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**By: Delegates Howard, C. Davis, Taylor, Harrison, D. Davis, Hurson, Menes, Exum, Owings, E. Burns, Vallario, V. Mitchell, Rawlings, Franchot, Conway, Wood, Love, Krysiak, Valderrama, Boston, Heller, Curran, Linton, W. Baker, Proctor, Donoghue, Bozman, Busch, Marriott, Arnick, and Hixson**

Introduced and read first time: January 27, 1997

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2           **Telecommunications Tax Reform**

3 FOR the purpose of altering the definitions of "public service company" and "gross  
4 receipts" under the public service company franchise tax; defining  
5 "telecommunications service" for purposes of the public service company franchise  
6 tax; altering the public service company franchise tax rate for a person providing a  
7 telecommunications service in the State; providing that the public service company  
8 franchise tax with respect to gross receipts from telecommunications service shall be  
9 added to and disclosed as an element of the charge to the customer for the service;  
10 limiting a certain subtraction modification under the income tax for gross receipts  
11 subject to the public service company franchise tax to gross receipts not derived  
12 from telecommunications service; providing a credit against the corporation income  
13 taxes for certain property taxes paid by a public utility that is a telecommunications  
14 company; imposing the sales and use tax on the sale of prepaid telephone calling  
15 cards; imposing the sales and use tax on certain Internet access service; altering the  
16 definition of "operating personal property" for property tax purposes for a public  
17 utility that is a telecommunications provider; repealing the sales and use tax on  
18 certain telecommunications services; altering the application of the sales and use tax  
19 to certain services; requiring the Public Service Commission to require a certain  
20 reduction in local telephone rates to reflect the elimination of a certain tax formerly  
21 included in the rates; prohibiting a local telephone service provider from adding a  
22 certain tax to its charge to the customer until a certain reduction in rates is  
23 effective; providing for the effective dates and application of this Act; and generally  
24 relating to the taxation of telecommunications companies and telecommunications  
25 services in the State.

26 BY repealing and reenacting, with amendments,

27       Article - Tax - General

28       Section 8-401, 8-403, 8-409, 10-307(e), and 11-101(i)(1) and (k)(9) and (10)

29       Annotated Code of Maryland

30       (1988 Volume and 1996 Supplement)

31 BY repealing and reenacting, without amendments,

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1 Article - Tax - General  
2 Section 8-402  
3 Annotated Code of Maryland  
4 (1988 Volume and 1996 Supplement)

5 BY adding to

6 Article - Tax - General  
7 Section 10-708 and 11-101(c-1) and (k)(11)  
8 Annotated Code of Maryland  
9 (1988 Volume and 1996 Supplement)

10 BY repealing and reenacting, with amendments,

11 Article - Tax - Property  
12 Section 1-101(u)  
13 Annotated Code of Maryland  
14 (1994 Replacement Volume and 1996 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article - Tax - General  
17 Section 11-101(k)  
18 Annotated Code of Maryland  
19 (1988 Volume and 1996 Supplement)  
20 (As enacted by Section 1 of this Act)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Tax - General**

24 8-401.

25 (a) In this subtitle the following words have the meanings indicated.

26 (b) (1) "Gross receipts" means:

27 (I) FOR A PERSON ENGAGED IN AN ELECTRIC, GAS, OR OIL  
28 PIPELINE BUSINESS IN THE STATE, total operating revenue; AND

29 (II) FOR A PERSON PROVIDING A TELECOMMUNICATIONS SERVICE  
30 IN THE STATE, TOTAL REVENUE DERIVED FROM PROVIDING  
31 TELECOMMUNICATIONS SERVICES IN THE STATE.

32 (2) "Gross receipts" includes:

33 (i) gross or total earnings and total receipts;

34 (ii) for a telephone company, the full amount of approved and  
35 applicable federal and State tariff charges for telephone lifeline service without the  
36 discount provided by Article 78, § 26A(c) of the Code; and

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1 (iii) for a telecommunications company providing interstate long  
2 distance telecommunications service, the gross charges from the sale of long distance  
3 telecommunications service that originates or terminates in the State and for which a  
4 charge is made to a service address located in the State, regardless of where the amount  
5 is billed or paid.

6 (3) "Gross receipts" does not include:

7 (i) any revenue that a public service company derives from an activity  
8 other than:

9 1. an electric, gas, OR oil pipeline[, telegraph, or telephone]  
10 business; OR

11 2. PROVIDING A TELECOMMUNICATIONS SERVICE;

12 (ii) net uncollectible revenue; [or]

13 (iii) gross charges from the sale by a public service company to another  
14 public service company subject to the tax imposed by this subtitle of:

15 1. a service or product for resale; or

16 2. natural gas or natural gas delivery service that is used by the  
17 other public service company in the generation of electricity; OR

18 (IV) GROSS CHARGES FROM THE SALE OF PREPAID TELEPHONE  
19 CALLING CARDS OR TELECOMMUNICATIONS SERVICE OBTAINED USING A PREPAID  
20 TELEPHONE CALLING CARD.

21 (4) NOTWITHSTANDING THE DEFINITION OF "TELECOMMUNICATIONS  
22 SERVICE" UNDER SUBSECTION (D) OF THIS SECTION, FOR CALENDAR YEARS 1998  
23 AND 1999 ONLY, "GROSS RECEIPTS" DOES NOT INCLUDE GROSS CHARGES DERIVED  
24 FROM:

25 (I) A CUSTOM CALLING SERVICE PROVIDED IN CONNECTION WITH  
26 BASIC TELEPHONE SERVICE;

27 (II) CELLULAR TELEPHONE, PERSONAL COMMUNICATIONS, OR  
28 OTHER MOBILE TELECOMMUNICATIONS SERVICE; OR

29 (III) PAY PER VIEW TELEVISION SERVICE.

30 (b-1) "Long distance telecommunications service" means telecommunications  
31 service for a telecommunication that does not originate and terminate in the same local  
32 calling area.

33 (c) (1) "Public service company" means a person:

34 (I) engaged in an electric, gas, OR oil pipeline[, telegraph, or  
35 telephone] business in the State; OR

36 (II) PROVIDING A TELECOMMUNICATIONS SERVICE IN THE STATE.

37 (2) "Public service company" does not include:

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1 (i) a county;

2 (ii) a municipal corporation; or

3 (iii) a nonprofit electric cooperative.

4 (D) (1) "TELECOMMUNICATIONS SERVICE" MEANS:

5 (I) THE TRANSMISSION OF ANY INTERACTIVE  
6 ELECTROMAGNETIC COMMUNICATIONS, INCLUDING VOICE, IMAGE, DATA, AND  
7 ANY OTHER INFORMATION, BY MEANS OF WIRE, CABLE, FIBER OPTICS, LASER,  
8 MICROWAVE, RADIO WAVE, SATELLITE, OR OTHER FACILITY OR ANY COMBINATION  
9 OF SUCH MEDIA; OR

10 (II) THE PROVISION OF FACILITIES AND SERVICES FOR THE  
11 TRANSMISSION OF ANY INTERACTIVE ELECTROMAGNETIC COMMUNICATIONS.

12 (2) "TELECOMMUNICATIONS SERVICE" INCLUDES:

13 (I) BASIC TELEPHONE SERVICE, INCLUDING CUSTOM CALLING  
14 SERVICES AND ANY FACILITY OR SERVICE PROVIDED IN CONNECTION WITH BASIC  
15 TELEPHONE SERVICE;

16 (II) TOLL TELEPHONE SERVICE AND TELETYPEWRITER OR  
17 COMPUTER EXCHANGE SERVICE;

18 (III) BUSINESS SERVICE;

19 (IV) DIRECTORY ASSISTANCE;

20 (V) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,  
21 CABLE TELEVISION SERVICE, WIRELESS CABLE SERVICE, DIRECT BROADCAST  
22 SATELLITE SERVICE, SATELLITE MASTER ANTENNA TELEVISION SERVICE, OPEN  
23 VIDEO SERVICE, VIDEO DIALTONE SERVICE, AND ANY OTHER VIDEO  
24 PROGRAMMING SERVICE;

25 (VI) CELLULAR TELEPHONE, PERSONAL COMMUNICATIONS, AND  
26 OTHER MOBILE TELECOMMUNICATIONS SERVICE;

27 (VII) SPECIALIZED MOBILE RADIO AND PAGERS AND PAGING  
28 SERVICE; AND

29 (VIII) ANY OTHER FORM OF MOBILE COMMUNICATION.

30 (3) "TELECOMMUNICATIONS SERVICE" DOES NOT INCLUDE:

31 (I) NONVOICE SERVICES IN WHICH COMPUTER PROCESSING  
32 APPLICATIONS ARE USED TO ACT ON THE INFORMATION TO BE TRANSMITTED;

33 (II) CABLE SERVICE, AS DEFINED UNDER § 602 OF THE  
34 COMMUNICATIONS ACT OF 1934, AS AMENDED (47 U.S.C. 522), THAT IS PROVIDED BY A  
35 CABLE OPERATOR OVER A CABLE SYSTEM PURSUANT TO A FRANCHISE GRANTED  
36 BY A LOCAL GOVERNMENT; OR

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1 (III) INTERNET ACCESS SERVICE BY WHICH A CONNECTION IS  
2 PROVIDED BETWEEN A COMPUTER AND THE INTERNET.

3 8-402.

4 A franchise tax, measured by gross receipts, is imposed, for each calendar year, on  
5 each public service company doing business in the State.

6 8-403.

7 (A) [The] FOR A PERSON ENGAGED IN AN ELECTRIC, GAS, OR OIL PIPELINE  
8 BUSINESS IN THE STATE, THE public service company franchise tax rate is 2% of gross  
9 receipts derived from AN ELECTRIC, GAS, OR OIL PIPELINE business in the State.

10 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, FOR  
11 A PERSON PROVIDING A TELECOMMUNICATIONS SERVICE IN THE STATE, THE  
12 PUBLIC SERVICE COMPANY FRANCHISE TAX RATE IS 5% OF GROSS RECEIPTS  
13 DERIVED FROM PROVIDING TELECOMMUNICATIONS SERVICE IN THE STATE.

14 (2) FOR CALENDAR YEARS BEFORE 2000, THE PUBLIC SERVICE  
15 COMPANY FRANCHISE TAX RATE FOR A PERSON PROVIDING  
16 TELECOMMUNICATIONS SERVICE IN THE STATE IS:

17 (I) 3% FOR CALENDAR YEAR 1998; AND

18 (II) 4% FOR CALENDAR YEAR 1999.

19 8-409.

20 The public service company franchise tax with respect to gross receipts from [long  
21 distance] telecommunications service shall be added to and disclosed as an element of  
22 the [long distance telecommunications company's] charge to the customer for the  
23 service.

24 10-307.

25 (e) The subtraction under subsection (a) of this section includes gross receipts,  
26 less related expenses, that:

27 (1) are subject to the public service company franchise tax; and

28 (2) are not derived from [long distance] telecommunications service, as  
29 defined under [§ 8-401(b-1)] § 8-401 of this article.

30 10-708.

31 A PUBLIC UTILITY THAT IS A TELECOMMUNICATIONS COMPANY MAY CLAIM A  
32 CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO 60% OF THE  
33 TOTAL STATE, COUNTY, AND MUNICIPAL CORPORATION PROPERTY TAXES PAID BY  
34 THE PUBLIC UTILITY DURING THE TAXABLE YEAR ON ITS OPERATING REAL  
35 PROPERTY IN THE STATE THAT IS USED IN ITS TELECOMMUNICATIONS BUSINESS.

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1 11-101.

2 (C-1) "PREPAID TELEPHONE CALLING CARD" MEANS A RIGHT TO MAKE  
3 TELEPHONE CALLS, PREPAID IN INCREMENTAL AMOUNTS, WHETHER OR NOT  
4 REPRESENTED BY CORPOREAL PERSONAL PROPERTY.

5 (i) (1) "Tangible personal property" means:

6 (i) corporeal personal property of any nature; [or]

7 (ii) a right to occupy a room or lodgings as a transient guest; OR

8 (III) A PREPAID TELEPHONE CALLING CARD.

9 (k) "Taxable service" means:

10 (9) credit reporting; [or]

11 (10) a security service, including:

12 (i) a detective, guard, or armored car service; and

13 (ii) a security systems service[.]; OR

14 (11) INTERNET ACCESS SERVICE BY WHICH A CONNECTION IS PROVIDED  
15 BETWEEN A COMPUTER AND THE INTERNET.

16 **Article - Tax - Property**

17 1-101.

18 (u) (1) "Operating property" means any property used to operate a railroad or  
19 public utility.

20 (2) "Operating property" includes operating real property and operating  
21 personal property.

22 (3) "Operating real property" includes any real property used to operate a  
23 railroad or public utility.

24 (4) "Operating land" means any land used to operate a railroad or public  
25 utility.

26 (5) (I) "Operating personal property" includes any property, other than  
27 real property, used to operate a railroad or public utility.

28 (II) FOR A PUBLIC UTILITY THAT IS A TELECOMMUNICATIONS  
29 PROVIDER, "OPERATING PERSONAL PROPERTY" INCLUDES THE CABLES, LINES,  
30 POLES, AND TOWERS USED TO PROVIDE TELECOMMUNICATIONS SERVICES.

31 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
32 read as follows:

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1           **Article - Tax - General**

2 11-101.

3           (k) "Taxable service" means:

4                   (1) fabrication, printing, or production of tangible personal property by  
5 special order;

6                   (2) commercial cleaning or laundering of textiles for a buyer who is engaged  
7 in a business that requires the recurring service of commercial cleaning or laundering of  
8 the textiles;

9                   (3) cleaning of a commercial or industrial building;

10                  [[4] cellular telephone or other mobile telecommunications service; ]

11                  [[5] (4) "900", "976", "915", and other "900"-type [telecommunications]  
12 INFORMATION OR ENTERTAINMENT service;

13                  [[6] custom calling service provided in connection with basic telephone  
14 service;]

15                  [[7] (5) a telephone answering service;

16                  [[8] (6) pay per view television service THAT IS PROVIDED BY A CABLE  
17 OPERATOR OVER A CABLE SYSTEM PURSUANT TO A FRANCHISE GRANTED BY A  
18 LOCAL GOVERNMENT;

19                  [[9] (7) credit reporting;

20                  [[10] (8) a security service, including:

21                           (i) a detective, guard, or armored car service; and

22                           (ii) a security systems service; or

23                  [[11] (9) Internet access service by which a connection is provided between  
24 a computer and the Internet.

25           **SECTION 3. AND BE IT FURTHER ENACTED, That:**

26                   (1) The Public Service Commission shall require a reduction in local  
27 telephone rates to be effective January 1, 1998, to fully reflect the elimination of the 2%  
28 public service company franchise tax that was formerly included in the rates for the  
29 telephone company; and

30                   (2) Notwithstanding the provisions of § 8-409 of the Tax - General Article  
31 as enacted under Section 1 of this Act, a local telephone service provider may not add the  
32 public service company franchise tax to its charge to the customer for local telephone  
33 service until the reduction in local telephone rates required under this section is effective.

34           **SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall**  
35 take effect January 1, 1998. The changes to the public service company franchise tax and  
36 the income tax under Section 1 of this Act shall be applicable to all taxable years

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1 beginning after December 31, 1997; provided, however, that the income tax credit allowed  
2 under § 10-708 of the Tax - General Article shall be allowed only for property tax paid  
3 for a property tax year beginning on or after July 1, 1998. The changes to the Property Tax  
4 Article under Section 1 of this Act shall be applicable to all property tax years beginning  
5 on or after July 1, 1998.

6           SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
7 take effect January 1, 2000.

8           SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall  
9 take effect July 1, 1997.