

1                                   A bill to be entitled  
2           An act relating to tax on communications  
3           services; amending s. 202.11, F.S.; revising  
4           and providing definitions; amending s. 202.12,  
5           F.S.; revising provisions relating to  
6           application of said tax; providing for  
7           application of the tax rate to private  
8           communications services and mobile  
9           communications services; providing the initial  
10          method for determining the sales price of  
11          private communications services and a revised  
12          method effective January 1, 2004; relieving  
13          service providers of certain liability;  
14          creating s. 202.155, F.S.; providing special  
15          rules for mobile communications services;  
16          providing duties of home service providers and  
17          the Department of Revenue in determining a  
18          customer's place of primary use and determining  
19          the correct taxing jurisdiction; relieving  
20          service providers of certain liability;  
21          providing requirements with respect to  
22          identifying and separately stating the sales  
23          price of mobile communications services not  
24          subject to the taxes administered under ch.  
25          202, F.S.; amending s. 202.16, F.S.; revising  
26          provisions relating to responsibility for  
27          payment of taxes; amending s. 202.17, F.S.;  
28          removing the registration fee for dealers of  
29          communications services; revising provisions  
30          relating to resale certificates; amending s.  
31          202.18, F.S.; revising provisions relating to

1 distribution of a portion of the proceeds of  
2 the tax on direct-to-home satellite service to  
3 local governments and to distribution of local  
4 communications services taxes and adjustment of  
5 such distribution; amending s. 202.19, F.S.;  
6 revising provisions which authorize imposition  
7 of local communications services taxes and  
8 provide for expression of the tax rate, use of  
9 revenues, and certain credits; providing the  
10 initial method for determining the sales price  
11 of private communications services for local  
12 communications services taxes and for the  
13 discretionary sales surtax under s. 212.055,  
14 F.S., that is imposed as a local communications  
15 services tax, and providing a revised method  
16 effective January 1, 2004; relieving service  
17 providers of certain liabilities; providing for  
18 application of local communications services  
19 taxes to mobile communications services;  
20 amending s. 202.20, F.S.; revising requirements  
21 with respect to adjustment by a local  
22 government of its tax rate when tax revenues  
23 are less than received from replaced revenue  
24 sources; authorizing local governments to  
25 increase the tax rate established by the  
26 Revenue Estimating Conference and approved by  
27 the Legislature to the maximum tax rate so  
28 established and approved; amending s. 202.22,  
29 F.S., relating to determination of local tax  
30 situs for a local communications services tax;  
31 revising requirements relating to use of

1 enhanced zip codes; revising requirements  
2 relating to certification or recertification of  
3 a database by the department; specifying effect  
4 when certain applications for certification are  
5 not approved or denied within the required time  
6 period; revising provisions relating to a  
7 dealer's duty to update a database and to the  
8 amount of dealer's credit allowed when an  
9 alternative method of assigning service  
10 addresses is used; amending s. 202.23, F.S.;  
11 providing requirements for refunds when excess  
12 communications services tax has been paid;  
13 amending s. 202.24, F.S., relating to  
14 limitations on local taxes and fees imposed on  
15 dealers of communications services; deleting  
16 language relating to legislative review;  
17 amending s. 202.27, F.S.; deleting provisions  
18 which allow certain dealers making sales in  
19 more than one location to file a single return;  
20 amending s. 202.28, F.S.; including persons  
21 collecting the gross receipts tax in provisions  
22 relating to the dealer's credit; amending s.  
23 337.401, F.S.; providing that a municipality or  
24 county that elects not to impose permit fees on  
25 communications services providers may increase  
26 its local tax rate by resolution; requiring  
27 notice to the department; authorizing  
28 municipalities and counties to change their  
29 election regarding imposition of permit fees  
30 and providing for adjustment of tax rates;  
31 providing notice requirements; specifying

1 continued application of s. 166.234, F.S.,  
2 relating to administration and rights and  
3 remedies, to municipal public service taxes on  
4 telecommunications services imposed prior to  
5 October 1, 2001; providing for payment of  
6 franchise fees by cable or telecommunications  
7 service providers with respect to services  
8 provided prior to October 1, 2001; repealing s.  
9 58(1) of ch. 2000-260, Laws of Florida, which  
10 provides for the June 30, 2001, repeal of those  
11 administrative sections of ch. 202, F.S., which  
12 have taken effect; repealing s. 58(2) of ch.  
13 2000-260, Laws of Florida, which provides for  
14 the June 30, 2001, repeal of the following  
15 provisions prior to their October 1, 2001,  
16 effective date: the remainder of ch. 202, F.S.,  
17 which provides for the taxation of the sale of  
18 communications services; other statutory  
19 amendments which provide related administrative  
20 provisions; provisions which remove levy of the  
21 municipal public service tax on  
22 telecommunication services; provisions which  
23 provide for a gross receipts tax on  
24 communications services to be applied pursuant  
25 to ch. 202, F.S.; provisions which remove the  
26 imposition of tax under ch. 212, F.S., on  
27 telecommunication service; provisions relating  
28 to the authority of counties and municipalities  
29 to regulate the placement of telecommunications  
30 facilities in roads and rights-of-way and to  
31 impose permit fees and franchise fees; and

1 provisions relating to the application of  
2 amendments made by ch. 2000-260, Laws of  
3 Florida; repealing s. 59 of ch. 2000-260, Laws  
4 of Florida, which, effective June 30, 2001,  
5 amends s. 337.401, F.S., relating to the  
6 authority of counties and municipalities to  
7 regulate the placement of telecommunications  
8 facilities in roads and rights-of-way and to  
9 impose permit fees and franchise fees, to  
10 remove amendments made by ch. 2000-260, Laws of  
11 Florida, which took effect January 1, 2001;  
12 providing effective dates.  
13

14 Be It Enacted by the Legislature of the State of Florida:  
15

16 Section 1. Subsections (2), (14), and (16) of section  
17 202.11, Florida Statutes, are amended, subsection (18) is  
18 added to said section, and, effective August 1, 2002,  
19 subsections (8) and (15) are amended and subsections (19),  
20 (20), (21), (22), (23), (24), (25), (26), and (27) are added  
21 to said section, to read:

22 202.11 Definitions.--As used in this chapter:

23 (2) "Cable service" means the transmission of video,  
24 audio, or other programming service to purchasers, and the  
25 purchaser interaction, if any, required for the selection or  
26 use of any such programming service, regardless of whether the  
27 programming is transmitted over facilities owned or operated  
28 by the cable service provider or over facilities owned or  
29 operated by one or more other dealers of communications  
30 services. The term includes point-to-point and  
31 point-to-multipoint distribution services by which programming

1 is transmitted or broadcast by microwave or other equipment  
2 directly to the purchaser's premises, but does not include  
3 direct-to-home satellite service. The term includes basic,  
4 extended, premium, pay-per-view, digital, and music services.

5 (8) "Mobile communications service" means commercial  
6 mobile radio service, as defined in 47 C.F.R. s. 20.3 as in  
7 effect on June 1, 1999 ~~any one-way or two-way radio~~  
8 ~~communications service, whether identified by the dealer as~~  
9 ~~local, toll, long distance, or otherwise, and which is carried~~  
10 ~~between mobile stations or receivers and land stations, or by~~  
11 ~~mobile stations communicating among themselves, and includes,~~  
12 ~~but is not limited to, cellular communications services,~~  
13 ~~personal communications services, paging services, specialized~~  
14 ~~mobile radio services, and any other form of mobile one-way or~~  
15 ~~two-way communications service. The term does not include~~  
16 air-ground radiotelephone service as defined in 47 C.F.R. s.  
17 22.99 as in effect on June 1, 1999.

18 (14) "Sales price" means the total amount charged in  
19 money or other consideration by a dealer for the sale of the  
20 right or privilege of using communications services in this  
21 state, including any property or other services that are part  
22 of the sale. The sales price of communications services shall  
23 not be reduced by any separately identified components of the  
24 charge that constitute expenses of the dealer, including, but  
25 not limited to, sales taxes on goods or services purchased by  
26 the dealer, property taxes, taxes measured by net income, and  
27 universal-service fund fees.

28 (a) The sales price of communications services shall  
29 also include, whether or not separately stated, charges for  
30 any of the following:  
31

1 ~~1. Separately identified components of the charge or~~  
2 ~~expenses of the dealer, including, but not limited to, sales~~  
3 ~~taxes on goods or services purchased by the dealer, property~~  
4 ~~taxes, taxes measured by net income, and federal~~  
5 ~~universal service fund fees.~~

6 ~~1.2.~~ The connection, movement, change, or termination  
7 of communications services.

8 ~~2.3.~~ The detailed billing of communications services.

9 ~~3.4.~~ The sale of directory listings in connection with  
10 a communications service.

11 ~~4.5.~~ Central office and custom calling features.

12 ~~5.6.~~ Voice mail and other messaging service.

13 ~~6.7.~~ Directory assistance.

14 ~~7.~~ The service of sending or receiving a document  
15 commonly referred to as a facsimile or "fax", except when  
16 performed during the course of providing professional or  
17 advertising services.

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

20 1. Any excise tax, sales tax, or similar tax levied by  
21 the United States or any state or local government on the  
22 purchase, sale, use, or consumption of any communications  
23 service, including, but not limited to, any tax imposed under  
24 this chapter or chapter 203 which is permitted or required to  
25 be added to the sales price of such service, if the tax is  
26 stated separately.

27 2. Any fee or assessment levied by the United States  
28 or any state or local government, including, but not limited  
29 to, regulatory fees and emergency telephone surcharges, which  
30 is required to be added to the price of such service if the  
31 fee or assessment is separately stated.

1           3. Communications services ~~Local telephone service~~  
2 paid for by inserting coins into coin-operated communications  
3 devices available to the public.

4           4. The sale or recharge of a prepaid calling  
5 arrangement.

6           5. The provision of air-to-ground communications  
7 services, defined as a radio service provided to purchasers  
8 while on board an aircraft.

9           6. A dealer's internal use of communications services  
10 in connection with its business of providing communications  
11 services.

12           7. Charges for property or other services that are not  
13 part of the sale of communications services, if such charges  
14 are stated separately from the charges for communications  
15 services.

16           (15) "Service address" means:  
17           (a)~~(b)~~ Except as otherwise provided in this section ~~in~~  
18 ~~the case of all other communications services~~, the location of  
19 the communications equipment from which communications  
20 services originate or at which communications services are  
21 received by the customer. If the location of such equipment  
22 cannot be determined as part of the billing process, as in the  
23 case of ~~mobile communications services, paging systems,~~  
24 ~~maritime systems,~~ third-number and calling-card calls, and  
25 similar services, the term means the location determined by  
26 the dealer based on the customer's telephone number, the  
27 customer's mailing address to which bills are sent by the  
28 dealer, or another street address provided by the customer.  
29 ~~However, such address must be within the licensed service area~~  
30 ~~of the dealer.~~ In the case of a communications service paid  
31 through a credit or payment mechanism that does not relate to



1 a service address, such as a bank, travel, debit, or credit  
2 card, the service address is the address of the central  
3 office, as determined by the area code and the first three  
4 digits of the seven-digit originating telephone number.

5 ~~(b)(a)~~ In the case of cable services and  
6 direct-to-home satellite services, the location where the  
7 customer receives the services in this state.

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

10 (16) "Substitute communications system" means any  
11 telephone system, or other system capable of providing  
12 communications services, which a person purchases, installs,  
13 rents, or leases for his or her own use to provide himself or  
14 herself with services used as a substitute for any switched  
15 service or dedicated facility by which communications services  
16 provided by a dealer of communications services provides a  
17 communication path.

18 (18) "Private communications service" means a  
19 communications service that entitles the subscriber or user to  
20 exclusive or priority use of a communications channel or group  
21 of channels between or among channel termination points,  
22 regardless of the manner in which such channel or channels are  
23 connected, and includes switching capacity, extension lines,  
24 stations, and any other associated services which are provided  
25 in connection with the use of such channel or channels.

26 (19)(a) "Customer" means:

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

29 2. If the end user of mobile communications services  
30 is not the contracting party, the end user of the mobile  
31

1 communications service. This subparagraph only applies for the  
2 purpose of determining the place of primary use.

3 (b) "Customer" does not include:

4 1. A reseller of mobile communications services; or

5 2. A serving carrier under an agreement to serve the  
6 customer outside the home service provider's licensed service  
7 area.

8 (20) "Enhanced zip code" means a United States postal  
9 zip code of 9 or more digits.

10 (21) "Home service provider" means the  
11 facilities-based carrier or reseller with which the customer  
12 contracts for the provision of mobile communications services.

13 (22) "Licensed service area" means the geographic area  
14 in which the home service provider is authorized by law or  
15 contract to provide mobile communications service to the  
16 customer.

17 (23) "Place of primary use" means the street address  
18 representative of where the customer's use of the mobile  
19 communications service primarily occurs, which must be:

20 (a) The residential street address or the primary  
21 business street address of the customer; and

22 (b) Within the licensed service area of the home  
23 service provider.

24 (24)(a) "Reseller" means a provider who purchases  
25 communications services from another communications service  
26 provider and then resells, uses as a component part of, or  
27 integrates the purchased services into a mobile communications  
28 service.

29 (b) "Reseller" does not include a serving carrier with  
30 which a home service provider arranges for the services to its  
31

1 customers outside the home service provider's licensed service  
2 area.

3 (25) "Serving carrier" means a facilities-based  
4 carrier providing mobile communications service to a customer  
5 outside a home service provider's or reseller's licensed  
6 service area.

7 Section 2. Paragraph (a) of subsection (1) of section  
8 202.12, Florida Statutes, is amended, paragraph (d) is added  
9 to said subsection, and, effective with respect to bills  
10 issued by communications services providers after August 1,  
11 2002, paragraph (e) is added to said subsection, to read:

12 202.12 Sales of communications services.--The  
13 Legislature finds that every person who engages in the  
14 business of selling communications services at retail in this  
15 state is exercising a taxable privilege. It is the intent of  
16 the Legislature that the tax imposed by chapter 203 be  
17 administered as provided in this chapter.

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

21 (a) Except as otherwise provided in this subsection,  
22 at the rate calculated pursuant to s. 30, chapter 2000-260,  
23 Laws of Florida, applied to the sales price of the  
24 communications service, ~~except for direct-to-home satellite~~  
25 ~~service,~~ which:

- 26 1. Originates and terminates in this state, or
- 27 2. Originates or terminates in this state and is  
28 charged to a service address in this state,

29  
30 when sold at retail, computed on each taxable sale for the  
31 purpose of remitting the tax due. The gross receipts tax

1 imposed by chapter 203 shall be collected on the same taxable  
2 transactions and remitted with the tax imposed by this  
3 paragraph. If no tax is imposed by this paragraph by reason of  
4 s. 202.125(1), the tax imposed by chapter 203 shall  
5 nevertheless be collected and remitted in the manner and at  
6 the time prescribed for tax collections and remittances under  
7 this chapter.

8 (b) At the rate set forth in paragraph (a) on the  
9 actual cost of operating a substitute communications system,  
10 to be paid in accordance with s. 202.15. This paragraph does  
11 not apply to the use by any dealer of his or her own  
12 communications system to conduct a business of providing  
13 communications services or any communications system operated  
14 by a county, a municipality, the state, or any political  
15 subdivision of the state. The gross receipts tax imposed by  
16 chapter 203 shall be applied to the same costs, and remitted  
17 with the tax imposed by this paragraph.

18 (c) At a rate to be computed by the Revenue Estimating  
19 Conference and approved by the Legislature on the retail sales  
20 price of any direct-to-home satellite service received in this  
21 state. The rate computed by the Revenue Estimating Conference  
22 shall be the sum of:

- 23 1. The rate set forth in paragraph (a); and
- 24 2. The weighted average, based on the aggregate  
25 population in the respective taxing jurisdictions, of the rate  
26 computed under s. 202.20(2)(a)1. for municipalities and  
27 charter counties and the rate computed under such subparagraph  
28 for all other counties.

29  
30 The proceeds of the tax imposed under this paragraph shall be  
31 accounted for and distributed in accordance with s. 202.18(2).

1 The gross receipts tax imposed by chapter 203 shall be  
2 collected on the same taxable transactions and remitted with  
3 the tax imposed by this paragraph.

4 (d) At the rate computed under paragraph (a) on the  
5 sales price of private communications services provided within  
6 this state. In determining the sales price of private  
7 communications services subject to tax, the communications  
8 service provider shall be entitled to use any method that  
9 reasonably allocates the total charges among the states in  
10 which channel termination points are located. An allocation  
11 method is deemed to be reasonable for purposes of this  
12 paragraph if the communications service provider regularly  
13 used such method for Florida tax purposes prior to December  
14 31, 2000. If a communications service provider uses a  
15 reasonable allocation method, such provider shall be held  
16 harmless from any liability for additional tax, interest, or  
17 penalty based on a different allocation method. The gross  
18 receipts tax imposed by chapter 203 shall be collected on the  
19 same taxable transactions and remitted with the tax imposed by  
20 this paragraph.

21 (e) At the rate set forth in paragraph (a) applied to  
22 the sales price of all mobile communications services deemed  
23 to be provided to a customer by a home service provider  
24 pursuant to s. 117(a) of the Mobile Telecommunications  
25 Sourcing Act, Pub. L. No. 106-252, if such customer's service  
26 address is located within this state.

27 Section 3. Effective January 1, 2004, paragraph (d) of  
28 subsection (1) of section 202.12, Florida Statutes, as created  
29 by this act, is amended to read:

30 202.12 Sales of communications services.--The  
31 Legislature finds that every person who engages in the

1 business of selling communications services at retail in this  
2 state is exercising a taxable privilege. It is the intent of  
3 the Legislature that the tax imposed by chapter 203 be  
4 administered as provided in this chapter.

5 (1) For the exercise of such privilege, a tax is  
6 levied on each taxable transaction, and the tax is due and  
7 payable as follows:

8 (d) At the rate computed under paragraph (a) on the  
9 sales price of private communications services provided within  
10 this state, which shall be determined in accordance with the  
11 following provisions:-

12 1. Any charge with respect to a channel termination  
13 point located within this state;

14 2. Any charge for the use of a channel between two  
15 channel termination points located in this state; and

16 3. Where channel termination points are located both  
17 within and outside of this state:

18 a. If any segment between two such channel termination  
19 points is separately billed, 50 percent of such charge; and

20 b. If any segment of the circuit is not separately  
21 billed, an amount equal to the total charge for such circuit  
22 multiplied by a fraction, the numerator of which is the number  
23 of channel termination points within this state and the  
24 denominator of which is the total number of channel

25 termination points of the circuit.~~In determining the sales~~  
26 ~~price of private communications services subject to tax, the~~  
27 ~~communications service provider shall be entitled to use any~~  
28 ~~method that reasonably allocates the total charges among the~~  
29 ~~states in which channel termination points are located. An~~  
30 ~~allocation method is deemed to be reasonable for purposes of~~  
31 ~~this paragraph if the communications service provider~~

1 ~~regularly used such method for Florida tax purposes prior to~~  
2 ~~December 31, 2000. If a communications service provider uses a~~  
3 ~~reasonable allocation method, such provider shall be held~~  
4 ~~harmless from any liability for additional tax, interest, or~~  
5 ~~penalty based on a different allocation method.~~

6  
7 The gross receipts tax imposed by chapter 203 shall be  
8 collected on the same taxable transactions and remitted with  
9 the tax imposed by this paragraph.

10 Section 4. Effective with respect to bills issued by  
11 communications services providers after August 1, 2002,  
12 section 202.155, Florida Statutes, is created to read:

13 202.155 Special rules for mobile communications  
14 services.--

15 (1) A home service provider shall be responsible for  
16 obtaining and maintaining the customer's place of primary use.  
17 Subject to subsections (2) and (3), if the home service  
18 provider's reliance on information provided by its customer is  
19 in good faith:

20 (a) The home service provider shall be entitled to  
21 rely on the applicable residential or business street address  
22 supplied by such customer.

23 (b) The home service provider shall be held harmless  
24 from liability for any additional taxes imposed by or pursuant  
25 to this chapter or chapter 203 which are based on a different  
26 determination of such customer's place of primary use.

27 (2) Except as provided in subsection (3), a home  
28 service provider shall be allowed to treat the address used  
29 for tax purposes for any customer under a service contract in  
30 effect on August 1, 2002, as that customer's place of primary  
31 use for the remaining term of such service contract or

1 agreement, excluding any extension or renewal of such service  
2 contract or agreement.

3 (3)(a) The department shall provide notice to the  
4 customer of its intent to redetermine the customer's place of  
5 primary use. If a final order is entered ruling that the  
6 address used by a home service provider as a customer's place  
7 of primary use does not meet the definition of "place of  
8 primary use" set forth in s. 202.11, the department shall  
9 notify the home service provider of the proper address to be  
10 used as such customer's place of primary use. The home  
11 service provider shall begin using the correct address within  
12 120 days.

13 (b) The department shall provide notice to the home  
14 service provider of its intent to redetermine the assignment  
15 of a taxing jurisdiction by a home service provider under s.  
16 202.22. If a final order is entered ruling that the  
17 jurisdiction assigned by the home service provider is  
18 incorrect, the department shall notify the home service  
19 provider of the proper jurisdictional assignment. The home  
20 service provider shall begin using the correct jurisdictional  
21 assignment within 120 days.

22 (4)(a) If a mobile communications service is not  
23 subject to the taxes administered pursuant to this chapter,  
24 and if the sales price of such service is aggregated with and  
25 not separately stated from the sales price of services subject  
26 to tax, then the nontaxable mobile communications service  
27 shall be treated as being subject to tax unless the home  
28 service provider can reasonably identify the sales price of  
29 the service not subject to tax from its books and records kept  
30 in the regular course of business.

31



1       (b) If a mobile communications service is not subject  
2 to the taxes administered pursuant to this chapter, a customer  
3 may not rely upon the nontaxability of such service unless the  
4 customer's home service provider separately states the sales  
5 price of such nontaxable services or the home service provider  
6 elects, after receiving a written request from the customer in  
7 the form required by the provider, to provide verifiable data  
8 based upon the home service provider's books and records that  
9 are kept in the regular course of business that reasonably  
10 identifies the sales price of such nontaxable service.

11       Section 5. Paragraph (a) of subsection (1) and  
12 subsection (3) of section 202.16, Florida Statutes, are  
13 amended to read:

14       202.16 Payment.--The taxes imposed or administered  
15 under this chapter and chapter 203 shall be collected from all  
16 dealers of taxable communications services on the sale at  
17 retail in this state of communications services taxable under  
18 this chapter and chapter 203. The full amount of the taxes on  
19 a credit sale, installment sale, or sale made on any kind of  
20 deferred payment plan is due at the moment of the transaction  
21 in the same manner as a cash sale.

22       (1)(a) Except as otherwise provided in ss.  
23 202.12(1)(b) and 202.15, the taxes collected under this  
24 chapter and chapter 203, ~~including any penalties or interest~~  
25 ~~attributable to the nonpayment of such taxes or for~~  
26 ~~noncompliance with this chapter or chapter 203,~~ shall be paid  
27 by the purchaser of the communications service and shall be  
28 collected from such person by the dealer of communications  
29 services.

30       (3) Notwithstanding the rate of tax on the sale of  
31 communications services imposed pursuant to this chapter and

1 chapter 203, the department shall make available in an  
2 electronic format or otherwise,~~prescribe by rule~~ the tax  
3 amounts and brackets applicable to each taxable sale such that  
4 the tax collected results in a tax rate no less than the tax  
5 rate imposed pursuant to this chapter and chapter 203.

6 Section 6. Subsections (2), (4), and (6) of section  
7 202.17, Florida Statutes, are amended to read:

8 202.17 Registration.--

9 (2) A person may not engage in the business of  
10 providing communications services without first obtaining a  
11 certificate of registration. The failure or refusal to submit  
12 an application by any person required to register, as required  
13 by this section, is a misdemeanor of the first degree,  
14 punishable as provided in s. 775.082 or s. 775.083. Any person  
15 who fails or refuses to register shall pay an initial  
16 registration fee of \$100 ~~in lieu of the \$5 registration fee~~  
17 ~~prescribed under subsection (4)~~. However, this fee ~~increase~~  
18 may be waived by the department if the failure is due to  
19 reasonable cause.

20 (4) Each application required by paragraph (3)(a) must  
21 ~~be accompanied by a registration fee of \$5, to be deposited in~~  
22 ~~the General Revenue Fund, and must set forth:~~

23 (a) The name under which the person will transact  
24 business within this state.

25 (b) The street address of his or her principal office  
26 or place of business within this state and of the location  
27 where records are available for inspection.

28 (c) The name and complete residence address of the  
29 owner or the names and residence addresses of the partners, if  
30 the applicant is a partnership, or of the principal officers,  
31 if the applicant is a corporation or association. If the

1 applicant is a corporation organized under the laws of another  
2 state, territory, or country, he or she must also file with  
3 the application a certified copy of the certificate or license  
4 issued by the Department of State showing that the corporation  
5 is authorized to transact business in this state.

6 (d) Any other data required by the department.

7 (6) In addition to the certificate of registration,  
8 the department shall provide to each newly registered dealer  
9 an initial ~~annual~~ resale certificate that is valid for the  
10 remainder of the period of issuance ~~remaining portion of the~~  
11 ~~year~~. The department shall provide to each active dealer,  
12 except persons registered pursuant to s. 202.15, an annual  
13 resale certificate. As used in this section, "active dealer"  
14 means a person who is registered with the department and who  
15 is required to file a return at least once during each  
16 applicable reporting period.

17 Section 7. Subsection (2) and paragraphs (a) and (c)  
18 of subsection (3) of section 202.18, Florida Statutes, are  
19 amended to read:

20 202.18 Allocation and disposition of tax  
21 proceeds.--The proceeds of the communications services taxes  
22 remitted under this chapter shall be treated as follows:

23 (2) The proceeds of the taxes remitted under s.  
24 202.12(1)(c) shall be divided as follows:

25 (a) The portion of such proceeds which constitutes  
26 gross receipts taxes, imposed at the rate prescribed in  
27 chapter 203, shall be deposited as provided by law and in  
28 accordance with s. 9, Art. XII of the State Constitution.

29 (b) The portion of such proceeds which is derived from  
30 the rate component specified in s. 202.12(1)(c)1. shall be  
31 allocated to the state and distributed pursuant to s.

1 212.20(6), except that the proceeds allocated pursuant to s.  
2 212.20(6)(e)3. shall be prorated to the participating counties  
3 in the same proportion as that month's collection of the taxes  
4 and fees imposed pursuant to chapter 212 and paragraph (1)(b).

5 (c)1. During each calendar year, the remaining portion  
6 of such proceeds shall be transferred to the Local Government  
7 Half-cent Sales Tax Clearing Trust Fund and shall be allocated  
8 in the same proportion as the allocation of total receipts of  
9 the half-cent sales tax under s. 218.61 and the emergency  
10 distribution under s. 218.65 in the prior state fiscal year.  
11 However, during calendar year 2001, state fiscal year  
12 2000-2001 proportions shall be used.

13 2. The proportion of the proceeds allocated based on  
14 the emergency distribution under s. 218.65 shall be  
15 distributed pursuant to s. 218.65.

16 3. In each calendar year, the proportion of the  
17 proceeds allocated based on the half-cent sales tax under s.  
18 218.61 shall be allocated to each county in the same  
19 proportion as the county's percentage of total sales tax  
20 allocation for the prior state fiscal year and distributed  
21 pursuant to s. 218.62, except that for calendar year 2001,  
22 state fiscal year 2000-2001 proportions shall be used.~~The~~  
23 ~~remaining portion of such proceeds shall be allocated to the~~  
24 ~~municipalities and counties in proportion to the allocation of~~  
25 ~~receipts from the half-cent sales tax under s. 218.61 and the~~  
26 ~~emergency distribution of such tax under s. 218.65.~~

27 4. The department shall distribute the appropriate  
28 amount to each municipality and county each month at the same  
29 time that local communications services taxes are distributed  
30 pursuant to subsection (3).

31

1           (3)(a) Notwithstanding any law to the contrary, the  
2 proceeds of each local communications services tax levied by a  
3 municipality or county pursuant to s. 202.19(1) or s.  
4 202.20(1), less the department's costs of administration,  
5 shall be transferred to the Local Communications Services Tax  
6 Clearing Trust Fund and held there to be distributed to such  
7 municipality or county. However, the proceeds of any  
8 communications services tax imposed pursuant to s. 202.19(5)  
9 shall be deposited and disbursed in accordance with ss.  
10 212.054 and 212.055. For purposes of this section, the  
11 proceeds of any tax levied by a municipality, county, or  
12 school board under s. 202.19(1) or s. 202.20(1) are all funds  
13 collected and received by the department pursuant to a  
14 specific levy authorized by such sections ~~section~~, including  
15 any interest and penalties attributable to the tax levy.

16           (c)1. Except as otherwise provided in this paragraph,  
17 proceeds of the taxes levied pursuant to s. 202.19, less  
18 amounts deducted for costs of administration in accordance  
19 with paragraph (b), shall be distributed monthly to the  
20 appropriate jurisdictions. The proceeds of taxes imposed  
21 pursuant to s. 202.19(5) shall be distributed in the same  
22 manner as discretionary surtaxes are distributed, in  
23 accordance with ss. 212.054 and 212.055.

24           2. The department shall make any adjustments to the  
25 distributions pursuant to this paragraph which are necessary  
26 to reflect the proper amounts due to individual jurisdictions.  
27 In the event that the department adjusts amounts due to  
28 reflect a correction in the situsing of a customer, such  
29 adjustment shall be limited to the amount of tax actually  
30 collected from such customer by the dealer of communication  
31 services.

1 Section 8. Subsection (2), paragraph (b) of subsection  
2 (3), and subsections (4), (5), (9), and (11) of section  
3 202.19, Florida Statutes, are amended to read:

4 202.19 Authorization to impose local communications  
5 services tax.--

6 (2) The rate of such tax shall be as follows:

7 (a) For municipalities and charter counties, the rate  
8 shall be up to the maximum rate determined for municipalities  
9 and charter counties in accordance with s. 202.20(2).

10 (b) For all other counties, the rate shall be up to  
11 the maximum rate determined for other counties in accordance  
12 with s. 202.20(2).

13  
14 The rate imposed by any municipality or county shall be  
15 expressed in increments of one-tenth of a percent and rounded  
16 up to the nearest one-tenth expressed in increments of  
17 one-tenth of a percent and rounded up to the nearest one-tenth  
18 percent.

19 (3)

20 (b) The tax authorized under this section includes any  
21 fee or other consideration to which the municipality or county  
22 is otherwise entitled for granting permission to dealers of  
23 communications services, including, but not limited to, ~~or~~  
24 providers of cable television services, as authorized in 47  
25 U.S.C. s. 542, to use or occupy its roads or rights-of-way for  
26 the placement, construction, and maintenance of poles, wires,  
27 and other fixtures used in the provision of communications  
28 services.

29 (4)(a)1. Except as otherwise provided in this section,  
30 the tax imposed by any municipality shall be on all  
31 communications services subject to tax under s. 202.12 which:

1           ~~a.1.~~ Originate or terminate in this state; and

2           ~~b.2.~~ Are charged to a service address in the  
3 municipality.

4           2. With respect to private communications services,  
5 the tax shall be on the sales price of such services provided  
6 within the municipality. In determining the sales price of  
7 private communications services subject to tax, the  
8 communications service provider shall be entitled to use any  
9 method that reasonably allocates the total charges among the  
10 state and local taxing jurisdictions in which channel  
11 termination points are located. An allocation method is deemed  
12 to be reasonable for purposes of this subparagraph if the  
13 communications service provider regularly used such method for  
14 Florida tax purposes prior to December 31, 2000. If a  
15 communications service provider uses a reasonable allocation  
16 method, such provider shall be held harmless from any  
17 liability for additional tax, interest, or penalty based on a  
18 different allocation method.

19           (b)1. Except as otherwise provided in this section,  
20 the tax imposed by any county under subsection (1) shall be on  
21 all communications services subject to tax under s. 202.12  
22 which:

23           ~~a.1.~~ Originate or terminate in this state; and

24           ~~b.2.~~ Are charged to a service address in the  
25 unincorporated area of the county.

26           2. With respect to private communications services,  
27 the tax shall be on the sales price of such services provided  
28 within the unincorporated area of the county. In determining  
29 the amount of charges for private communications services  
30 subject to tax, the communications service provider shall be  
31 entitled to use any method that reasonably allocates the total

1 charges among the state and local taxing jurisdictions in  
2 which channel termination points are located. An allocation  
3 method is deemed to be reasonable for purposes of this  
4 subparagraph if the communications service provider regularly  
5 used such method for Florida tax purposes prior to December  
6 31, 2000. If a communications service provider uses a  
7 reasonable allocation method, such provider shall be held  
8 harmless from any liability for additional tax, interest, or  
9 penalty based on a different allocation method.

10 (5) In addition to the communications services taxes  
11 authorized by subsection (1), a discretionary sales surtax  
12 that a county or school board has levied under s. 212.055 is  
13 imposed as a local communications services tax under this  
14 section, and the rate shall be determined in accordance with  
15 s. 202.20(5).

16 (a) Except as otherwise provided in this subsection,  
17 each such tax rate shall be applied, in addition to the other  
18 tax rates applied under this chapter, to communications  
19 services subject to tax under s. 202.12 which:

20 1.(a) Originate or terminate in this state; and

21 2.(b) Are charged to a service address in the county.

22 (b) With respect to private communications services,  
23 the tax shall be on the sales price of such services provided  
24 within the county. In determining the sales price of private  
25 communications services subject to tax, the communications  
26 service provider shall be entitled to use any method that  
27 reasonably allocates the total charges among the state and  
28 local taxing jurisdictions in which channel termination points  
29 are located. An allocation method is deemed to be reasonable  
30 for purposes of this paragraph if the communications service  
31 provider regularly used such method for Florida tax purposes



1 prior to December 31, 2000. If a communications service  
2 provider uses a reasonable allocation method, such provider  
3 shall be held harmless from any liability for additional tax,  
4 interest, or penalty based on a different allocation method.

5       (9) ~~A municipality or county that imposes a tax under~~  
6 ~~subsection (1) may use~~ The revenues raised by any such tax  
7 imposed under subsection (1) or s. 202.20(1) may be used by a  
8 municipality or county for any public purpose, including, but  
9 not limited to, pledging such revenues for the repayment of  
10 current or future bonded indebtedness. Revenues raised by a  
11 tax imposed under subsection (5) shall be used for the same  
12 purposes as the underlying discretionary sales surtax imposed  
13 by the county or school board under s. 212.055.

14       (11) To the extent that a provider of communications  
15 services is required to pay to a local taxing jurisdiction a  
16 tax, charge, or other fee under any franchise agreement or  
17 ordinance with respect to the services or revenues that are  
18 also subject to the tax imposed by this section, such provider  
19 is entitled to a credit against the amount payable to the  
20 state pursuant to this section in the amount of such tax,  
21 charge, or fee with respect to such services or revenues. The  
22 amount of such credit shall be deducted from the amount that  
23 such local taxing jurisdiction is entitled to receive under s.  
24 202.18(3).

25       Section 9. Effective January 1, 2004, subsections (4)  
26 and (5) of section 202.19, Florida Statutes, as amended by  
27 this act, are amended to read:

28       202.19 Authorization to impose local communications  
29 services tax.--  
30  
31

1 (4)(a)1. Except as otherwise provided in this section,  
2 the tax imposed by any municipality shall be on all  
3 communications services subject to tax under s. 202.12 which:  
4 a. Originate or terminate in this state; and  
5 b. Are charged to a service address in the  
6 municipality.

7 2. With respect to private communications services,  
8 the tax shall be on the sales price of such services provided  
9 within the municipality, which shall be determined in  
10 accordance with the following provisions:-

11 a. Any charge with respect to a channel termination  
12 point located within such municipality;

13 b. Any charge for the use of a channel between two  
14 channel termination points located in such municipality; and

15 c. Where channel termination points are located both  
16 within and outside of the municipality:

17 (I) If any segment between two such channel  
18 termination points is separately billed, 50 percent of such  
19 charge; and

20 (II) If any segment of the circuit is not separately  
21 billed, an amount equal to the total charge for such circuit  
22 multiplied by a fraction, the numerator of which is the number  
23 of channel termination points within such municipality and the  
24 denominator of which is the total number of channel  
25 termination points of the circuit.~~In determining the sales~~  
26 ~~price of private communications services subject to tax, the~~  
27 ~~communications service provider shall be entitled to use any~~  
28 ~~method that reasonably allocates the total charges among the~~  
29 ~~state and local taxing jurisdictions in which channel~~  
30 ~~termination points are located. An allocation method is deemed~~  
31 ~~to be reasonable for purposes of this subparagraph if the~~

1 ~~communications service provider regularly used such method for~~  
2 ~~Florida tax purposes prior to December 31, 2000. If a~~  
3 ~~communications service provider uses a reasonable allocation~~  
4 ~~method, such provider shall be held harmless from any~~  
5 ~~liability for additional tax, interest, or penalty based on a~~  
6 ~~different allocation method.~~

7 (b)1. Except as otherwise provided in this section,  
8 the tax imposed by any county under subsection (1) shall be on  
9 all communications services subject to tax under s. 202.12  
10 which:

11 a. Originate or terminate in this state; and

12 b. Are charged to a service address in the  
13 unincorporated area of the county.

14 2. With respect to private communications services,  
15 the tax shall be on the sales price of such services provided  
16 within the unincorporated area of the county, which shall be  
17 determined in accordance with the following provisions:-

18 a. Any charge with respect to a channel termination  
19 point located within the unincorporated area of such county;

20 b. Any charge for the use of a channel between two  
21 channel termination points located in the unincorporated area  
22 of such county; and

23 c. Where channel termination points are located both  
24 within and outside of the unincorporated area of such county:

25 (I) If any segment between two such channel  
26 termination points is separately billed, 50 percent of such  
27 charge; and

28 (II) If any segment of the circuit is not separately  
29 billed, an amount equal to the total charge for such circuit  
30 multiplied by a fraction, the numerator of which is the number  
31 of channel termination points within the unincorporated area

1 of such county and the denominator of which is the total  
2 number of channel termination points of the circuit.~~In~~  
3 ~~determining the amount of charges for private communications~~  
4 ~~services subject to tax, the communications service provider~~  
5 ~~shall be entitled to use any method that reasonably allocates~~  
6 ~~the total charges among the state and local taxing~~  
7 ~~jurisdictions in which channel termination points are located.~~  
8 ~~An allocation method is deemed to be reasonable for purposes~~  
9 ~~of this subparagraph if the communications service provider~~  
10 ~~regularly used such method for Florida tax purposes prior to~~  
11 ~~December 31, 2000. If a communications service provider uses a~~  
12 ~~reasonable allocation method, such provider shall be held~~  
13 ~~harmless from any liability for additional tax, interest, or~~  
14 ~~penalty based on a different allocation method.~~

15 (5) In addition to the communications services taxes  
16 authorized by subsection (1), a discretionary sales surtax  
17 that a county or school board has levied under s. 212.055 is  
18 imposed as a local communications services tax under this  
19 section, and the rate shall be determined in accordance with  
20 s. 202.20(5).

21 (a) Except as otherwise provided in this subsection,  
22 each such tax rate shall be applied, in addition to the other  
23 tax rates applied under this chapter, to communications  
24 services subject to tax under s. 202.12 which:

- 25 1. Originate or terminate in this state; and
- 26 2. Are charged to a service address in the county.

27 (b) With respect to private communications services,  
28 the tax shall be on the sales price of such services provided  
29 within the county, which shall be determined in accordance  
30 with the following provisions:-

31

1           1. Any charge with respect to a channel termination  
2 point located within such county;

3           2. Any charge for the use of a channel between two  
4 channel termination points located in such county; and

5           3. Where channel termination points are located both  
6 within and outside of such county:

7           a. If any segment between two such channel termination  
8 points is separately billed, 50 percent of such charge; and

9           b. If any segment of the circuit is not separately  
10 billed, an amount equal to the total charge for such circuit  
11 multiplied by a fraction, the numerator of which is the number  
12 of channel termination points within such county and the  
13 denominator of which is the total number of channel

14 termination points of the circuit.~~In determining the sales~~  
15 ~~price of private communications services subject to tax, the~~  
16 ~~communications service provider shall be entitled to use any~~  
17 ~~method that reasonably allocates the total charges among the~~  
18 ~~state and local taxing jurisdictions in which channel~~  
19 ~~termination points are located. An allocation method is deemed~~  
20 ~~to be reasonable for purposes of this paragraph if the~~  
21 ~~communications service provider regularly used such method for~~  
22 ~~Florida tax purposes prior to December 31, 2000. If a~~  
23 ~~communications service provider uses a reasonable allocation~~  
24 ~~method, such provider shall be held harmless from any~~  
25 ~~liability for additional tax, interest, or penalty based on a~~  
26 ~~different allocation method.~~

27           Section 10. Effective with respect to bills issued by  
28 communications services providers after August 1, 2002,  
29 subsection (12) is added to section 202.19, Florida Statutes,  
30 to read:

31

1           202.19 Authorization to impose local communications  
2 services tax.--

3           (12) Notwithstanding any other provision of this  
4 section, with respect to mobile communications services, the  
5 rate of a local communications services tax levied under this  
6 section shall be applied to the sales price of all mobile  
7 communications services deemed to be provided to a customer by  
8 a home service provider pursuant to s. 117(a) of the Mobile  
9 Telecommunications Sourcing Act, Pub. L. No. 106-252, if such  
10 customer's service address is located within the municipality  
11 levying the tax or within the unincorporated area of the  
12 county levying the tax, as the case may be.

13           Section 11. Paragraphs (b) and (c) of subsection (1)  
14 of section 202.20, Florida Statutes, are amended, and,  
15 effective upon this act becoming a law, subsection (8) is  
16 added to said section, to read:

17           202.20 Local communications services tax rates.--

18           (1)

19           (b) The rates computed by the Revenue Estimating  
20 Conference shall be presented to the Legislature for review  
21 and approval during the 2001 Regular Session. The rates  
22 approved by the Legislature under this subsection shall be  
23 effective in the respective local taxing jurisdictions on  
24 October 1, 2001, without any action being taken by the  
25 governing authority or voters of such local taxing  
26 jurisdictions. Each ~~The~~ rate computed and approved pursuant to  
27 this subsection shall be reduced on October 1, 2002, by that  
28 portion of the rate which was necessary to recoup the 1 month  
29 of foregone revenues addressed in subparagraph (a)2.

30           (c)1. With respect to any local taxing jurisdiction,  
31 if, for the periods ending December 31, 2001; March 31, 2002;

1 June 30, 2002; or September 30, 2002, the revenues received by  
2 that local government from the local communications services  
3 tax imposed under s. 202.19(1) are less than the revenues  
4 received from the replaced revenue sources for the  
5 corresponding 2000-2001 period; plus reasonably anticipated  
6 growth in such revenues over the preceding 1-year period,  
7 based on the average growth of such revenues over the  
8 immediately preceding 5-year period; plus an amount  
9 representing the revenues from the replaced revenue sources  
10 for the 1-month period that the local taxing jurisdiction was  
11 required to forego, the governing authority may adjust the  
12 rate of the local communications services tax upward to the  
13 extent necessary to generate the entire shortfall in revenues  
14 within 1 year after the rate adjustment and by an amount  
15 necessary to generate the expected amount of revenue on an  
16 ongoing basis.

17 2. If complete data are not available at the time of  
18 determining whether the revenues received by a local  
19 government from the local communications services tax imposed  
20 under s. 202.19(1) are less than the revenues received from  
21 the replaced revenue sources for the corresponding 2000-2001  
22 period, as set forth in subparagraph 1., the local government  
23 shall use the best data available for the corresponding  
24 2000-2001 period in making such determination.

25 3. The adjustment permitted under subparagraph 1. may  
26 be made by emergency ordinance and may be made notwithstanding  
27 the maximum rate established under subsection (2) and  
28 notwithstanding any schedules or timeframes or any other  
29 limitations contained in this chapter. The emergency ordinance  
30 shall specify an effective date for the adjusted rate, which  
31 shall be no less than ~~60~~ 90 days after the date of adoption of

1 the ordinance and shall be effective with respect to taxable  
2 services included on bills that are dated on the first day of  
3 a month subsequent to the expiration of the 60-day period. At  
4 the end of 1 that year following the effective date of such  
5 adjusted rate, the local governing authority shall, as soon as  
6 is consistent with s. 202.21, reduce the rate by that portion  
7 of the emergency rate which was necessary to recoup the amount  
8 of revenues not received prior to the implementation of the  
9 emergency rate.

10 (8) Notwithstanding any provision of this chapter to  
11 the contrary, any municipality or county that has a local  
12 communications services tax rate established under paragraphs  
13 (1)(a) and (b) which is less than the maximum rate established  
14 under paragraphs(2)(a) and (b) may by resolution increase the  
15 local communications services tax rate established under  
16 paragraphs (1)(a) and (b) up to the maximum rate established  
17 under paragraphs (2)(a) and (b), with such increased rate to  
18 be effective October 1, 2001. The municipality or county shall  
19 notify the department of such increased rate by certified mail  
20 postmarked on or before July 16, 2001.

21 Section 12. Paragraph (c) of subsection (1), paragraph  
22 (b) of subsection (2), and paragraphs (b) and (c) of  
23 subsection (3) of section 202.22, Florida Statutes, are  
24 amended, paragraph (g) is added to subsection (3), and  
25 paragraph (b) of subsection (4) and paragraph (b) of  
26 subsection (6) of said section are amended, to read:

27 202.22 Determination of local tax situs.--

28 (1) A dealer of communications services who is  
29 obligated to collect and remit a local communications services  
30 tax imposed under s. 202.19 shall be held harmless from any  
31 liability, including tax, interest, and penalties, which would



1 otherwise be due solely as a result of an assignment of a  
2 service address to an incorrect local taxing jurisdiction, if  
3 the dealer of communications services exercises due diligence  
4 in applying one or more of the following methods for  
5 determining the local taxing jurisdiction in which a service  
6 address is located:

7       (c)1. Employing enhanced zip codes to assign each  
8 street address, address range, post office box, or post office  
9 box range in the dealer's service area to a specific local  
10 taxing jurisdiction.

11       2. If an enhanced zip code overlaps boundaries of  
12 municipalities or counties, or if an enhanced zip code cannot  
13 be assigned to the service address because the service address  
14 is in a rural area or a location without postal delivery, the  
15 dealer of communications services or its database vendor shall  
16 assign the affected service addresses to one specific local  
17 taxing jurisdiction within such zip code based on a reasonable  
18 methodology. A methodology satisfies this subparagraph  
19 ~~paragraph~~ if the information used to assign service addresses  
20 is obtained by the dealer or its database vendor from:

21       ~~a.1.~~ A database provided by the department;

22       ~~b.2.~~ A database certified by the department under  
23 subsection (3);

24       ~~c.3.~~ Responsible representatives of the relevant local  
25 taxing jurisdictions; or

26       ~~d.4.~~ The United States Census Bureau or the United  
27 States Postal Service.

28       (2)

29       (b)1. Each local taxing jurisdiction shall furnish to  
30 the department all information needed to create and update the  
31 electronic database, including changes in service addresses,

1 annexations, incorporations, reorganizations, and any other  
2 changes in jurisdictional boundaries. The information  
3 furnished to the department must specify an effective date,  
4 which must be the next ensuing January 1 or July 1, and such  
5 information must be furnished to the department at least 120  
6 days prior to the effective date. However, the requirement  
7 that counties submit information pursuant to this paragraph  
8 shall be subject to appropriation.

9         2. The department shall update the electronic database  
10 in accordance with the information furnished by local taxing  
11 jurisdictions under subparagraph 1. Each update must specify  
12 the effective date as the next ensuing January 1 or July 1 and  
13 must be posted by the department on a website not less than 90  
14 days prior to the effective date. The department shall also  
15 furnish the update on magnetic or electronic media to any  
16 dealer of communications services or vendor who requests the  
17 update on such media. However, the department may collect a  
18 fee from the dealer of communications services which does not  
19 exceed the actual cost of furnishing the update on magnetic or  
20 electronic media.

21         3. Each update must identify the additions, deletions,  
22 and other changes to the preceding version of the database.  
23 Each dealer of communications services shall be required to  
24 collect and remit local communications services taxes imposed  
25 under this chapter only for those service addresses that are  
26 contained in the database and for which all of the elements  
27 required by this subsection are included in the database.

28         (3) For purposes of this section, a database must be  
29 certified by the department pursuant to rules that implement  
30 the following criteria and procedures:  
31

1           (b) Upon receipt of an application for certification  
2 or recertification of a database, the provisions of s. 120.60  
3 shall apply, except that the department shall examine the  
4 application and, within 90 days after receipt, notify the  
5 applicant of any apparent errors or omissions and request any  
6 additional information, ~~conduct any inspection, or perform any~~  
7 ~~testing~~ determined necessary. The applicant shall designate an  
8 individual responsible for providing access to all records,  
9 facilities, and processes the department determines are  
10 reasonably necessary to review, inspect, or test to ~~and~~ make a  
11 determination regarding the application. Such access must be  
12 provided within 10 working days after notification.

13           (c) The application must be in the form prescribed by  
14 rule and must include the applicant's name, federal employer  
15 identification number, mailing address, business address, and  
16 any other information required by the department. The  
17 application may request that the applicant identify ~~must~~  
18 ~~identify, among other elements required by the department,~~ the  
19 applicant's proposal for testing the database.

20           (g) Notwithstanding any provision of law to the  
21 contrary, if a dealer submits an application for certification  
22 on or before the later of October 1, 2001, or the date which  
23 is thirty days after the date on which the applicable  
24 department rules become effective, and such application is  
25 neither approved nor denied within the time period set forth  
26 in paragraph (d):

27           1. For purposes of computing the amount of the  
28 deduction to which such dealer is entitled under s. 202.28,  
29 the dealer shall be deemed to have used a certified database  
30 pursuant to paragraph (1)(b), until such time as the  
31 application for certification is denied.

1           2. In the event that such application is approved,  
2 such approval shall be deemed to have been effective on the  
3 date of the application or October 1, 2001, whichever is  
4 later.

5           (4)

6           (b) Notwithstanding any law to the contrary, a dealer  
7 of communications services is exercising due diligence in  
8 applying one or more of the methods set forth in subsection  
9 (1) if the dealer:

10           1. Expends reasonable resources to accurately and  
11 reliably implement such method. However, the employment of  
12 enhanced zip codes pursuant to paragraph (1)(c) satisfies the  
13 requirements of this subparagraph; and

14           2. Maintains adequate internal controls in assigning  
15 street addresses, address ranges, post offices boxes, and post  
16 office box ranges to taxing jurisdictions. Internal controls  
17 are adequate if the dealer of communications services:

18           a. Maintains and follows procedures to obtain and  
19 implement periodic and consistent updates to the database at  
20 least once every 6 months; and

21           b. Corrects errors in the assignments of service  
22 addresses to local taxing jurisdictions within 120 days after  
23 the dealer discovers such errors.

24           (6)

25           (b) Notwithstanding s. 202.28, if a dealer of  
26 communications services employs a method of assigning service  
27 addresses other than as set forth in paragraph (1)(a),  
28 paragraph (1)(b), or paragraph (1)(c), the deduction allowed  
29 to the dealer of communications services as compensation under  
30 s. 202.28 shall be 0.25 percent of that portion of the tax due  
31 and accounted for and remitted to the department which is

1 attributable to such method of assigning service addresses  
2 other than as set forth in paragraph (1)(a), paragraph (1)(b),  
3 or paragraph (1)(c).

4 Section 13. Subsection (8) is added to section 202.23,  
5 Florida Statutes, to read:

6 202.23 Procedure on purchaser's request for refund or  
7 credit of communications services taxes.--

8 (8)(a) Subject to the provisions of s. 213.756, if it  
9 appears, upon examination of a communications services tax  
10 return made under this chapter, or upon proof submitted to the  
11 department by the dealer, that an amount of communications  
12 services tax has been paid in excess of the amount due, the  
13 department may refund the amount of the overpayment to the  
14 dealer. The department may refund the overpayment without  
15 regard to whether the dealer has filed a written claim for  
16 refund; however, the department may require the dealer to file  
17 a statement affirming that the dealer made the overpayment.  
18 Prior to issuing a refund pursuant to this subsection, the  
19 department shall notify the dealer of its intent to issue such  
20 refund, the amount of such refund, and the reason for such  
21 refund.

22 (b) Notwithstanding the provisions of paragraph (a), a  
23 refund of communications services tax shall not be made, and  
24 no action for a refund may be brought by a dealer or other  
25 person, after the applicable period set forth in s. 215.26(2)  
26 has elapsed.

27 (c) If, after the issuance of a refund by the  
28 department pursuant to this subsection, the department  
29 determines that the amount of such refund exceeds the amount  
30 legally due to the dealer, the provisions of s. 202.35  
31 concerning penalties and interest shall not apply if, within

1 60 days of receiving notice of such determination, the dealer  
2 reimburses the department the amount of such excess.

3 Section 14. Paragraph (c) of subsection (2) of section  
4 202.24, Florida Statutes, is amended to read:

5 202.24 Limitations on local taxes and fees imposed on  
6 dealers of communications services.--

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

9 1. Levying on or collecting from dealers or purchasers  
10 of communications services any tax, charge, fee, or other  
11 imposition on or with respect to the provision or purchase of  
12 communications services.

13 2. Requiring any dealer of communications services to  
14 enter into or extend the term of a franchise or other  
15 agreement that requires the payment of a tax, charge, fee, or  
16 other imposition.

17 3. Adopting or enforcing any provision of any  
18 ordinance or agreement to the extent that such provision  
19 obligates a dealer of communications services to charge,  
20 collect, or pay to the public body a tax, charge, fee, or  
21 other imposition.

22  
23 Each municipality and county retains authority to negotiate  
24 all terms and conditions of a cable service franchise allowed  
25 by federal and state law except those terms and conditions  
26 related to franchise fees and the definition of gross revenues  
27 or other definitions or methodologies related to the payment  
28 or assessment of franchise fees on providers of cable  
29 services.

30 (b) For purposes of this subsection, a tax, charge,  
31 fee, or other imposition includes any amount or in-kind

1 payment of property or services which is required by ordinance  
2 or agreement to be paid or furnished to a public body by or  
3 through a dealer of communications services in its capacity as  
4 a dealer of communications services, regardless of whether  
5 such amount or in-kind payment of property or services is:

- 6 1. Designated as a sales tax, excise tax, subscriber  
7 charge, franchise fee, user fee, privilege fee, occupancy fee,  
8 rental fee, license fee, pole fee, tower fee, base-station  
9 fee, or other tax or fee;
- 10 2. Measured by the amounts charged or received for  
11 services, regardless of whether such amount is permitted or  
12 required to be separately stated on the customer's bill, by  
13 the type or amount of equipment or facilities deployed, or by  
14 other means; or
- 15 3. Intended as compensation for the use of public  
16 roads or rights-of-way, for the right to conduct business, or  
17 for other purposes.

18 (c) This subsection does not apply to:

- 19 1. Local communications services taxes levied under  
20 this chapter.
- 21 2. Ad valorem taxes levied pursuant to chapter 200.
- 22 3. Occupational license taxes levied under chapter  
23 205.
- 24 4. "911" service charges levied under chapter 365.
- 25 5. Amounts charged for the rental or other use of  
26 property owned by a public body which is not in the public  
27 rights-of-way to a dealer of communications services for any  
28 purpose, including, but not limited to, the placement or  
29 attachment of equipment used in the provision of  
30 communications services.
- 31

1           6. Permit fees of general applicability which are not  
2 related to placing or maintaining facilities in or on public  
3 roads or rights-of-way.

4           7. Permit fees related to placing or maintaining  
5 facilities in or on public roads or rights-of-way pursuant to  
6 s. 337.401.

7           8. Any in-kind requirements, institutional networks,  
8 or contributions for, or in support of, the use or  
9 construction of public, educational, or governmental access  
10 facilities allowed under federal law and imposed on providers  
11 of cable service pursuant to any ordinance or agreement.  
12 Nothing in this subparagraph shall prohibit the ability of  
13 providers of cable service to recover such expenses as allowed  
14 under federal law. ~~This subparagraph shall be reviewed by the~~  
15 ~~legislature during the 2001 legislative session in conjunction~~  
16 ~~with the study required by this act.~~

17           9. Special assessments and impact fees.

18           10. Pole attachment fees that are charged by a local  
19 government for attachments to utility poles owned by the local  
20 government.

21           11. Utility service fees or other similar user fees  
22 for utility services.

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

27           Section 15. Subsection (3) of section 202.27, Florida  
28 Statutes, is amended to read:

29           202.27 Return filing; rules for self-accrual.--

30           (3) The department shall accept returns, except those  
31 required to be initiated through an electronic data



1 interchange, as timely if postmarked on or before the 20th day  
2 of the month; if the 20th day falls on a Saturday, Sunday, or  
3 federal or state legal holiday, returns are timely if  
4 postmarked on the next succeeding workday. ~~Any dealer who~~  
5 ~~makes sales of any nature in two or more locations for which~~  
6 ~~returns are required to be filed with the department and who~~  
7 ~~maintains records for such locations in a central office or~~  
8 ~~place may, on each reporting date, file one return for all~~  
9 ~~such places of business in lieu of separate returns for each~~  
10 ~~location; however, the return must clearly indicate the~~  
11 ~~amounts collected within each location.~~ Each dealer shall file  
12 a return for each tax period even though no tax is due for  
13 such period.

14 Section 16. Subsection (1) of section 202.28, Florida  
15 Statutes, is amended to read:

16 202.28 Credit for collecting tax; penalties.--

17 (1) Except as otherwise provided in s. 202.22, for the  
18 purpose of compensating persons providing communications  
19 services for the keeping of prescribed records, the filing of  
20 timely tax returns, and the proper accounting and remitting of  
21 taxes, persons collecting taxes imposed under this chapter and  
22 under s. 203.01(1)(a)2. shall be allowed to deduct 0.75  
23 percent of the amount of the tax due and accounted for and  
24 remitted to the department.

25 (a) The collection allowance may not be granted, nor  
26 may any deduction be permitted, if the required tax return or  
27 tax is delinquent at the time of payment.

28 (b) The department may deny the collection allowance  
29 if a taxpayer files an incomplete return.

30 1. For the purposes of this chapter, a return is  
31 incomplete if it is lacking such uniformity, completeness, and

1 arrangement that the physical handling, verification, review  
2 of the return, or determination of other taxes and fees  
3 reported on the return can not be readily accomplished.

4 2. The department shall adopt rules requiring the  
5 information that it considers necessary to ensure that the  
6 taxes levied or administered under this chapter are properly  
7 collected, reviewed, compiled, reported, and enforced,  
8 including, but not limited to, rules requiring the reporting  
9 of the amount of gross sales; the amount of taxable sales; the  
10 amount of tax collected or due; the amount of lawful refunds,  
11 deductions, or credits claimed; the amount claimed as the  
12 dealer's collection allowance; the amount of penalty and  
13 interest; and the amount due with the return.

14 (c) The collection allowance and other credits or  
15 deductions provided in this chapter shall be applied to the  
16 taxes reported for the jurisdiction previously credited with  
17 the tax paid.

18 Section 17. Section 202.231, Florida Statutes, is  
19 created to read:

20 202.231 Provision of Information to Local Taxing  
21 Jurisdictions--

22 (1) The Department shall provide a monthly report to  
23 each jurisdiction imposing the tax authorized by s. 202.19.  
24 Each report shall contain the following information for the  
25 jurisdiction which is receiving the report: the name and other  
26 information necessary to identify each dealer providing  
27 service in the jurisdiction, including each dealer's Federal  
28 Employer Identification Number; the gross taxable sales  
29 reported by each dealer; the amount of dealer's collection  
30 allowance, and any adjustments specified on the return,  
31 including audit assessments or refunds, and interest or

1 penalties affecting the next tax from each dealer which is  
2 being remitted to the jurisdiction. The report shall total  
3 the net amount transferred to the jurisdiction, showing the  
4 net taxes remitted by dealers less the administrative fees  
5 deducted by the department.

6 (2) Monthly reports shall be transmitted by the  
7 Department to each municipality and county through a secure  
8 electronic mail system, or by other suitable written or  
9 electronic means.

10 Section 18. Section 202.38, Florida Statutes, is  
11 created to read:

12 202.38 Special rules for bad debts and adjustments  
13 under previous taxes.--

14 (1)(a)1. Any dealer who has paid the tax imposed by  
15 chapter 212 on telecommunications services billed prior to  
16 October 1, 2001, which are no longer subject to such tax as a  
17 result of chapter 2000-260, Laws of Florida, may take a credit  
18 or obtain a refund of the state communications services tax  
19 imposed under this chapter on unpaid balances due on worthless  
20 accounts within 12 months following the last day of the  
21 calendar year for which the bad debt was charged off on the  
22 taxpayer's federal income tax return.

23 2. Any dealer who has paid a local public service tax  
24 levied pursuant to chapter 166 on telecommunications services  
25 billed prior to October 1, 2001, which are no longer subject  
26 to such tax as a result of chapter 2000-260, Laws of Florida,  
27 may take a credit or obtain a refund of the local  
28 communications services tax imposed by such jurisdiction on  
29 unpaid balances due on worthless accounts within 12 months  
30 following the last day of the calendar year for which the bad  
31

1 debt was charged off on the taxpayer's federal income tax  
2 return.

3 (b) If any accounts for which a credit or refund has  
4 been received under this section are then in whole or in part  
5 paid to the dealer, the amount paid must be included in the  
6 first communications services tax return filed after such  
7 receipt and the applicable state and local communications  
8 services tax paid accordingly.

9 (c) Bad debts associated with accounts receivable  
10 which have been assigned or sold with recourse are eligible  
11 upon reassignment for inclusion by the dealer in the credit or  
12 refund authorized by this section.

13 (2)(a) If any dealer would have been entitled to an  
14 adjustment of the tax imposed by chapter 212 on  
15 telecommunications services billed prior to October 1, 2001,  
16 which are no longer subject to such tax as a result of chapter  
17 2000-260, Laws of Florida, such dealer may take a credit or  
18 obtain a refund of the state communications services tax  
19 imposed under this chapter.

20 (b) If any dealer would have been entitled to an  
21 adjustment of a local public service tax levied pursuant to  
22 chapter 166 on telecommunications services billed prior to  
23 October 1, 2001, which are no longer subject to such tax as a  
24 result of chapter 2000-260, Laws of Florida, such dealer may  
25 take a credit or obtain a refund of the local communications  
26 services tax imposed by such jurisdiction pursuant to this  
27 chapter.

28 (3) Credits and refunds of the tax imposed by Chapter  
29 203 attributable to bad debts or adjustments with respect to  
30 telecommunications services billed prior to October 1, 2001,  
31

1 shall be governed by the applicable provisions of this  
2 chapter.

3 (4) Notwithstanding any provision of law to the  
4 contrary, the refunds and credits allowed by this section  
5 shall be subject to audit by the state and the respective  
6 local taxing jurisdictions in any audit of the taxes to which  
7 such refunds and credits relate.

8 Section 19. Effective upon this act becoming a law,  
9 paragraph (c) of subsection (3) of section 337.401, Florida  
10 Statutes, as amended by section 50 of chapter 2000-260, Laws  
11 of Florida, is amended to read:

12 337.401 Use of right-of-way for utilities subject to  
13 regulation; permit; fees.--

14 (3)

15 (c)1. It is the intention of the state to treat all  
16 providers of communications services that use or occupy  
17 municipal or charter county roads or rights-of-way for the  
18 provision of communications services in a nondiscriminatory  
19 and competitively neutral manner with respect to the payment  
20 of permit fees. Certain providers of communications services  
21 have been granted by general law the authority to offset  
22 permit fees against franchise or other fees while other  
23 providers of communications services have not been granted  
24 this authority. In order to treat all providers of  
25 communications services in a nondiscriminatory and  
26 competitively neutral manner with respect to the payment of  
27 permit fees, each municipality and charter county shall make  
28 an election under either sub-subparagraph a. or  
29 sub-subparagraph b. and must inform the Department of Revenue  
30 of the election by certified mail by July 16, 2001 ~~July 1,~~  
31 ~~2001~~. Such election shall take effect October 1, 2001.

1           a.(I) The municipality or charter county may require  
2 and collect permit fees from any providers of communications  
3 services that use or occupy municipal or county roads or  
4 rights-of-way. All fees permitted under this sub-subparagraph  
5 must be reasonable and commensurate with the direct and actual  
6 cost of the regulatory activity, including issuing and  
7 processing permits, plan reviews, physical inspection, and  
8 direct administrative costs; must be demonstrable; and must be  
9 equitable among users of the roads or rights-of-way. A fee  
10 permitted under this sub-subparagraph may not: be offset  
11 against the tax imposed under chapter 202; include the costs  
12 of roads or rights-of-way acquisition or roads or  
13 rights-of-way rental; include any general administrative,  
14 management, or maintenance costs of the roads or  
15 rights-of-way; or be based on a percentage of the value or  
16 costs associated with the work to be performed on the roads or  
17 rights-of-way. In an action to recover amounts due for a fee  
18 not permitted under this sub-subparagraph, the prevailing  
19 party may recover court costs and attorney's fees at trial and  
20 on appeal. In addition to the limitations set forth in this  
21 section, a fee levied by a municipality or charter county  
22 under this sub-subparagraph may not exceed \$100. However,  
23 permit fees may not be imposed with respect to permits that  
24 may be required for service drop lines not required to be  
25 noticed under s. 556.108(5)(b) or for any activity that does  
26 not require the physical disturbance of the roads or  
27 rights-of-way or does not impair access to or full use of the  
28 roads or rights-of-way.

29           (II) To ensure competitive neutrality among providers  
30 of communications services, for any municipality or charter  
31 county that elects to exercise its authority to require and

1 collect permit fees under this sub-subparagraph, the rate of  
2 the local communications services tax imposed by such  
3 jurisdiction, as computed under s. 202.20(1) and (2), shall  
4 automatically be reduced by a rate of 0.12 percent.

5         b. Alternatively, the municipality or charter county  
6 may elect not to require and collect permit fees from any  
7 provider of communications services that uses or occupies  
8 municipal or charter county roads or rights-of-way for the  
9 provision of communications services; however, each  
10 municipality or charter county that elects to operate under  
11 this sub-subparagraph retains all authority to establish rules  
12 and regulations for providers of communications services to  
13 use or occupy roads or rights-of-way as provided in this  
14 section. If a municipality or charter county elects to operate  
15 under this sub-subparagraph, the total rate for the local  
16 communications services tax as computed under s. 202.20(1) and  
17 (2) for that municipality or charter county may be increased  
18 by ordinance or resolution by an amount not to exceed a rate  
19 of 0.12 percent. If a municipality or charter county elects to  
20 increase its rate effective October 1, 2001, the municipality  
21 or charter county shall inform the department of such  
22 increased rate by certified mail postmarked on or before July  
23 15, 2001.

24         c. A municipality or charter county that does not make  
25 an election as provided for in this subparagraph shall be  
26 presumed to have elected to operate under the provisions of  
27 sub-subparagraph b.

28         2. Each noncharter county shall make an election under  
29 either sub-subparagraph a. or sub-subparagraph b. and shall  
30 inform the Department of Revenue of the election by certified  
31

1 mail by July 1, 2001. Such election shall take effect October  
2 1, 2001.

3           a. The noncharter county may elect to require and  
4 collect permit fees from any providers of communications  
5 services that use or occupy noncharter county roads or  
6 rights-of-way. All fees permitted under this sub-subparagraph  
7 must be reasonable and commensurate with the direct and actual  
8 cost of the regulatory activity, including issuing and  
9 processing permits, plan reviews, physical inspection, and  
10 direct administrative costs; must be demonstrable; and must be  
11 equitable among users of the roads or rights-of-way. A fee  
12 permitted under this sub-subparagraph may not: be offset  
13 against the tax imposed under chapter 202; include the costs  
14 of roads or rights-of-way acquisition or roads or  
15 rights-of-way rental; include any general administrative,  
16 management, or maintenance costs of the roads or  
17 rights-of-way; or be based on a percentage of the value or  
18 costs associated with the work to be performed on the roads or  
19 rights-of-way. In an action to recover amounts due for a fee  
20 not permitted under this sub-subparagraph, the prevailing  
21 party may recover court costs and attorney's fees at trial and  
22 on appeal. In addition to the limitations set forth in this  
23 section, a fee levied by a noncharter county under this  
24 sub-subparagraph may not exceed \$100. However, permit fees may  
25 not be imposed with respect to permits that may be required  
26 for service drop lines not required to be noticed under s.  
27 556.108(5)(b) or for any activity that does not require the  
28 physical disturbance of the roads or rights-of-way or does not  
29 impair access to or full use of the roads or rights-of-way.

30           b. Alternatively, the noncharter county may elect not  
31 to require and collect permit fees from any provider of



1 communications services that uses or occupies noncharter  
2 county roads or rights-of-way for the provision of  
3 communications services; however, each noncharter county that  
4 elects to operate under this sub-subparagraph shall retain all  
5 authority to establish rules and regulations for providers of  
6 communications services to use or occupy roads or  
7 rights-of-way as provided in this section. If a noncharter  
8 county elects to operate under this sub-subparagraph, the  
9 total rate for the local communications services tax as  
10 computed under s. 202.20(1) and (2) for that noncharter county  
11 may be increased by ordinance or resolution by an amount not  
12 to exceed a rate of 0.24 percent, to replace the revenue the  
13 noncharter county would otherwise have received from permit  
14 fees for providers of communications services. If a noncharter  
15 county elects to increase its rate effective October 1, 2001,  
16 the noncharter county shall inform the department of such  
17 increased rate by certified mail postmarked on or before July  
18 15, 2001.

19 c. A noncharter county that does not make an election  
20 as provided for in this subparagraph shall be presumed to have  
21 elected to operate under the provisions of sub-subparagraph b.

22 3. Except as provided in this paragraph,  
23 municipalities and counties retain all existing authority to  
24 require and collect permit fees from users or occupants of  
25 municipal or county roads or rights-of-way and to set  
26 appropriate permit fee amounts.

27 Section 20. Effective October 1, 2001, paragraph (a)  
28 of subsection (3) of section 337.401, Florida Statutes, is  
29 amended, and paragraphs (f) and (g) are repealed and  
30 paragraphs (j) and (k) are added to said subsection to read:  
31

1           337.401 Use of right-of-way for utilities subject to  
2 regulation; permit; fees.--  
3           (3)(a)1 Because of the unique circumstances applicable  
4 to providers of communications services, including, but not  
5 limited to, the circumstances described in paragraph (e) and  
6 the fact that federal and state law require the  
7 nondiscriminatory treatment of providers of telecommunications  
8 services, and because of the desire to promote competition  
9 among providers of communications services, it is the intent  
10 of the Legislature that municipalities and counties treat  
11 providers of communications services in a nondiscriminatory  
12 and competitively neutral manner when imposing rules or  
13 regulations governing the placement or maintenance of  
14 communications facilities in the public roads or  
15 rights-of-way. Rules or regulations imposed by a municipality  
16 or county relating to providers of communications services  
17 placing or maintaining communications facilities in its roads  
18 or rights-of-way must be generally applicable to all providers  
19 of communications services and, notwithstanding any other law,  
20 may not require a provider of communications services, except  
21 as otherwise provided in sub-paragraph 2., paragraph (f), to  
22 apply for or enter into an individual license, franchise, or  
23 other agreement with the municipality or county as a condition  
24 of placing or maintaining communications facilities in its  
25 roads or rights-of-way. In addition to other reasonable rules  
26 or regulations that a municipality or county may adopt  
27 relating to the placement or maintenance of communications  
28 facilities in its roads or rights-of-way under this  
29 subsection, a municipality or county may require a provider of  
30 communications services that places or seeks to place  
31 facilities in its roads or rights-of-way to register with the

1 municipality or county and to provide the name of the  
2 registrant; the name, address, and telephone number of a  
3 contact person for the registrant; the number of the  
4 registrant's current certificate of authorization issued by  
5 the Florida Public Service Commission or the Federal  
6 Communications Commission; and proof of insurance or  
7 self-insuring status adequate to defend and cover claims.

8 2. Notwithstanding the provisions of subparagraph  
9 (3)(a)1., a municipality or county may, as provided in 47  
10 U.S.C. 541, award one or more franchises within its  
11 jurisdiction for the provision of cable service and a provider  
12 of cable service may not provide cable service without a  
13 franchise. Each municipality and county retains authority to  
14 negotiate all terms and conditions of a cable service  
15 franchise allowed by federal law and s. 166.046, F.S., except  
16 those terms and conditions related to franchise fees and the  
17 definition of gross revenues or other definitions or  
18 methodologies related to the payment or assessment of  
19 franchise fees and permit fees as provided in paragraph (3)(c)  
20 on providers of cable services. A municipality or county may  
21 exercise its right to require from providers of cable service  
22 in-kind requirements, including, but not limited to,  
23 institutional networks, and contributions for, or in support  
24 of, the use or construction of public, educational, or  
25 governmental access facilities to the extent permitted by  
26 federal law. A provider of cable service may exercise its  
27 right to recover any such expenses associated with such  
28 in-kind requirements, to the extent permitted by federal law.

29 ~~(f) A municipality or county may request and negotiate~~  
30 ~~for in-kind requirements, institutional networks, and~~  
31 ~~contributions for, or in support of, the use or construction~~

1 ~~of public, educational, or governmental access facilities~~  
2 ~~allowed under federal law from providers of cable service, and~~  
3 ~~nothing in this section shall impair any ordinance or~~  
4 ~~agreement in effect on July 1, 2000, which provides for or~~  
5 ~~allows for such requirements, networks, or contributions,~~  
6 ~~including the ability of providers of cable service to recover~~  
7 ~~any such expenses pursuant to federal law. This subsection~~  
8 ~~shall be reviewed by the Legislature during the 2001~~  
9 ~~legislative session in conjunction with the study required by~~  
10 ~~this act.~~

11 ~~(g) Each municipality and county retains authority to~~  
12 ~~negotiate all terms and conditions of a cable service~~  
13 ~~franchise allowed by federal and state law except those terms~~  
14 ~~and conditions related to franchise fees and the definition of~~  
15 ~~gross revenues or other definitions or methodologies related~~  
16 ~~to the payment or assessment of franchise fees on providers of~~  
17 ~~cable services.~~

18 (j) Pursuant to this paragraph, any county or  
19 municipality may by ordinance change either its election made  
20 on or before July 16, 2001, under paragraph (c) or an election  
21 previously made under this paragraph.

22 1.a. If a municipality or charter county changes its  
23 election under this paragraph in order to exercise its  
24 authority to require and collect permit fees in accordance  
25 with this subsection, the rate of the local communications  
26 services tax imposed by such jurisdiction as computed under s.  
27 202.20(1) and (2) shall automatically be reduced by the sum of  
28 0.12 percent plus the percentage, if any, by which such rate  
29 was increased pursuant to sub-subparagraph (c)1.b.

30 b. If a municipality or charter county changes its  
31 election under this paragraph in order to discontinue

1 requiring and collecting permit fees, the rate of the local  
2 communications services tax imposed by such jurisdiction as  
3 computed under s. 202.20(1) and (2) may be increased by  
4 ordinance or resolution by an amount not to exceed 0.24  
5 percent.

6 2. If a noncharter county changes its election under  
7 this paragraph in order to exercise its authority to require  
8 and collect permit fees in accordance with this subsection,  
9 the rate of the local communications services tax imposed by  
10 such jurisdiction as computed under s. 202.20(1) and (2) shall  
11 automatically be reduced by the percentage, if any, by which  
12 such rate was increased pursuant to sub-subparagraph (c)2.b.

13 3.a. Any change of election pursuant to this paragraph  
14 and any tax rate change resulting from such change of election  
15 shall be subject to the notice requirements of s. 202.21;  
16 however, no such change of election shall become effective  
17 prior to January 1, 2003.

18 b. Any county or municipality changing its election  
19 under this paragraph in order to exercise its authority to  
20 require and collect permit fees shall, in addition to  
21 complying with the notice requirements under s. 202.21,  
22 provide to all dealers providing communications services in  
23 such jurisdiction written notice of such change of election by  
24 July 1 immediately preceding the January 1 on which such  
25 change of election becomes effective. For purposes of this  
26 sub-subparagraph, dealers providing communications services in  
27 such jurisdiction shall include every dealer reporting tax to  
28 such jurisdiction pursuant to s. 202.37 on the return required  
29 under s. 202.27 to be filed on or before the 20th day of May  
30 immediately preceding the January 1 on which such change of  
31 election becomes effective.

1        (k) Notwithstanding the provisions of s. 202.19, when  
2 a local communications services tax rate is changed as a  
3 result of an election made or changed under this subsection,  
4 such rate shall not be rounded to tenths.

5        Section 21. Effective October 1, 2001, subsection (4)  
6 of section 337.401, Florida Statutes, is amended to read:

7        (4) As used in this section, "communications services"  
8 ~~and "cable services"~~ have the same meanings ascribed in  
9 chapter 202 and "cable service" shall have the same meaning  
10 ascribed in 47 U.S.C. Section 522.

11        Section 22. Notwithstanding any provision of law to  
12 the contrary, the provisions of s. 166.234, Florida Statutes,  
13 shall continue to apply with respect to all public service  
14 taxes imposed on telecommunications services under s.  
15 166.231(9), Florida Statutes, prior to its amendment by  
16 chapter 2000-260, Laws of Florida.

17        Section 23. (1) Notwithstanding any law or ordinance  
18 to the contrary, and regardless of the payment schedule  
19 contained in any license, franchise, ordinance, or other  
20 arrangement that provides for payment after December 31, 2001,  
21 all franchise fees required to be paid by cable or  
22 telecommunications service providers with respect to cable or  
23 telecommunications services provided prior to October 1, 2001,  
24 shall be paid on or before December 31, 2001.

25        (2) For services provided prior to October 1, 2001,  
26 all franchise fees required to be paid prior to October 1,  
27 2001, under any license, franchise, ordinance or other  
28 arrangement shall be paid as provided in such license,  
29 franchise, ordinance or other arrangement. Cable and  
30 telecommunications service providers shall be obligated to  
31 remit franchise fees collected from subscribers for services

1 billed prior to October 1, 2001, regardless of their actual  
2 collection date.

3           Section 24. Section 52 of Chapter 2000-260, Laws of  
4 Florida, is hereby repealed.

5           Section 25. Effective upon this act becoming a law,  
6 subsections (1) and (2) of section 58 and section 59 of  
7 chapter 2000-260, Laws of Florida, are repealed.

8           Section 26. Except as otherwise provided herein, this  
9 act shall take effect October 1, 2001.

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HOUSE SUMMARY

Provides that ch. 202, F.S., the Communications Services Tax Simplification Law, and related statutory changes, shall take effect October 1, 2001. As originally enacted by the 2000 Legislature, these provisions were scheduled to be repealed prior to their effective date. Provides various clarifying and transitional provisions, including provisions relating to disposition of proceeds, local tax rates, determination of local tax situs, and refunds. Provides for application of tax to private communications services and mobile communications services. See bill for details.

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