

CHAMBER ACTION

1 The Utilities & Telecommunications Committee recommends the
2 following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to telecommunications; amending s. 364.01,
8 F.S.; specifying the exclusive jurisdiction of the Florida
9 Public Service Commission to regulate telecommunications
10 companies; providing that activities regulated by the
11 commission are exempt from ch. 501, F.S., relating to
12 consumer protection; providing that state laws governing
13 business and consumer protection be applied to
14 communications activities that are not regulated by the
15 commission; deleting certain legislative findings with
16 respect to the provision of local telecommunications
17 services; revising provisions governing the exclusive
18 jurisdiction of the commission; creating s. 364.011, F.S.;
19 specifying certain services that are exempt from oversight
20 by the commission; creating s. 364.012, F.S.; directing
21 the commission to maintain liaison with federal agencies;
22 providing that ch. 364, F.S., does not limit or modify
23 certain duties of a local exchange carrier; creating s.

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24 | 364.013, F.S.; requiring that broadband service remain
 25 | free of state and local regulation; requiring that voice-
 26 | over-Internet protocol remain free of regulation, except
 27 | as specifically provided in ch. 364, F.S.; amending s.
 28 | 364.02, F.S.; defining the terms "broadband service" and
 29 | "VoIP"; revising the definition of "service"; amending s.
 30 | 364.0361, F.S.; prohibiting a local government from
 31 | regulating the provision of voice-over-Internet protocol,
 32 | regardless of the provider, platform, or protocol;
 33 | amending s. 364.051, F.S.; providing that evidence of
 34 | damage caused by a tropical storm system constitutes a
 35 | compelling showing of changed circumstances to justify a
 36 | change in rates; directing the commission to order a line
 37 | item charge for a certain period to recover costs of such
 38 | damage; limiting amount of such charge; amending s.
 39 | 364.10, F.S.; revising the income threshold for
 40 | eligibility for Lifeline service; amending s. 364.335,
 41 | F.S.; increasing the maximum allowable filing fee for
 42 | certification of telecommunications carriers; amending s.
 43 | 364.336, F.S.; providing minimum regulatory assessment
 44 | fees to be assessed by rule of the commission; repealing
 45 | s. 364.502, F.S., relating to video programming services;
 46 | amending ss. 196.012, 199.183, 212.08, 290.007, 350.0605,
 47 | 364.602, and 489.103, F.S.; conforming cross references;
 48 | providing effective dates.

49 |
 50 | Be It Enacted by the Legislature of the State of Florida:
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52 Section 1. Section 364.01, Florida Statutes, is amended to
53 read:

54 364.01 Powers of commission, legislative intent.--

55 (1) The Florida Public Service Commission shall exercise
56 over and in relation to telecommunications companies the powers
57 conferred by this chapter.

58 (2) The Florida Public Service Commission has ~~it is the~~
59 ~~legislative intent to give~~ exclusive jurisdiction in all matters
60 set forth in this chapter to regulate ~~the Florida Public Service~~
61 ~~Commission in regulating~~ telecommunications companies, and such
62 preemption shall supersede any local or special act or municipal
63 charter where any conflict of authority may exist. However, the
64 provisions of this chapter shall not affect the authority and
65 powers granted in s. 166.231(9) or s. 337.401.

66 (3) Activities regulated under laws administered by the
67 Florida Public Service Commission are exempt from chapter 501.
68 Communications activities that are not regulated by the Florida
69 Public Service Commission, including, but not limited to, VoIP,
70 wireless, and broadband, are subject to this state's generally
71 applicable business regulation and deceptive trade practices and
72 consumer protection laws, as enforced by the appropriate state
73 authority or through actions in the judicial system. This
74 chapter does not limit the availability to any party of any
75 remedy or defense under state or federal antitrust laws. The
76 ~~Legislature finds that the competitive provision of~~
77 ~~telecommunications services, including local exchange~~
78 ~~telecommunications service, is in the public interest and will~~
79 ~~provide customers with freedom of choice, encourage the~~

80 | ~~introduction of new telecommunications service, encourage~~
 81 | ~~technological innovation, and encourage investment in~~
 82 | ~~telecommunications infrastructure. The Legislature further finds~~
 83 | ~~that the transition from the monopoly provision of local~~
 84 | ~~exchange service to the competitive provision thereof will~~
 85 | ~~require appropriate regulatory oversight to protect consumers~~
 86 | ~~and provide for the development of fair and effective~~
 87 | ~~competition, but nothing in this chapter shall limit the~~
 88 | ~~availability to any party of any remedy under state or federal~~
 89 | ~~antitrust laws. The Legislature further finds that changes in~~
 90 | ~~regulations allowing increased competition in telecommunications~~
 91 | ~~services could provide the occasion for increases in the~~
 92 | ~~telecommunications workforce; therefore, it is in the public~~
 93 | ~~interest that competition in telecommunications services lead to~~
 94 | ~~a situation that enhances the high technological skills and the~~
 95 | ~~economic status of the telecommunications workforce. The~~
 96 | ~~Legislature further finds that the provision of voice over-~~
 97 | ~~Internet protocol (VOIP) free of unnecessary regulation,~~
 98 | ~~regardless of the provider, is in the public interest.~~

99 | (4) The commission shall exercise its exclusive
 100 | jurisdiction in order to:

101 | (a) Protect the public health, safety, and welfare by
 102 | ensuring that basic local telecommunications services are
 103 | available to all consumers in the state at reasonable and
 104 | affordable prices.

105 | (b) Encourage competition through flexible regulatory
 106 | treatment among providers of telecommunications services in
 107 | order to ensure the availability of the widest possible range of

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108 consumer choice in the provision of all telecommunications
109 services.

110 (c) Protect the public health, safety, and welfare by
111 ensuring that monopoly services provided by telecommunications
112 companies continue to be subject to effective price, rate, and
113 service regulation.

114 (d) Promote competition by encouraging innovation and
115 investment in new entrants ~~into~~ telecommunications markets and
116 by allowing a transitional period in which new and emerging
117 technologies ~~entrants~~ are subject to a reduced ~~lesser~~ level of
118 regulatory oversight ~~than local exchange telecommunications~~
119 ~~companies~~.

120 (e) Encourage all providers of telecommunications services
121 to introduce new or experimental telecommunications services
122 free of unnecessary regulatory restraints.

123 (f) Eliminate any rules or ~~and/or~~ regulations which will
124 delay or impair the transition to competition.

125 (g) Ensure that all providers of telecommunications
126 services are treated fairly, by preventing anticompetitive
127 behavior and eliminating unnecessary regulatory restraint.

128 (h) Recognize the continuing emergence of a competitive
129 telecommunications environment through the flexible regulatory
130 treatment of competitive telecommunications services, where
131 appropriate, if doing so does not reduce the availability of
132 adequate basic local telecommunications service to all citizens
133 of the state at reasonable and affordable prices, if competitive
134 telecommunications services are not subsidized by monopoly

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135 telecommunications services, and if all monopoly services are
136 available to all competitors on a nondiscriminatory basis.

137 (i) Continue its historical role as a surrogate for
138 competition for monopoly services provided by local exchange
139 telecommunications companies.

140 Section 2. Section 364.011, Florida Statutes, is created
141 to read:

142 364.011 Exemptions from commission jurisdiction.--The
143 following services are exempt from oversight by the commission,
144 except to the extent delineated in this chapter or specifically
145 authorized by federal law:

146 (1) Intrastate interexchange telecommunications services.

147 (2) Broadband services, regardless of the provider,
148 platform, or protocol.

149 (3) VoIP.

150 (4) Wireless telecommunications, including commercial
151 mobile radio services.

152 Section 3. Section 364.012, Florida Statutes, is created
153 to read:

154 364.012 Consistency with federal law.--

155 (1) In order to promote commission coordination with
156 federal policymakers and regulatory agencies, the commission
157 shall maintain continuous liaisons with appropriate federal
158 agencies whose policy decisions and rulemaking authority affect
159 those telecommunications companies over which the commission has
160 jurisdiction. The commission is encouraged to participate in the
161 proceedings of federal agencies in cases in which the state's
162 consumers may be affected and to convey the commission's policy

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163 positions and information requirements in order to achieve
 164 greater efficiency in regulation.

165 (2) This chapter does not limit or modify the duties of a
 166 local exchange carrier to provide unbundled access to network
 167 elements or the commission's authority to arbitrate and enforce
 168 interconnection agreements to the extent that those elements are
 169 required under 47 U.S.C. ss. 251 and 252, and under any
 170 regulations issued by the Federal Communications Commission at
 171 rates determined in accordance with the standards established by
 172 the Federal Communications Commission pursuant to 47 C.F.R. ss.
 173 51.503-51.513, inclusive of any successor regulation or
 174 successor forbearance of regulation.

175 Section 4. Section 364.013, Florida Statutes, is created
 176 to read:

177 364.013 Emerging and advanced services.--Broadband service
 178 shall remain free of state and local regulation, regardless of
 179 the provider, platform, or protocol. In addition, the provision
 180 of voice-over-Internet protocol (VoIP) shall be free of
 181 regulation, except as delineated in this chapter or as
 182 specifically authorized by federal law, regardless of the
 183 provider, platform, or protocol.

184 Section 5. Section 364.02, Florida Statutes, is amended to
 185 read:

186 364.02 Definitions.--As used in this chapter:

187 (1) "Basic local telecommunications service" means voice-
 188 grade, flat-rate residential, and flat-rate single-line business
 189 local exchange services which provide dial tone, local usage
 190 necessary to place unlimited calls within a local exchange area,

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191 dual tone multifrequency dialing, and access to the following:
 192 emergency services such as "911," all locally available
 193 interexchange companies, directory assistance, operator
 194 services, relay services, and an alphabetical directory listing.
 195 For a local exchange telecommunications company, such term shall
 196 include any extended area service routes, and extended calling
 197 service in existence or ordered by the commission on or before
 198 July 1, 1995.

199 (2) "Broadband service" means any service that consists of
 200 or includes the offering of the capability to transmit or
 201 receive information at a rate that is not less than 200 kilobits
 202 per second and either:

203 (a) Is used to provide access to the Internet; or

204 (b) Provides computer processing, information, storage,
 205 information content, or protocol conversion in combination with
 206 such service.

207
 208 Nothing contained in this subsection shall apply to any
 209 intrastate telecommunications services tariffed with the
 210 commission as of January 1, 2005.

211 (3)(2) "Commercial mobile radio service provider" means a
 212 commercial mobile radio service provider as defined by and
 213 pursuant to 47 U.S.C. ss. 153(n) and 332(d).

214 (4)(3) "Commission" means the Florida Public Service
 215 Commission.

216 (5)(4) "Competitive local exchange telecommunications
 217 company" means any company certificated by the commission to

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218 provide local exchange telecommunications services in this state
219 on or after July 1, 1995.

220 (6)~~(5)~~ "Corporation" includes a corporation, company,
221 association, or joint stock association.

222 (7)~~(6)~~ "Intrastate interexchange telecommunications
223 company" means any entity that provides intrastate interexchange
224 telecommunications services.

225 (8)~~(7)~~ "Local exchange telecommunications company" means
226 any company certificated by the commission to provide local
227 exchange telecommunications service in this state on or before
228 June 30, 1995.

229 (9)~~(8)~~ "Monopoly service" means a telecommunications
230 service for which there is no effective competition, either in
231 fact or by operation of law.

232 (10)~~(9)~~ "Nonbasic service" means any telecommunications
233 service provided by a local exchange telecommunications company
234 other than a basic local telecommunications service, a local
235 interconnection arrangement described in s. 364.16, or a network
236 access service described in s. 364.163.

237 (11)~~(10)~~ "Operator service" includes, but is not limited
238 to, billing or completion of third-party, person-to-person,
239 collect, or calling card or credit card calls through the use of
240 a live operator or automated equipment.

241 (12)~~(11)~~ "Operator service provider" means a person who
242 furnishes operator service through a call aggregator.

243 (13)~~(12)~~ "Service" is to be construed in its broadest and
244 most inclusive sense. The term "service" does not include
245 broadband service or voice-over-Internet protocol service for

246 | purposes of regulation by the commission. Nothing herein shall
 247 | affect the rights and obligations of any entity related to the
 248 | payment of switched network access rates or other intercarrier
 249 | compensation, if any, related to voice-over-Internet protocol
 250 | service. Notwithstanding the provisions of this subsection, the
 251 | commission shall have the authority to arbitrate, enforce, or
 252 | approve interconnection agreements and resolve disputes as
 253 | provided by 47 U.S.C. ss. 251 and 252 or any other applicable
 254 | federal law or regulation. The duties of a local exchange
 255 | telecommunications company to provide unbundled network
 256 | elements, interconnection, collocation arrangements, or any
 257 | other service, right, or benefit to any party, regardless of the
 258 | technology, shall be those that the company is obligated to
 259 | extend or provide under applicable federal law and regulations.

260 | ~~(14)~~~~(13)~~ "Telecommunications company" includes every
 261 | corporation, partnership, and person and their lessees,
 262 | trustees, or receivers appointed by any court whatsoever, and
 263 | every political subdivision in the state, offering two-way
 264 | telecommunications service to the public for hire within this
 265 | state by the use of a telecommunications facility. The term
 266 | "telecommunications company" does not include:

267 | (a) An entity which provides a telecommunications facility
 268 | exclusively to a certificated telecommunications company;

269 | (b) An entity which provides a telecommunications facility
 270 | exclusively to a company which is excluded from the definition
 271 | of a telecommunications company under this subsection;

272 | (c) A commercial mobile radio service provider;

273 | (d) A facsimile transmission service;

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274 (e) A private computer data network company not offering
275 service to the public for hire;

276 (f) A cable television company providing cable service as
277 defined in 47 U.S.C. s. 522; or

278 (g) An intrastate interexchange telecommunications
279 company.

280

281 However, each commercial mobile radio service provider and each
282 intrastate interexchange telecommunications company shall
283 continue to be liable for any taxes imposed pursuant to chapters
284 202, 203 and 212 and any fees assessed pursuant to ss. 364.025
285 and 364.336. Each intrastate interexchange telecommunications
286 company shall continue to be subject to ss. 364.04, 364.10(3)(a)
287 and (d), 364.163, 364.285, 364.501, 364.603, and 364.604, shall
288 provide the commission with such current information as the
289 commission deems necessary to contact and communicate with the
290 company, shall continue to pay intrastate switched network
291 access rates or other intercarrier compensation to the local
292 exchange telecommunications company or the competitive local
293 exchange telecommunications company for the origination and
294 termination of interexchange telecommunications service, and
295 shall reduce its intrastate long distance toll rates in
296 accordance with s. 364.163(2).

297 (15)~~(14)~~ "Telecommunications facility" includes real
298 estate, easements, apparatus, property, and routes used and
299 operated to provide two-way telecommunications service to the
300 public for hire within this state.

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301 (16) "VoIP" means the voice-over-Internet protocol as that
 302 term is defined in federal law.

303 Section 6. Section 364.0361, Florida Statutes, is amended
 304 to read:

305 364.0361 Local government authority; nondiscriminatory
 306 exercise.--A local government shall treat each
 307 telecommunications company in a nondiscriminatory manner when
 308 exercising its authority to grant franchises to a
 309 telecommunications company or to otherwise establish conditions
 310 or compensation for the use of rights-of-way or other public
 311 property by a telecommunications company. A local government may
 312 not directly or indirectly regulate the terms and conditions,
 313 including, but not limited to, the operating systems,
 314 qualifications, services, service quality, service territory,
 315 and prices, applicable to or in connection with the provision of
 316 any voice-over-Internet protocol, broadband or information
 317 service, regardless of the provider, platform, or protocol. This
 318 section does not relieve a provider from any obligations under
 319 s. 166.046 or s. 337.401.

320 Section 7. Effective upon this act becoming a law,
 321 subsection (4) of section 364.051, Florida Statutes, is amended
 322 to read:

323 364.051 Price regulation.--

324 (4) Notwithstanding the provisions of subsection (2), any
 325 local exchange telecommunications company that believes
 326 circumstances have changed substantially to justify any increase
 327 in the rates for basic local telecommunications services may
 328 petition the commission for a rate increase, but the commission

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329 shall grant such petition only after an opportunity for a
330 hearing and a compelling showing of changed circumstances. The
331 costs and expenses of any government program or project required
332 in part II shall not be recovered under this subsection unless
333 such costs and expenses are incurred in the absence of a bid and
334 subject to carrier-of-last-resort obligations as provided for in
335 part II. The commission shall act upon any such petition within
336 120 days of its filing. For purposes of this section, evidence
337 of damage to the lines, plant, and facilities of a local
338 exchange telecommunications company subject to carrier-of-last-
339 resort obligations resulting from the occurrence of a tropical
340 storm system that has been named by the National Hurricane
341 Center after June 1, 2005, shall constitute a compelling showing
342 of changed circumstances. In such event, the commission shall
343 verify the costs and expenses submitted by the company in
344 support of its petition related to repairing, restoring, and
345 replacing storm-damaged lines, plants, and facilities, and, upon
346 verification and a showing that such costs and expenses were
347 reasonably incurred under the circumstances, shall grant the
348 company's petition. A local exchange telecommunications company
349 with a storm reserve shall be authorized to recover tropical
350 storm system cost-related damages from its customers only in
351 excess of any amounts available in such storm reserve. The
352 commission shall order the company to add an equal line item
353 charge per access line for a period of no more than 12 months to
354 the bills of the company's retail basic local telecommunications
355 service customers, its retail nonbasic telecommunications
356 service customers, and its wholesale loop unbundled network

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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357 element customers. The line item charge may be in an amount up
 358 to, but shall not exceed, 50 cents per month per customer line
 359 charged for 12 calendar months.

360 Section 8. Paragraph (a) of subsection (3) of section
 361 364.10, Florida Statutes, is amended to read:

362 364.10 Undue advantage to person or locality prohibited;
 363 Lifeline service.--

364 (3)(a) Effective September 1, 2003, any local exchange
 365 telecommunications company authorized by the commission to
 366 reduce its switched network access rate pursuant to s. 364.164
 367 shall have tariffed and shall provide Lifeline service to any
 368 otherwise eligible customer or potential customer who meets an
 369 income eligibility test at 135 ~~125~~ percent or less of the
 370 federal poverty income guidelines for Lifeline customers. Such a
 371 test for eligibility must augment, rather than replace, the
 372 eligibility standards established by federal law and based on
 373 participation in certain low-income assistance programs. Each
 374 intrastate interexchange telecommunications company shall,
 375 effective September 1, 2003, file a tariff providing at a
 376 minimum the intrastate interexchange telecommunications
 377 carrier's current Lifeline benefits and exemptions to Lifeline
 378 customers who meet the income eligibility test set forth in this
 379 subsection. The Office of Public Counsel shall certify and
 380 maintain claims submitted by a customer for eligibility under
 381 the income test authorized by this subsection.

382 Section 9. Paragraph (c) of subsection (1) of section
 383 364.335, Florida Statutes, is amended to read:

384 364.335 Application for certificate.--

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385 (1) Each applicant for a certificate shall:

386 (c) File the application fee required by the commission in
387 an amount not to exceed \$500 ~~\$250~~. Such fees shall be deposited
388 in accordance with s. 350.113.

389 Section 10. Section 364.336, Florida Statutes, is amended
390 to read:

391 364.336 Regulatory assessment fees.--Notwithstanding any
392 provisions of law to the contrary, each telecommunications
393 company licensed or operating under this chapter, for any part
394 of the preceding 6-month period, shall pay to the commission,
395 within 30 days following the end of each 6-month period, a fee
396 that may not exceed 0.25 percent annually of its gross operating
397 revenues derived from intrastate business, except, for purposes
398 of this section and the fee specified in s. 350.113(3), any
399 amount paid to another telecommunications company for the use of
400 any telecommunications network shall be deducted from the gross
401 operating revenue for purposes of computing the fee due. The
402 commission shall by rule assess a minimum fee in an amount up to
403 \$1,000. The minimum amount may be different depending on the
404 type of service provided by the telecommunications company and
405 shall, to the extent practicable, be related to the cost of
406 regulating such type of company. Differences, if any, between
407 the amount paid in any 6-month period and the amount actually
408 determined by the commission to be due shall, upon motion by the
409 commission, be immediately paid or refunded. Fees under this
410 section may not be less than \$50 annually. Such fees shall be
411 deposited in accordance with s. 350.113. The commission may by

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412 rule establish criteria for payment of the regulatory assessment
413 fee on an annual basis rather than on a semiannual basis.

414 Section 11. Section 364.502, Florida Statutes, is
415 repealed.

416 Section 12. Subsection (6) of section 196.012, Florida
417 Statutes, is amended to read:

418 196.012 Definitions.--For the purpose of this chapter, the
419 following terms are defined as follows, except where the context
420 clearly indicates otherwise:

421 (6) Governmental, municipal, or public purpose or function
422 shall be deemed to be served or performed when the lessee under
423 any leasehold interest created in property of the United States,
424 the state or any of its political subdivisions, or any
425 municipality, agency, special district, authority, or other
426 public body corporate of the state is demonstrated to perform a
427 function or serve a governmental purpose which could properly be
428 performed or served by an appropriate governmental unit or which
429 is demonstrated to perform a function or serve a purpose which
430 would otherwise be a valid subject for the allocation of public
431 funds. For purposes of the preceding sentence, an activity
432 undertaken by a lessee which is permitted under the terms of its
433 lease of real property designated as an aviation area on an
434 airport layout plan which has been approved by the Federal
435 Aviation Administration and which real property is used for the
436 administration, operation, business offices and activities
437 related specifically thereto in connection with the conduct of
438 an aircraft full service fixed base operation which provides
439 goods and services to the general aviation public in the

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440 | promotion of air commerce shall be deemed an activity which
 441 | serves a governmental, municipal, or public purpose or function.
 442 | Any activity undertaken by a lessee which is permitted under the
 443 | terms of its lease of real property designated as a public
 444 | airport as defined in s. 332.004(14) by municipalities,
 445 | agencies, special districts, authorities, or other public bodies
 446 | corporate and public bodies politic of the state, a spaceport as
 447 | defined in s. 331.303(19), or which is located in a deepwater
 448 | port identified in s. 403.021(9)(b) and owned by one of the
 449 | foregoing governmental units, subject to a leasehold or other
 450 | possessory interest of a nongovernmental lessee that is deemed
 451 | to perform an aviation, airport, aerospace, maritime, or port
 452 | purpose or operation shall be deemed an activity that serves a
 453 | governmental, municipal, or public purpose. The use by a lessee,
 454 | licensee, or management company of real property or a portion
 455 | thereof as a convention center, visitor center, sports facility
 456 | with permanent seating, concert hall, arena, stadium, park, or
 457 | beach is deemed a use that serves a governmental, municipal, or
 458 | public purpose or function when access to the property is open
 459 | to the general public with or without a charge for admission. If
 460 | property deeded to a municipality by the United States is
 461 | subject to a requirement that the Federal Government, through a
 462 | schedule established by the Secretary of the Interior, determine
 463 | that the property is being maintained for public historic
 464 | preservation, park, or recreational purposes and if those
 465 | conditions are not met the property will revert back to the
 466 | Federal Government, then such property shall be deemed to serve
 467 | a municipal or public purpose. The term "governmental purpose"

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468 | also includes a direct use of property on federal lands in
 469 | connection with the Federal Government's Space Exploration
 470 | Program or spaceport activities as defined in s. 212.02(22).
 471 | Real property and tangible personal property owned by the
 472 | Federal Government or the Florida Space Authority and used for
 473 | defense and space exploration purposes or which is put to a use
 474 | in support thereof shall be deemed to perform an essential
 475 | national governmental purpose and shall be exempt. "Owned by the
 476 | lessee" as used in this chapter does not include personal
 477 | property, buildings, or other real property improvements used
 478 | for the administration, operation, business offices and
 479 | activities related specifically thereto in connection with the
 480 | conduct of an aircraft full service fixed based operation which
 481 | provides goods and services to the general aviation public in
 482 | the promotion of air commerce provided that the real property is
 483 | designated as an aviation area on an airport layout plan
 484 | approved by the Federal Aviation Administration. For purposes of
 485 | determination of "ownership," buildings and other real property
 486 | improvements which will revert to the airport authority or other
 487 | governmental unit upon expiration of the term of the lease shall
 488 | be deemed "owned" by the governmental unit and not the lessee.
 489 | Providing two-way telecommunications services to the public for
 490 | hire by the use of a telecommunications facility, as defined in
 491 | s. 364.02(15) ~~s. 364.02(14)~~, and for which a certificate is
 492 | required under chapter 364 does not constitute an exempt use for
 493 | purposes of s. 196.199, unless the telecommunications services
 494 | are provided by the operator of a public-use airport, as defined
 495 | in s. 332.004, for the operator's provision of

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496 | telecommunications services for the airport or its tenants,
 497 | concessionaires, or licensees, or unless the telecommunications
 498 | services are provided by a public hospital. However, property
 499 | that is being used to provide such telecommunications services
 500 | on or before October 1, 1997, shall remain exempt, but such
 501 | exemption expires October 1, 2004.

502 | Section 13. Paragraph (b) of subsection (1) of section
 503 | 199.183, Florida Statutes, is amended to read:

504 | 199.183 Taxpayers exempt from annual and nonrecurring
 505 | taxes.--

506 | (1) Intangible personal property owned by this state or
 507 | any of its political subdivisions or municipalities shall be
 508 | exempt from taxation under this chapter. This exemption does not
 509 | apply to:

510 | (b) Property related to the provision of two-way
 511 | telecommunications services to the public for hire by the use of
 512 | a telecommunications facility, as defined in s. 364.02(15) ~~s.~~
 513 | ~~364.02(14)~~, and for which a certificate is required under
 514 | chapter 364, when such service is provided by any county,
 515 | municipality, or other political subdivision of the state. Any
 516 | immunity of any political subdivision of the state or other
 517 | entity of local government from taxation of the property used to
 518 | provide telecommunication services that is taxed as a result of
 519 | this paragraph is hereby waived. However, intangible personal
 520 | property related to the provision of such telecommunications
 521 | services provided by the operator of a public-use airport, as
 522 | defined in s. 332.004, for the operator's provision of
 523 | telecommunications services for the airport or its tenants,

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524 concessionaires, or licensees, and intangible personal property
525 related to the provision of such telecommunications services
526 provided by a public hospital, are exempt from taxation under
527 this chapter.

528 Section 14. Subsection (6) of section 212.08, Florida
529 Statutes, is amended to read:

530 212.08 Sales, rental, use, consumption, distribution, and
531 storage tax; specified exemptions.--The sale at retail, the
532 rental, the use, the consumption, the distribution, and the
533 storage to be used or consumed in this state of the following
534 are hereby specifically exempt from the tax imposed by this
535 chapter.

536 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are also
537 exempt from the tax imposed by this chapter sales made to the
538 United States Government, a state, or any county, municipality,
539 or political subdivision of a state when payment is made
540 directly to the dealer by the governmental entity. This
541 exemption shall not inure to any transaction otherwise taxable
542 under this chapter when payment is made by a government employee
543 by any means, including, but not limited to, cash, check, or
544 credit card when that employee is subsequently reimbursed by the
545 governmental entity. This exemption does not include sales of
546 tangible personal property made to contractors employed either
547 directly or as agents of any such government or political
548 subdivision thereof when such tangible personal property goes
549 into or becomes a part of public works owned by such government
550 or political subdivision. A determination whether a particular
551 transaction is properly characterized as an exempt sale to a

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552 government entity or a taxable sale to a contractor shall be
 553 based on the substance of the transaction rather than the form
 554 in which the transaction is cast. The department shall adopt
 555 rules that give special consideration to factors that govern the
 556 status of the tangible personal property before its affixation
 557 to real property. In developing these rules, assumption of the
 558 risk of damage or loss is of paramount consideration in the
 559 determination. This exemption does not include sales, rental,
 560 use, consumption, or storage for use in any political
 561 subdivision or municipality in this state of machines and
 562 equipment and parts and accessories therefor used in the
 563 generation, transmission, or distribution of electrical energy
 564 by systems owned and operated by a political subdivision in this
 565 state for transmission or distribution expansion. Likewise
 566 exempt are charges for services rendered by radio and television
 567 stations, including line charges, talent fees, or license fees
 568 and charges for films, videotapes, and transcriptions used in
 569 producing radio or television broadcasts. The exemption provided
 570 in this subsection does not include sales, rental, use,
 571 consumption, or storage for use in any political subdivision or
 572 municipality in this state of machines and equipment and parts
 573 and accessories therefor used in providing two-way
 574 telecommunications services to the public for hire by the use of
 575 a telecommunications facility, as defined in s. 364.02(15) ~~s.~~
 576 ~~364.02(14)~~, and for which a certificate is required under
 577 chapter 364, which facility is owned and operated by any county,
 578 municipality, or other political subdivision of the state. Any
 579 immunity of any political subdivision of the state or other

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580 | entity of local government from taxation of the property used to
 581 | provide telecommunication services that is taxed as a result of
 582 | this section is hereby waived. However, the exemption provided
 583 | in this subsection includes transactions taxable under this
 584 | chapter which are for use by the operator of a public-use
 585 | airport, as defined in s. 332.004, in providing such
 586 | telecommunications services for the airport or its tenants,
 587 | concessionaires, or licensees, or which are for use by a public
 588 | hospital for the provision of such telecommunications services.

589 | Section 15. Subsection (8) of section 290.007, Florida
 590 | Statutes, is amended to read:

591 | 290.007 State incentives available in enterprise
 592 | zones.--The following incentives are provided by the state to
 593 | encourage the revitalization of enterprise zones:

594 | (8) Notwithstanding any law to the contrary, the Public
 595 | Service Commission may allow public utilities and
 596 | telecommunications companies to grant discounts of up to 50
 597 | percent on tariffed rates for services to small businesses
 598 | located in an enterprise zone designated pursuant to s.
 599 | 290.0065. Such discounts may be granted for a period not to
 600 | exceed 5 years. For purposes of this subsection, the term
 601 | "public utility" has the same meaning as in s. 366.02(1) and the
 602 | term "telecommunications company" has the same meaning as in s.
 603 | 364.02(14) ~~s. 364.02(13)~~.

604 | Section 16. Subsection (3) of section 350.0605, Florida
 605 | Statutes, is amended to read:

606 | 350.0605 Former commissioners and employees;
 607 | representation of clients before commission.--

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608 (3) For a period of 2 years following termination of
 609 service on the commission, a former member may not accept
 610 employment by or compensation from a business entity which,
 611 directly or indirectly, owns or controls a public utility
 612 regulated by the commission, from a public utility regulated by
 613 the commission, from a business entity which, directly or
 614 indirectly, is an affiliate or subsidiary of a public utility
 615 regulated by the commission or is an actual business competitor
 616 of a local exchange company or public utility regulated by the
 617 commission and is otherwise exempt from regulation by the
 618 commission under ss. 364.02(14) ~~364.02(13)~~ and 366.02(1), or
 619 from a business entity or trade association that has been a
 620 party to a commission proceeding within the 2 years preceding
 621 the member's termination of service on the commission. This
 622 subsection applies only to members of the Florida Public Service
 623 Commission who are appointed or reappointed after May 10, 1993.

624 Section 17. Subsection (4) of section 364.602, Florida
 625 Statutes, is amended to read:

626 364.602 Definitions.--For purposes of this part:

627 (4) "Originating party" means any person, firm,
 628 corporation, or other entity, including a telecommunications
 629 company or a billing clearinghouse, that provides any
 630 telecommunications service or information service to a customer
 631 or bills a customer through a billing party, except the term
 632 "originating party" does not include any entity specifically
 633 exempted from the definition of "telecommunications company" as
 634 provided in s. 364.02(14) ~~s. 364.02(13)~~.

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635 Section 18. Subsection (5) of section 489.103, Florida
636 Statutes, is amended to read:

637 489.103 Exemptions.--This part does not apply to:

638 (5) Public utilities, including special gas districts as
639 defined in chapter 189, telecommunications companies as defined
640 in s. 364.02(14) ~~s. 364.02(13)~~, and natural gas transmission
641 companies as defined in s. 368.103(4), on construction,
642 maintenance, and development work performed by their employees,
643 which work, including, but not limited to, work on bridges,
644 roads, streets, highways, or railroads, is incidental to their
645 business. The board shall define, by rule, the term "incidental
646 to their business" for purposes of this subsection.

647 Section 19. Except as otherwise provided herein, this act
648 shall take effect July 1, 2005.