

1 A bill to be entitled
2 An act relating to communications services taxes;
3 amending s. 202.105, F.S.; revising legislative
4 intent; amending s. 202.11, F.S.; modifying
5 definitions; removing the definition of the term
6 "cable service"; adding a definition for the term
7 "Internet access service"; revising the definitions of
8 the terms "communication services," "information
9 service," "sales price," "service address," and "video
10 service"; amending ss. 202.125, 202.16, and 202.24,
11 F.S.; conforming provisions to changes in terminology;
12 amending s. 202.18, F.S.; removing a cross-reference
13 to conform; amending s. 202.22, F.S.; revising
14 provisions relating to a communications services
15 dealer's liability for tax underpayments that result
16 from the incorrect assignment of service addresses to
17 local taxing jurisdictions and providing requirements
18 and conditions with respect thereto; prohibiting the
19 Department of Revenue from denying a dealer of
20 communications services a deduction of a specified
21 amount as a collection allowance under certain
22 circumstances; amending s. 202.231, F.S.; requiring
23 the Department of Revenue to aggregate monthly and
24 make available to the public on a jurisdiction-by-
25 jurisdiction basis certain sales and net tax
26 information; amending ss. 203.01 and 624.105, F.S.;
27 conforming cross-references; providing for certain
28 retroactive effect; creating the Communications

29 Services Tax Working Group; housing the working group
 30 in the Department of Revenue for administrative
 31 purposes; providing for membership; limiting the
 32 reimbursement of members for per diem and travel
 33 expenses; providing issues that the working group will
 34 study; requiring the working group to hold meetings;
 35 providing for a report to the Governor and Legislature
 36 by a certain date; providing effective dates.

37

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

39

40 Section 1. Subsection (1) of section 202.105, Florida
 41 Statutes, is amended to read:

42 202.105 Legislative findings and intent.—

43 (1) It is declared to be a specific legislative finding
 44 that the creation of this chapter fulfills important state
 45 interests by reforming the tax laws to provide a fair,
 46 efficient, and uniform method for taxing communications services
 47 sold in this state. This chapter is essential to the continued
 48 economic vitality of this increasingly important industry
 49 because it restructures state and local taxes and fees to
 50 account for the impact of federal legislation, industry
 51 deregulation, and the multitude of convergence of service
 52 offerings that is now taking place among providers offering
 53 functionally equivalent communications services in today's
 54 marketplace. This chapter promotes the increased competition
 55 that accompanies deregulation by embracing a competitively
 56 neutral tax policy that will free consumers to choose a provider

57 based on tax-neutral considerations. This chapter further spurs
 58 new competition by simplifying an extremely complicated state
 59 and local tax and fee system. Simplification will lower the cost
 60 of collecting taxes and fees, increase service availability, and
 61 place downward pressure on price. Newfound administrative
 62 efficiency is demonstrated by a reduction in the number of
 63 returns that a provider must file each month. By restructuring
 64 separate taxes and fees into a revenue-neutral communications
 65 services tax centrally administered by the department, this
 66 chapter will ensure that the growth of the industry is
 67 unimpaired by excessive governmental regulation. The tax imposed
 68 pursuant to this chapter is a replacement for taxes and fees
 69 previously imposed and is not a new tax. The taxes imposed and
 70 administered pursuant to this chapter are of general application
 71 and are imposed in a uniform, consistent, and nondiscriminatory
 72 manner.

73 Section 2. Section 202.11, Florida Statutes, is amended to
 74 read:

75 202.11 Definitions.—As used in this chapter, the term:

76 ~~(1) "Cable service" means the transmission of video,~~
 77 ~~audio, or other programming service to purchasers, and the~~
 78 ~~purchaser interaction, if any, required for the selection or use~~
 79 ~~of any such programming service, regardless of whether the~~
 80 ~~programming is transmitted over facilities owned or operated by~~
 81 ~~the cable service provider or over facilities owned or operated~~
 82 ~~by one or more other dealers of communications services. The~~
 83 ~~term includes point-to-point and point-to-multipoint~~
 84 ~~distribution services by which programming is transmitted or~~

85 ~~broadcast by microwave or other equipment directly to the~~
 86 ~~purchaser's premises, but does not include direct-to-home~~
 87 ~~satellite service. The term includes basic, extended, premium,~~
 88 ~~pay-per-view, digital, and music services.~~

89 (1)~~(2)~~ "Communications services" means the transmission,
 90 conveyance, or routing of voice, data, audio, video, or any
 91 other information or signals, including video ~~cable~~ services, to
 92 a point, or between or among points, by or through any
 93 electronic, radio, satellite, cable, optical, microwave, or
 94 other medium or method now in existence or hereafter devised,
 95 regardless of the protocol used for such transmission or
 96 conveyance. The term includes such transmission, conveyance, or
 97 routing in which computer processing applications are used to
 98 act on the form, code, or protocol of the content for purposes
 99 of transmission, conveyance, or routing without regard to
 100 whether such service is referred to as voice-over-Internet-
 101 protocol services or is classified by the Federal Communications
 102 Commission as enhanced or value-added. The term does not
 103 include:

- 104 (a) Information services.
- 105 (b) Installation or maintenance of wiring or equipment on
 106 a customer's premises.
- 107 (c) The sale or rental of tangible personal property.
- 108 (d) The sale of advertising, including, but not limited
 109 to, directory advertising.
- 110 (e) Bad check charges.
- 111 (f) Late payment charges.
- 112 (g) Billing and collection services.

113 (h) Internet access service, electronic mail service,
 114 electronic bulletin board service, or similar online computer
 115 services.

116 (2)~~(3)~~ "Dealer" means a person registered with the
 117 department as a provider of communications services in this
 118 state.

119 (3)~~(4)~~ "Department" means the Department of Revenue.

120 (4)~~(5)~~ "Direct-to-home satellite service" has the meaning
 121 ascribed in the Communications Act of 1934, 47 U.S.C. s. 303(v).

122 (5)~~(6)~~ "Information service" means the offering of a
 123 capability for generating, acquiring, storing, transforming,
 124 processing, retrieving, using, or making available information
 125 via communications services, including, but not limited to,
 126 electronic publishing, web-hosting service, and end-user 900
 127 number service. The term does not include ~~any video, audio, or~~
 128 ~~other programming service that uses point-to-multipoint~~
 129 ~~distribution by which programming is delivered, transmitted, or~~
 130 ~~broadcast by any means, including any interaction that may be~~
 131 ~~necessary for selecting and using the service, regardless of~~
 132 ~~whether the programming is delivered, transmitted, or broadcast~~
 133 ~~over facilities owned or operated by the seller or another, or~~
 134 ~~whether denominated as cable service or as basic, extended,~~
 135 ~~premium, pay-per-view, digital, music, or two-way cable service.~~

136 (6) "Internet access service" has the same meaning as
 137 ascribed to the term "Internet access" by s. 1105(5) of the
 138 Internet Tax Freedom Act, 47 U.S.C. s. 151 note, as amended by
 139 Pub. L. No. 110-108.

140 (7) "Mobile communications service" means commercial

141 mobile radio service, as defined in 47 C.F.R. s. 20.3 as in
 142 effect on June 1, 1999. The term does not include air-ground
 143 radiotelephone service as defined in 47 C.F.R. s. 22.99 as in
 144 effect on June 1, 1999.

145 (8) "Person" has the meaning ascribed in s. 212.02.

146 (9) "Prepaid calling arrangement" means the separately
 147 stated retail sale by advance payment of communications services
 148 that consist exclusively of telephone calls originated by using
 149 an access number, authorization code, or other means that may be
 150 manually, electronically, or otherwise entered, and that are
 151 sold in predetermined units or dollars of which the number
 152 declines with use in a known amount.

153 (10) "Purchaser" means the person paying for or obligated
 154 to pay for communications services.

155 (11) "Retail sale" means the sale of communications
 156 services for any purpose other than for resale or for use as a
 157 component part of or for integration into communications
 158 services to be resold in the ordinary course of business.
 159 However, any sale for resale must comply with s. 202.16(2) and
 160 the rules adopted thereunder.

161 (12) "Sale" means the provision of communications services
 162 for a consideration.

163 (13) "Sales price" means the total amount charged in money
 164 or other consideration by a dealer for the sale of the right or
 165 privilege of using communications services in this state,
 166 including any property or other service, not described in
 167 paragraph (a), which is services that are part of the sale and
 168 for which the charge is not separately itemized on a customer's

169 bill or separately allocated under subparagraph (b)8. The sales
 170 price of communications services may ~~shall~~ not be reduced by any
 171 separately identified components of the charge which ~~that~~
 172 constitute expenses of the dealer, including, but not limited
 173 to, sales taxes on goods or services purchased by the dealer,
 174 property taxes, taxes measured by net income, and universal-
 175 service fund fees.

176 (a) The sales price of communications services includes
 177 ~~shall include~~, whether or not separately stated, charges for any
 178 of the following:

- 179 1. The connection, movement, change, or termination of
 180 communications services.
- 181 2. The detailed billing of communications services.
- 182 3. The sale of directory listings in connection with a
 183 communications service.
- 184 4. Central office and custom calling features.
- 185 5. Voice mail and other messaging service.
- 186 6. Directory assistance.
- 187 7. The service of sending or receiving a document commonly
 188 referred to as a facsimile or "fax," except when performed
 189 during the course of providing professional or advertising
 190 services.

191 (b) The sales price of communications services does not
 192 include charges for any of the following:

- 193 1. An ~~Any~~ excise tax, sales tax, or similar tax levied by
 194 the United States or any state or local government on the
 195 purchase, sale, use, or consumption of any communications
 196 service, including, but not limited to, a ~~any~~ tax imposed under

197 | this chapter or chapter 203 which is permitted or required to be
 198 | added to the sales price of such service, if the tax is stated
 199 | separately.

200 | 2. A ~~Any~~ fee or assessment levied by the United States or
 201 | any state or local government, including, but not limited to,
 202 | regulatory fees and emergency telephone surcharges, which must
 203 | ~~is required to~~ be added to the price of the ~~such~~ service if the
 204 | fee or assessment is separately stated.

205 | 3. Communications services paid for by inserting coins
 206 | into coin-operated communications devices available to the
 207 | public.

208 | 4. The sale or recharge of a prepaid calling arrangement.

209 | 5. The provision of air-to-ground communications services,
 210 | defined as a radio service provided to a purchaser ~~purchasers~~
 211 | while on board an aircraft.

212 | 6. A dealer's internal use of communications services in
 213 | connection with its business of providing communications
 214 | services.

215 | 7. Charges for property or other services that are not
 216 | part of the sale of communications services, if such charges are
 217 | stated separately from the charges for communications services.

218 | 8. ~~To the extent required by federal law,~~ Charges for
 219 | goods or services that are not subject to tax under this
 220 | chapter, including Internet access services but excluding any
 221 | item described in paragraph (a), that ~~which~~ are not separately
 222 | itemized on a customer's bill, but that ~~which~~ can be reasonably
 223 | identified from the selling dealer's books and records kept in
 224 | the regular course of business. The dealer may support the

225 allocation of charges with books and records kept in the regular
 226 course of business covering the dealer's entire service area,
 227 including territories outside this state.

228 (14) "Service address" means:

229 (a) Except as otherwise provided in this section:

230 1. The location of the communications equipment from which
 231 communications services originate or at which communications
 232 services are received by the customer;

233 2. In the case of a communications service paid through a
 234 credit or payment mechanism that does not relate to a service
 235 address, such as a bank, travel, debit, or credit card, and in
 236 the case of third-number and calling-card calls, the term
 237 "service address" means the address of the central office, as
 238 determined by the area code and the first three digits of the
 239 seven-digit originating telephone number; or

240 3. If the location of the equipment described in
 241 subparagraph 1. is not known and subparagraph 2. is
 242 inapplicable, the term "service address" means the location of
 243 the customer's primary use of the communications service. For
 244 purposes of this subparagraph, the location of the customer's
 245 primary use of a communications service is the residential
 246 street address or the business street address of the customer.

247 (b) In the case of video ~~cable~~ services and direct-to-home
 248 satellite services, the location where the customer receives the
 249 services in this state.

250 (c) In the case of mobile communications services, the
 251 customer's place of primary use.

252 (15) "Unbundled network element" means a network element,

253 as defined in 47 U.S.C. s. 153(29), to which access is provided
 254 on an unbundled basis pursuant to 47 U.S.C. s. 251(c)(3).

255 (16) "Private communications service" means a
 256 communications service that entitles the subscriber or user to
 257 exclusive or priority use of a communications channel or group
 258 of channels between or among channel termination points,
 259 regardless of the manner in which such channel or channels are
 260 connected, and includes switching capacity, extension lines,
 261 stations, and any other associated services that ~~which~~ are
 262 provided in connection with the use of such channel or channels.

263 (17) (a) "Customer" means:

264 1. The person or entity that contracts with the home
 265 service provider for mobile communications services; or

266 2. If the end user of mobile communications services is
 267 not the contracting party, the end user of the mobile
 268 communications service. This subparagraph only applies for the
 269 purpose of determining the place of primary use.

270 (b) "Customer" does not include:

271 1. A reseller of mobile communications services; or

272 2. A serving carrier under an agreement to serve the
 273 customer outside the home service provider's licensed service
 274 area.

275 (18) "Enhanced zip code" means a United States postal zip
 276 code of 9 or more digits.

277 (19) "Home service provider" means the facilities-based
 278 carrier or reseller with which the customer contracts for the
 279 provision of mobile communications services.

280 (20) "Licensed service area" means the geographic area in

281 | which the home service provider is authorized by law or contract
 282 | to provide mobile communications service to the customer.

283 | (21) "Place of primary use" means the street address
 284 | representative of where the customer's use of the mobile
 285 | communications service primarily occurs, which must be:

286 | (a) The residential street address or the primary business
 287 | street address of the customer; and

288 | (b) Within the licensed service area of the home service
 289 | provider.

290 | (22) (a) "Reseller" means a provider who purchases
 291 | communications services from another communications service
 292 | provider and then resells, uses as a component part of, or
 293 | integrates the purchased services into a mobile communications
 294 | service.

295 | (b) "Reseller" does not include a serving carrier with
 296 | which a home service provider arranges for the services to its
 297 | customers outside the home service provider's licensed service
 298 | area.

299 | (23) "Serving carrier" means a facilities-based carrier
 300 | providing mobile communications service to a customer outside a
 301 | home service provider's or reseller's licensed service area.

302 | (24) "Video service" means the transmission of video,
 303 | audio, or other programming service to a purchaser, and the
 304 | purchaser interaction, if any, required for the selection or use
 305 | of a programming service, regardless of whether the programming
 306 | is transmitted over facilities owned or operated by the video
 307 | service provider or over facilities owned or operated by another
 308 | dealer of communications services. The term includes point-to-

309 point and point-to-multipoint distribution services through
 310 which programming is transmitted or broadcast by microwave or
 311 other equipment directly to the purchaser's premises, but does
 312 not include direct-to-home satellite service. The term includes
 313 basic, extended, premium, pay-per-view, digital video, two-way
 314 cable, and music services ~~has the same meaning as that provided~~
 315 ~~in s. 610.103.~~

316 Section 3. Subsection (1) of section 202.125, Florida
 317 Statutes, is amended to read:

318 202.125 Sales of communications services; specified
 319 exemptions.—

320 (1) The separately stated sales price of communications
 321 services sold to residential households is exempt from the tax
 322 imposed by s. 202.12 and s. 203.01(1)(b)3. This exemption does
 323 not apply to any residence that constitutes all or part of a
 324 transient public lodging establishment as defined in chapter
 325 509, any mobile communications service, any video ~~cable~~ service,
 326 or any direct-to-home satellite service.

327 Section 4. Paragraph (a) of subsection (2) of section
 328 202.16, Florida Statutes, is amended to read:

329 202.16 Payment.—The taxes imposed or administered under
 330 this chapter and chapter 203 shall be collected from all dealers
 331 of taxable communications services on the sale at retail in this
 332 state of communications services taxable under this chapter and
 333 chapter 203. The full amount of the taxes on a credit sale,
 334 installment sale, or sale made on any kind of deferred payment
 335 plan is due at the moment of the transaction in the same manner
 336 as a cash sale.

337 (2) (a) A sale of communications services that are used as
 338 a component part of or integrated into a communications service
 339 or prepaid calling arrangement for resale, including, but not
 340 limited to, carrier-access charges, interconnection charges paid
 341 by providers of mobile communication services or other
 342 communication services, charges paid by a video ~~cable~~ service
 343 provider ~~providers~~ for the purchase of video programming or the
 344 transmission of video or other programming by another dealer of
 345 communications services, charges for the sale of unbundled
 346 network elements, and any other intercompany charges for the use
 347 of facilities for providing communications services for resale,
 348 must be made in compliance with the rules of the department. A
 349 ~~Any~~ person who makes a sale for resale which is not in
 350 compliance with these rules is liable for any tax, penalty, and
 351 interest due for failing to comply, to be calculated pursuant to
 352 s. 202.28(2) (a).

353 Section 5. Paragraph (c) of subsection (3) of section
 354 202.18, Florida Statutes, is amended to read:

355 202.18 Allocation and disposition of tax proceeds.—The
 356 proceeds of the communications services taxes remitted under
 357 this chapter shall be treated as follows:

358 (3)

359 (c)1. Except as otherwise provided in this paragraph,
 360 proceeds of the taxes levied pursuant to s. 202.19, less amounts
 361 deducted for costs of administration in accordance with
 362 paragraph (b), shall be distributed monthly to the appropriate
 363 jurisdictions. The proceeds of taxes imposed pursuant to s.
 364 202.19(5) shall be distributed in the same manner as

365 discretionary surtaxes are distributed, in accordance with ss.
366 212.054 and 212.055.

367 2. The department shall make any adjustments to the
368 distributions pursuant to this section which are necessary to
369 reflect the proper amounts due to individual jurisdictions or
370 trust funds. In the event that the department adjusts amounts
371 due to reflect a correction in the situsing of a customer, such
372 adjustment shall be limited to the amount of tax actually
373 collected from such customer by the dealer of communication
374 services.

375 3.a. ~~Notwithstanding the time period specified in s.~~
376 ~~202.22(5),~~ Adjustments in distributions which are necessary to
377 correct misallocations between jurisdictions shall be governed
378 by this subparagraph. If the department determines that
379 misallocations between jurisdictions occurred, it shall provide
380 written notice of such determination to all affected
381 jurisdictions. The notice shall include the amount of the
382 misallocations, the basis upon which the determination was made,
383 data supporting the determination, and the identity of each
384 affected jurisdiction. The notice shall also inform all affected
385 jurisdictions of their authority to enter into a written
386 agreement establishing a method of adjustment as described in
387 sub-subparagraph c.

388 b. An adjustment affecting a distribution to a
389 jurisdiction which is less than 90 percent of the average
390 monthly distribution to that jurisdiction for the 6 months
391 immediately preceding the department's determination, as
392 reported by all communications services dealers, shall be made

393 | in the month immediately following the department's
394 | determination that misallocations occurred.

395 | c. If an adjustment affecting a distribution to a
396 | jurisdiction equals or exceeds 90 percent of the average monthly
397 | distribution to that jurisdiction for the 6 months immediately
398 | preceding the department's determination, as reported by all
399 | communications services dealers, the affected jurisdictions may
400 | enter into a written agreement establishing a method of
401 | adjustment. If the agreement establishing a method of adjustment
402 | provides for payments of local communications services tax
403 | monthly distributions, the amount of any such payment agreed to
404 | may not exceed the local communications services tax monthly
405 | distributions available to the jurisdiction that was allocated
406 | amounts in excess of those to which it was entitled. If affected
407 | jurisdictions execute a written agreement specifying a method of
408 | adjustment, a copy of the written agreement shall be provided to
409 | the department no later than the first day of the month
410 | following 90 days after the date the department transmits notice
411 | of the misallocation. If the department does not receive a copy
412 | of the written agreement within the specified time period, an
413 | adjustment affecting a distribution to a jurisdiction made
414 | pursuant to this sub-subparagraph shall be prorated over a time
415 | period that equals the time period over which the misallocations
416 | occurred.

417 | Section 6. Subsections (5) and (6) of section 202.22,
418 | Florida Statutes, are amended to read:

419 | 202.22 Determination of local tax situs.—

420 | (5) If a dealer of communications services does not use

421 one or more of the methods specified in subsection (1) for
422 determining the local taxing jurisdiction in which one or more
423 service addresses are a service address is located and:

424 (a) The dealer's failure to use one or more of such
425 methods results in a net aggregate underpayment of all taxes
426 levied pursuant to s. 202.19 with respect to one or more tax
427 periods that are being examined by the department under the
428 provisions of this chapter; and

429 (b) The department has determined the misallocations
430 between jurisdictions for all taxes levied pursuant to s. 202.19
431 and collected by the dealer with respect to any tax period being
432 examined by the department; then,

433

434 the dealer of communications services may be held liable to the
435 department for the net aggregate underpayment of any tax, and
436 for including interest and penalties attributable to the net
437 aggregate underpayment of tax, which is due as a result of
438 assigning one or more the service addresses address to an
439 incorrect local taxing jurisdiction. Subject to the provisions
440 of ss. 202.22(8), 202.34, and 202.35(3) However, the dealer of
441 communications services is not liable for any tax, interest, or
442 penalty under this subsection unless the department has
443 determined the net aggregate underpayment of tax for any tax
444 period that is being examined, taking into account all
445 underpayments and overpayments for such period or periods to the
446 extent that such amount was collected and remitted by the dealer
447 of communications services with respect to a tax imposed by
448 another local taxing jurisdiction. Upon determining that an

449 ~~amount was collected and remitted by a dealer of communications~~
450 ~~services with respect to a tax imposed by another local taxing~~
451 ~~jurisdiction, the department shall adjust the respective amounts~~
452 ~~of the proceeds paid to each such taxing jurisdiction under s.~~
453 ~~202.18 in the month immediately following such determination.~~

454 (6) (a) Pursuant to rules adopted by the department, each
455 dealer of communications services must notify the department of
456 the methods it intends to employ for determining the local
457 taxing jurisdiction in which service addresses are located.

458 (b) Notwithstanding s. 202.28, if a dealer of
459 communications services:

460 1. Employs a method of assigning service addresses other
461 than as set forth in paragraph (1) (a), paragraph (1) (b), or
462 paragraph (1) (c), the deduction allowed to the dealer of
463 communications services as compensation under s. 202.28 shall be
464 0.25 percent of that portion of the tax due and accounted for
465 and remitted to the department which is attributable to such
466 method of assigning service addresses other than as set forth in
467 paragraph (1) (a), paragraph (1) (b), or paragraph (1) (c).

468 2. Employs a method of assigning service addresses as set
469 forth in paragraph (1) (a), paragraph (1) (b), or paragraph
470 (1) (c), the department may not deny the deduction allowed to the
471 dealer of communications services as compensation allowed under
472 s. 202.28 because the dealer assigned one or more service
473 addresses to an incorrect local taxing jurisdiction.

474 Section 7. Subsection (3) is added to section 202.231,
475 Florida Statutes, to read:

476 202.231 Provision of information to local taxing

477 jurisdictions.—

478 (3) The gross taxable sales and the total net amount
479 transferred to the jurisdiction, showing the net taxes remitted
480 by dealers less the administrative fees deducted by the
481 department contained in the monthly reports required by this
482 section, shall be aggregated on a jurisdiction-by-jurisdiction
483 basis, and the aggregate jurisdiction-by-jurisdiction
484 information shall be made available by the department to the
485 public through the department's website for each fiscal year
486 this chapter has been in effect.

487 Section 8. Paragraphs (a) and (c) of subsection (2) of
488 section 202.24, Florida Statutes, are amended to read:

489 202.24 Limitations on local taxes and fees imposed on
490 dealers of communications services.—

491 (2)(a) Except as provided in paragraph (c), each public
492 body is prohibited from:

493 1. Levying on or collecting from dealers or purchasers of
494 communications services any tax, charge, fee, or other
495 imposition on or with respect to the provision or purchase of
496 communications services.

497 2. Requiring any dealer of communications services to
498 enter into or extend the term of a franchise or other agreement
499 that requires the payment of a tax, charge, fee, or other
500 imposition.

501 3. Adopting or enforcing any provision of any ordinance or
502 agreement to the extent that such provision obligates a dealer
503 of communications services to charge, collect, or pay to the
504 public body a tax, charge, fee, or other imposition.

505
 506 Municipalities and counties may not negotiate those terms and
 507 conditions related to franchise fees or the definition of gross
 508 revenues or other definitions or methodologies related to the
 509 payment or assessment of franchise fees on providers of ~~cable~~~~or~~
 510 video services.

511 (c) This subsection does not apply to:

512 1. Local communications services taxes levied under this
 513 chapter.

514 2. Ad valorem taxes levied pursuant to chapter 200.

515 3. Business taxes levied under chapter 205.

516 4. "911" service charges levied under chapter 365.

517 5. Amounts charged for the rental or other use of property
 518 owned by a public body which is not in the public rights-of-way
 519 to a dealer of communications services for any purpose,
 520 including, but not limited to, the placement or attachment of
 521 equipment used in the provision of communications services.

522 6. Permit fees of general applicability which are not
 523 related to placing or maintaining facilities in or on public
 524 roads or rights-of-way.

525 7. Permit fees related to placing or maintaining
 526 facilities in or on public roads or rights-of-way pursuant to s.
 527 337.401.

528 8. Any in-kind requirements, institutional networks, or
 529 contributions for, or in support of, the use or construction of
 530 public, educational, or governmental access facilities allowed
 531 under federal law and imposed on providers of ~~cable~~~~or~~ video
 532 service pursuant to any existing ordinance or an existing

533 franchise agreement granted by each municipality or county,
 534 under which ordinance or franchise agreement service is provided
 535 before ~~prior to~~ July 1, 2007, or as permitted under chapter 610.
 536 ~~Nothing in~~ This subparagraph does not ~~shall~~ prohibit ~~the ability~~
 537 ~~of providers of cable or~~ video service from recovering the ~~to~~
 538 ~~recover such~~ expenses as allowed under federal law.

539 9. Special assessments and impact fees.

540 10. Pole attachment fees that are charged by a local
 541 government for attachments to utility poles owned by the local
 542 government.

543 11. Utility service fees or other similar user fees for
 544 utility services.

545 12. Any other generally applicable tax, fee, charge, or
 546 imposition authorized by general law on July 1, 2000, which is
 547 not specifically prohibited by this subsection or included as a
 548 replaced revenue source in s. 202.20.

549 Section 9. Paragraph (a) of subsection (1) of section
 550 203.01, Florida Statutes, is amended to read:

551 203.01 Tax on gross receipts for utility and
 552 communications services.—

553 (1)(a)1. A tax is imposed on gross receipts from utility
 554 services that are delivered to a retail consumer in this state.
 555 The ~~Such~~ tax shall be levied as provided in paragraphs (b)-(j).

556 2. A tax is levied on communications services as defined
 557 in s. 202.11(1) ~~202.11(2)~~. The ~~Such~~ tax shall be applied to the
 558 same services and transactions as are subject to taxation under
 559 chapter 202, and to communications services that are subject to
 560 the exemption provided in s. 202.125(1). The ~~Such~~ tax shall be

561 applied to the sales price of communications services when sold
562 at retail, as the ~~such~~ terms are defined in s. 202.11, shall be
563 due and payable at the same time as the taxes imposed pursuant
564 to chapter 202, and shall be administered and collected pursuant
565 to the provisions of chapter 202.

566 Section 10. Section 624.105, Florida Statutes, is amended
567 to read:

568 624.105 Waiver of customer liability.—Any regulated
569 company as defined in s. 350.111, any electric utility as
570 defined in s. 366.02(2), any utility as defined in s.
571 367.021(12) or s. 367.022(2) and (7), and any provider of
572 communications services as defined in s. 202.11(1) ~~202.11(2)~~ may
573 charge for and include an optional waiver of liability provision
574 in their customer contracts under which the entity agrees to
575 waive all or a portion of the customer's liability for service
576 from the entity for a defined period in the event of the
577 customer's call to active military service, death, disability,
578 involuntary unemployment, qualification for family leave, or
579 similar qualifying event or condition. Such provisions may not
580 be effective in the customer's contract with the entity unless
581 affirmatively elected by the customer. No such provision shall
582 constitute insurance so long as the provision is a contract
583 between the entity and its customer.

584 Section 11. The following changes made in this act are
585 intended to be remedial in nature and apply retroactively, but
586 do not provide a basis for an assessment of any tax not paid or
587 create a right to a refund or credit of any tax paid before the
588 general effective date of this act:

589 (1) The changes made in section 2 of this act to
 590 subsection (13) of s. 202.11, Florida Statutes.

591 (2) The changes made in section 6 of this act to s.
 592 202.22, Florida Statutes.

593 Section 12. Effective upon this act becoming a law:

594 (1) The Communications Services Tax Working Group is
 595 created and housed for administrative purposes within the
 596 Department of Revenue.

597 (2) The working group shall consist of 9 members as
 598 follows:

599 (a) The executive director of the Department of Revenue,
 600 or his or her designee, who shall serve as chairperson and as a
 601 nonvoting member and who shall appoint the remaining members.

602 (b) Four members, that may include, but not limited to,
 603 video service providers, direct-to-home satellite service
 604 providers, local phone service providers, and wireless providers
 605 who provide prepaid services.

606 (c) Two representatives of counties.

607 (d) Two representatives of municipalities.

608 (3) Members of the working group are not entitled to
 609 receive reimbursement for per diem and travel expenses other
 610 than reimbursement provided by their respective company, group,
 611 office, or agency.

612 (4) The working group shall:

613 (a) Review national and state tax policies relating to the
 614 communications industry;

615 (b) Review the historical amount of tax revenue that has
 616 been generated by the communications services taxes imposed or

617 administered pursuant to chapter 202, Florida Statutes, for the
618 purposes of determining the effect that laws passed in the past
619 5 years have had on declining revenues;

620 (c) Review the extent to which this revenue has been
621 relied on to secure bonded indebtedness;

622 (d) Review the fairness of the state's communications tax
623 laws and the administrative burdens it contains, including
624 whether the applicability of the tax laws is reasonably clear to
625 communications services providers, retailers, customers, local
626 government entities and state administrators;

627 (e) Identify options for streamlining the administrative
628 system; and

629 (f) Identify options that remove competitive advantages
630 within the industry as it relates to the state's tax structure
631 without unduly reducing revenue to local governments.

632 (5) The working group shall prepare a report that
633 addresses each issue specified in subsection (4). The group
634 shall submit the report to the Governor, the President of the
635 Senate, and the Speaker of the House of Representatives by
636 February 1, 2013. The working group shall hold meetings as
637 frequently as deemed necessary by the chair to produce the
638 report.

639 Section 13. Except as otherwise expressly provided in this
640 act, this act shall take effect July 1, 2012.