that choose price regulation under this section. The rates were capped at the rates in effect on July 1, 1995, and could not be increased before January 1, 1999, except for BellSouth. The rates for BellSouth could not be increased before January 1, 2001. Sprint, Verizon, and BellSouth have subsequently raised their rates under this section.

Subsection (5) of s. 364.051, F.S., allows any local exchange telecommunications company that believes circumstances have changed substantially enough to justify a rate increase to petition the commission for an increase. The commission can grant the petition only after an opportunity for a hearing and a compelling showing of changed circumstances.

Subsection (1) of s. 364.163, F.S., provides that the rates for switched network access services for each local exchange company shall be capped at the rates in effect on July 1, 1999, and shall remain capped until January 1, 2001. Upon the date of filing its election under this section (for price regulation under s. 364.051, F.S.), the access rates are capped at the rates in effect on that date and remain capped for five years. According to the PSC, all local exchange companies except Frontier Communications of the South, Inc., have elected price regulation.

Under subsection (2), after termination of the caps imposed by subsection (1) and after the local exchange company's intrastate switched access rates reach parity with its interstate switched access rates, a company may annually adjust any network access service rate by the cumulative change in inflation, but no more than three percent annually. The company must give 30 days' notice of the adjustment. Also, after termination of the caps, subsection (3) of this section allows a company to petition the PSC to recover the cost of governmentally mandated projects or programs or an increase in federal or state income tax incurred after that date.

Section 364.163(4), F.S., provides that a company may choose to implement all or a portion of a rate increase allowed for network access service under subsections (1), (2), or (3). It also provides that notwithstanding those subsections, a company may decrease its network services rates at any time and the new rates will become effective upon seven days' notice.

Subsection (5) of this section provides that company-proposed changes made in the terms and conditions for existing network access rates pursuant to subsections (1) - (4) are presumed valid and become effective upon 15 days' notice. Company-proposed rate decreases become effective upon seven days' notice. Rate increases made by a local exchange telecommunications company are presumed valid and become effective on the date the tariff is filed, but in no event earlier than 30 days after filing the tariff. The PSC is given continuing regulatory oversight of local exchange telecommunications company-provided network access services for purposes of determining the correctness of any price increase resulting from the application of the inflation index and making any necessary adjustments, establishing reasonable service quality criteria, and assuring resolution of service complaints.

No later than 30 days after the tariff is filed, the PSC may determine if the price increase is correct and order the local exchange company to hold all the revenues collected under the increase to refund to its customers. The commission must make a determination, within 60 days of that order, whether to order a full or partial refund or release the revenues.

Chapter 98-277, Laws of Florida, amended subsection (6) of s. 364.163, F.S., to its present form and required any local exchange telecommunications company with more than 100,000, but fewer than 3 million basic local telecommunications service access lines in service on July 1, 1995, to reduce its intrastate switched access rates by 5 percent on July 1, 1998, and by 10 percent on October 1, 1998. This reduction affected Verizon (then GTE-Florida) and Sprint-Florida. Any interexchange telecommunications company whose intrastate switched access rates were reduced as a result of these rate decreases was required to reduce its intrastate long distance rates by the "amount necessary to return the benefits of such reduction to its customers …" The IXC could not reduce its per minute intraLATA toll rates by a percentage greater than the per minute intrastate switched access rate reduction. The IXC could determine the specific intrastate rates to be decreased, provided that residential and business customers benefited from the reductions.

Prior to the changes in 1998, subsection (6) of s. 364.163, F.S., provided that any local exchange telecommunications company whose current intrastate switched access rates were higher than its interstate switched access rates in effect on December 31, 1994, shall reduce its intrastate switched access rates by 5 percent each year beginning October 1, 1996. A local exchange telecommunications company was relieved of this requirement if it reduced its rates by a greater percentage by the relevant dates or earlier. The reductions were made pursuant to commission Order No. PSC-94-0172-FOF-TL. This order provided, among other things, that BellSouth reduce its access rates.

Section 364.163 (7), F.S., currently provides that reductions for intrastate-switched access rates and customer long distance rates shall become effective on October 1 of each relevant year. Any rate decreases proposed in tariff revisions filed with the commission by the telecommunications companies is presumed valid and becomes effective October 1 of each relevant year.

Subsection (8) provides that no later than 30 days after the tariff is filed, the commission may determine if the rate decrease is correct and order the telecommunications company to hold all intrastate switched access or customer long distance rate revenues collected after the decrease to refund to its customers. The PSC must make a determination, within 60 days of the order, whether to order a full or partial refund or release the revenues.

Subsection (9) of s. 364.163, F.S., gives the commission continuing regulatory oversight of intrastate switched access and customer long distance rates for the purpose of "determining the correctness of any rate decrease by a telecommunications company resulting from the application of this section and making any necessary adjustments to those rates, establishing reasonable service quality criteria, and assuring resolution of service complaints."

The following is a comparison of switched access charges for intrastate and interstate rates as of the most recent filings. It includes one minute of originating and one minute of terminating switched access and assumes common transport.

	Intrastate Rate	Interstate Rate
BellSouth	$0.0455	$0.0098
Verizon	$0.0982	$0.0203
Sprint	$0.1027	$0.0140
ALLTEL	$0.1132	$0.0524
GT Com		
(Florala)	$0.1522	$0.0568
(Gulf)	$0.1214	$0.0568
(St. Joseph)	$0.1306	$0.0568
Smart City Telecom	$0.1426	$0.0403

TDS/Quincy	$0.1287	$0.0575
NE Florida	$0.1126	$0.0607
Frontier	$0.1040	$0.0245
ITS	$0.1130	$0.0829

According to the commission, intrastate network access service rates were set well above the incremental cost of providing the service in order to keep rates for basic local telecommunications service as low as possible and to encourage subscribership. The FCC has addressed the issue of access charges by reducing the per minute charge and establishing line item flat charges on the telephone bill. According to an FCC consumer facts web publication, subscriber line charge caps are now set at $5, and may increase to $6 in July 2002, and to $6.50 in July 2003, subject to a cost review study by the FCC.

Section 364.025, F.S., provides for universal service and carrier of last resort requirements. Universal service is a concept that basic telephone service should be available to everyone that desires the service at affordable prices. Subsection (1) defines "universal service" as an "evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the commission determines should be provided at just, reasonable, and affordable rates to customers, including those in rural, economically disadvantaged, and high-cost areas." The carrier of last resort provision requires the local exchange telecommunications company to "furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's service territory." This requirement expires on January 1, 2004.

Both the federal and state governments have encouraged telephone subscribership for every household. Section 364.10, F.S., requires telecommunications companies serving as the carrier of last resort to provide a Lifeline Assistance Plan to qualified residential subscribers. The Lifeline Assistance Plan provides bill credits for qualifying low-income consumers. Consumers who receive assistance through the Temporary Aid to Needy Families program, including the Temporary Cash Assistance and Supplemental Security Income programs, the Food Stamp program, the Federal Public Housing Assistance program, the Low-Income Home Energy Assistance Program, or the Medicaid program are eligible for the plan.

According to the Department of Children and Families, as of March 2001, there were 850,000 households eligible for Lifeline Assistance Plan in Florida. The Florida Public Service Commission indicates that as of that date, the total number of Lifeline subscribers was 136,824 with a participation rate of 16.0%. Currently BellSouth has approximately 105,000 Lifeline customers, Sprint has 9,365 and Verizon has approximately 25,000.

Lifeline subscribers may receive a credit of up to $12.00 on local monthly telephone bills as of July 1, 2001. Of that amount, the local exchange telecommunications companies contribute $3.50.

According to the Public Service Commission, BellSouth executed a settlement agreement with the Office of Public Counsel in a docket before the commission concerning quality of service issues. The agreement dealt with promoting the Lifeline Assistance Plan. The company agreed to file a tariff to establish an income eligibility test of 125% of the Federal poverty guidelines for Lifeline customers. The tariff will augment, not replace, the eligibility guidelines noted above.

III. Effect of Proposed Changes:

The effects of the proposed changes can be grouped into four broad categories. The first is Lifeline Assistance Plan. The second is the flow-through of intrastate switched access service reductions and the requirement of the IXCs to pass on that expense reduction through lower long distance rates. The third is the area of revenue neutrality and verification. The fourth category is a small group of unrelated items.

A. Lifeline Assistance Plan

Section 1. Amends s. 364.10, F.S., relating to exceptions to undue advantages to persons or localities. The committee substitute provides that any local exchange telecommunications company subject to the provisions of s. 364.164(1)(a), F.S., and each local exchange company choosing to participate under s. 364.164(1)(b), F.S., shall provide Lifeline Assistance Plan service to any potential customer who meets an income test of 125 percent of Federal poverty guidelines on March 31, 2002. Also effective on that date, each interexchange telecommunications carrier is required to file a tariff providing, at minimum, the current Lifeline Assistance Plan benefits and exemptions to Lifeline Assistance Plan customers meeting the new eligibility guidelines. The Office of Public Counsel is required to service as the agency administering these provisions.

The committee substitute also requires each LEC to provide to each state or federal agency providing benefits to persons eligible for Lifeline Assistance Plan applications, brochures, pamphlets or other material that will inform such persons of their eligibility. The state or federal agency must furnish such materials to persons when applying for their benefits.

B. Access Reduction and Flow-through Long Distance Reduction

Section 2. Section 364.163, F.S., is amended to conform to the creation of new s. 364.164, F.S. Provisions of s. 364.163(1), F.S., providing for caps of the switched network access service rates for LECs subject to price regulation are deleted. The bill amends subsection (2) and renumbers it as subsection (1) to cap the LECs' intrastate switched network access rates for three years after those rates reach parity as defined in the bill. The provisions of subsection (2) relating to the adjustment of the intrastate network access service rates after the current caps provided in subsection (1) are removed and the rates reach parity with the interstate rates are also deleted.

Subsections (3), (4), and (5) of s. 364.163, F.S., are deleted. Subsection (3) provides that a company may petition the commission for a rate change to recover costs of government-mandated programs or federal or state income taxes. Subsection (4) provides for implementation of rate increases. Subsection (5) provides effective dates for increases and regulatory oversight by the PSC.

Subsection (6) of s. 364.163, F.S., is amended and renumbered as subsection (2). The bill deletes the provisions relating to the 1998 intrastate-switched access rate reductions. It amends the subsection to require any IXC whose intrastate switched network access rates are reduced as a result of the rate adjustments provided in s. 364.164, F.S., to reduce its intrastate long distance revenues by the amount necessary to return the benefits of the reduction to both its residential and business customers proportionally according to the respective proportion of residential and business access lines. IXCs must decrease until March 1, 2004, the in-state connection fee by any intrastate switched network access rate reduction before other long distance toll rates are reduced. Current provisions allowing the ICX to determine the specific intrastate rates to be decreased are maintained. Finally, any tariff changes made by the IXC as a result of this provision are presumed valid and become effective on one day's notice.

It should be noted that according to the commission, verifications of the rate reductions are inherently difficult. Because long distance companies are exempt from most pricing regulation [*see* s.364.337(4)], an IXC is not required to maintain a specific rate. For instance, an IXC could lower rates at a point in time to reflect the access reduction it received and then, at a later point, raise long distance rates back to the previous, or higher level. On the other hand, the long distance industry states that competition will force rates down because any company that raises its rates will loose customers.

The provisions of subsection (7) are deleted. This subsection provided the effective date of October 1 of each year for prior reductions. Subsection (8) is also deleted. This subsection provided the PSC with the authority to determine the correctness of the rate decrease and to order the holding of the revenues subject to refund under existing law.

Subsection (9) is amended and renumbered as subsection (3) to conform this subsection to the changes in the bill. The committee substitute also clarifies that the commission maintains its current authority to establish reasonable service quality criteria and resolve service complaints.

B. Revenue Neutrality and Verification

Section 3. A new s. 364.164, F.S., is created to provide the procedure for reducing intrastate-switched network access rates. Intrastate-switched network access rates are those charges that long distance companies pay to the local exchange companies for access to their local telephone networks. These charges are defined in the bill as the composite of the originating and terminating network access rate for carrier common line, local channel/entrance facility, switched common transport, access tandem switching, interconnection charges, information surcharges, and local switching.

Under subsection (1), the bill provides that, notwithstanding the price regulation provisions of s. 364.051(3), F.S., each local exchange telecommunications company with more than 1 million access lines in service shall notify the PSC that it has established a revenue category to include both basic local telecommunications service and intrastate switched network access revenues. The notification shall include a timetable for reducing the company's intrastate-switched network access rates within the category to or below parity as defined in the bill.

Pursuant to subsection (5), for a LEC with more than 4 million access lines in service, "parity" is defined as the intrastate-switched network access rate equaling the interstate rate in effect on January 1, 2002. This includes BellSouth and is .98 cents per minute. If the company has less than 4 million "parity" is defined as 2 cents per minute. This includes Verizon and Sprint. If the company has less that 1 million access lines in service, “parity” is defined as 8 cents per minute. This includes ALLTEL, GT COM, ITS, Northeast, Quincy, Smart City Telecom, and Frontier.

The commission is required to approve the timetable for reducing the company's intrastate-switched network access rates within the category to or below parity as defined in the bill within 60 days of the timetable being filed with the commission if (1) the timetable reaches parity or below parity within 2 to 5 years and (2) the intrastate-switched access rate reductions are equal in amounts and occur once in any 12-month period. The commission may, after consultation with the company, adjust the timetable if it finds it is in the public interest and the adjusted timetable is within the 2 to 5 years and the reductions are equal in amounts and occur once in any 12-month period. The local exchange companies with less than 1 million access lines may establish a revenue category and timetable for reducing switched network access rates under the same guidelines as the larger companies. The revenue category does not include the revenues that are generated from pay telephones.

Under subsection (2), when the commission approves the timetable, the local exchange telecommunications companies shall, with 45-day notice, adjust the various prices and rates of basic telecommunications service and switched network access service once in any 12-month period on a revenue neutral basis. All annual adjustments within the revenue category must be implemented simultaneously and be revenue neutral. The commission is required to issue a final order within 21 days of the filing confirming compliance with the provisions of the section. The order is final for all purposes.

Pursuant to subsection (3), any rate adjustment filing must be based on the local exchange telecommunications company's most recent 12 months pricing units for any service included in the revenue category. The services included in this category are residential and single-line business telephone service. Examples of pricing units are the minutes of use of long distance service for intrastate-switched network access revenues and number of residential and single-business access lines for basic local telecommunications service revenue.

The commission has the authority only to verify the pricing units for the purpose of ensuring that the LEC's specific adjustments make the revenue category revenue neutral. Any discovery or information requests are limited to verification of historical pricing units to ensure that the rate adjustments make the revenue category revenue neutral for each annual filing. The exemptions from rate of return regulation under s. 364.051(1)(c), F.S., are maintained under subsection (4).

Subsection (6) provides that “revenue neutrality,” as used in this section, means the total revenue within the revenue category remains the same before and after any of the annual rate adjustments. The calculation of revenue received prior to any rate adjustment is made by multiplying the current rate for each service by the most recent 12 months pricing units for each service. The calculation of revenue received after the rate adjustments is made by multiplying adjusted rate for each service by the most recent 12 months pricing units for each service. These calculations are made without any adjustments to the number of pricing units. Revenue neutrality in s. 364.164, F.S., applies to the LEC and the result will not be "revenue neutral" to the basic local service customer. According to the commission, the mandated decrease in access charges would inevitably increase basic local rates when the revenue neutrality concept is applied to the "basket" that includes access charges and basic local rates. The commission estimates the cumulative change in monthly basic local rates to reach parity would be an increase for BellSouth customers of $5, for Sprint customers of $8, and for Verizon of $5, but notes that these estimates are based upon dated information.

C. Other

The interaction between this proposed bill and s. 364.051(3), F.S., appears to also allow LECs to increase basic local service prices once each year by inflation less 1 percent. Switched access services and basic local service rate changes will be made under 364.164.

Section 4. The bill becomes effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

BellSouth has estimated that the total reduction in revenue to reduce the intrastate-switched network access rates to parity is approximately $159.5 million. BellSouth estimated that the adjustments would be in three increments of $1.00 per year for a total of $3.00.

Sprint estimates that the total reduction in revenue to reduce the intrastate-switched network access rates to parity is approximately $142.7 million. Sprint estimated that the adjustments would be five increments of $1.39 per year for a total of $6.95.

Verizon estimates that the total reduction in revenue to reduce the intrastate-switched network access rates to parity is approximately $96 million. Verizon estimated that the adjustments would occur over a 5-year period at $1.00 per year for a total of $5.00.

The estimated adjustment would be added to the customer's monthly basic rate.

The long distance companies are required to flow through any reductions in access rates for the benefit of both the residential and business customers. The in-state connection charge will be eliminated under the bill. AT&T has estimated that the elimination of that charge will result in a $50 million loss in revenues.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.