

House Bill 428

By: Representatives Werkheiser of the 157th, Powell of the 171st, England of the 116th,
Watson of the 172nd, Jackson of the 128th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 36 and 48 of the Official Code of Georgia Annotated, relating to local
2 government and revenue and taxation, respectively, so as to provide for state and local excise
3 taxes on communications services and to eliminate certain other state or local taxes, charges,
4 or fees related to such services; to provide for procedures, conditions, and limitations; to
5 exempt certain broadband equipment from sales and use tax; to provide for powers, duties,
6 and authority of the Department of Revenue and the state revenue commissioner; to provide
7 for definitions; to provide for legislative findings and intent; to provide for a short title; to
8 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
9 for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 The General Assembly recognizes that the communications industry has become increasingly
13 competitive and that the distinctions among the providers of the various types of
14 communications services have become blurred. The General Assembly desires to treat
15 similar services consistently under the tax laws of this state. Accordingly, the General
16 Assembly finds that it is no longer appropriate for the providers of certain types of
17 communications services to be required to pay a myriad of local taxes, licenses, and fees
18 while other communications services providers are not required to pay some or all of such
19 taxes, licenses, and fees. The General Assembly finds, however, that it is in the best interests
20 of the state and its political subdivisions that the tax revenues available to such political
21 subdivisions not be diminished by the elimination of certain local taxes, licenses, and fees
22 imposed on communications services providers and that a state level communications
23 services tax imposed equitably on communications services is expected at a minimum to
24 provide to each such political subdivision comparable tax revenues to the local taxes,
25 licenses, and fees that should be eliminated. The General Assembly further finds that a
26 state-wide communications services tax in lieu of other taxes on communications would

27 promote simplicity, uniformity, and efficiency in the administration of and compliance with
 28 the taxes on communications services which is in the best interests of the state. The General
 29 Assembly further finds that the sale, purchase, use, or provision of internet access service
 30 should not be subject to any tax or fee imposed by this state, or any of its political
 31 subdivisions, to promote internet access service availability for all Georgians and to
 32 encourage deployment of broadband infrastructure to underserved areas of this state.

33 SECTION 2.

34 This Act shall be known and may be cited as the "Georgia Communications Services Tax
 35 Act."

36 SECTION 3.

37 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 38 in Code Section 36-76-2, relating to definitions regarding expedited franchising of cable and
 39 video services, by revising paragraphs (1) and (8) as follows:

40 ~~"(1) 'Advertising and home shopping services revenues' means the amount of a cable
 41 service provider or video service provider's nonsubscriber revenues from advertising
 42 disseminated through cable service or video service and home shopping services. The
 43 amount of such revenues that are allocable to a municipality or county shall be equal to
 44 the total amount of the cable service provider or video service provider's revenue received
 45 from such advertising and home shopping services multiplied by the ratio of the number
 46 of such provider's subscribers located in such municipality or in the unincorporated area
 47 of such county to the total number of such provider's subscribers. Such ratio shall be
 48 based on the number of such provider's subscribers as of January 1 of the current year,
 49 except that in the first year in which services are provided, such ratio shall be computed
 50 as of the earliest practical date Reserved."~~

51 ~~"(8) 'Gross revenues' means all revenues received from subscribers for the provision of
 52 cable service or video service, including franchise fees for cable service providers and
 53 video service providers, and advertising and home shopping services revenues and shall
 54 be determined in accordance with generally accepted accounting principles. Gross
 55 revenues shall not include:~~

56 ~~(A) Amounts billed and collected as a line item on the subscriber's bill to recover any
 57 taxes, surcharges, or governmental fees that are imposed on or with respect to the
 58 services provided or measured by the charges, receipts, or payments therefor; provided,
 59 however, that for purposes of this Code section, such tax, surcharge, or governmental
 60 fee shall not include any ad valorem taxes, net income taxes, or generally applicable~~

61 ~~business or occupation taxes not measured exclusively as a percentage of the charges,~~
62 ~~receipts, or payments for services;~~
63 ~~(B) Any revenue, such as bad debt, not actually received, even if billed;~~
64 ~~(C) Any revenue received by any affiliate or any other person in exchange for~~
65 ~~supplying goods or services used by the provider to provide cable service or video~~
66 ~~programming;~~
67 ~~(D) Any amounts attributable to refunds, rebates, or discounts;~~
68 ~~(E) Any revenue from services provided over the network that are associated with or~~
69 ~~classified as noncable or nonvideo services under federal law, including, without~~
70 ~~limitation, revenues received from telecommunications services, information services~~
71 ~~other than cable service or video service, Internet access services, or directory or~~
72 ~~Internet advertising revenue, including, without limitation, yellow pages, white pages,~~
73 ~~banner advertisements, and electronic publishing advertising. Where the sale of any~~
74 ~~such noncable or nonvideo service is bundled with the sale of one or more cable~~
75 ~~services or video services and sold for a single nonitemized price, the term 'gross~~
76 ~~revenues' shall include only those revenues that are attributable to cable service or video~~
77 ~~service based on the provider's books and records; such revenues shall be allocated in~~
78 ~~a manner consistent with generally accepted accounting principles;~~
79 ~~(F) Any revenue from late fees not initially booked as revenues, returned check fees,~~
80 ~~or interest;~~
81 ~~(G) Any revenue from sales or rental of property, except such property as the~~
82 ~~subscriber shall be required to buy or rent exclusively from the cable service provider~~
83 ~~or video service provider to receive cable service or video service;~~
84 ~~(H) Any revenue received from providing or maintaining inside wiring;~~
85 ~~(I) Any revenue from sales for resale with respect to which the purchaser shall be~~
86 ~~required to pay a franchise fee, provided the purchaser certifies in writing that it shall~~
87 ~~resell the service and pay a franchise fee with respect thereto; or~~
88 ~~(J) Any amounts attributable to a reimbursement of costs including, but not limited to,~~
89 ~~the reimbursements by programmers of marketing costs incurred for the promotion or~~
90 ~~introduction of video programming Reserved."~~

91 **SECTION 4.**

92 Said Title 36 is further amended by revising subsection (c) and paragraphs (4) and (8) of
93 subsection (g) of Code Section 36-76-4, relating to application process for a state franchise,
94 as follows:

95 "(c) The application for a state franchise shall consist of an affidavit signed by an officer
96 or general partner of the applicant that contains each of the following:

97 (1) An affirmative declaration that the applicant shall comply with all applicable federal
 98 and state laws and regulations, including municipal and county ordinances and
 99 regulations regarding the placement and maintenance of facilities in the public right of
 100 way that are generally applicable to all users of the public right of way and specifically
 101 including Chapter 9 of Title 25, the 'Georgia Utility Facility Protection Act';

102 (2) A description of the applicant's service area, which description shall be sufficiently
 103 detailed so as to allow a local government to respond to subscriber inquiries, including
 104 the name of each municipal or county governing authority within the service area. For
 105 the purposes of this paragraph, an applicant may, in lieu of or as a supplement to a written
 106 description, provide a map on 8 1/2 by 11 inch paper that is clear and legible and that
 107 fairly depicts the service area by making reference to the municipal or county governing
 108 authority to be served. If the ~~geographical~~ geographic area is less than an entire
 109 municipality or county, the map shall describe the boundaries of the geographic area to
 110 be served in clear and concise terms;

111 (3) The location of the applicant's principal place of business, the name or names of the
 112 principal executive officer or officers of the applicant, information concerning payment
 113 locations or addresses, and general information concerning equipment returns; and

114 (4) Certification that the applicant is authorized to conduct business in the State of
 115 Georgia and that the applicant possesses satisfactory financial and technical capability
 116 to provide cable service or video service and a description of such capabilities. Such
 117 certification shall not be required from an incumbent service provider or any cable
 118 service provider or video service provider that has wireline facilities located in the public
 119 right of way as of January 1, 2008; ~~and~~

120 ~~(5) Notice to the affected local governing authority of its right to designate a franchise~~
 121 ~~fee pursuant to Code Section 36-76-6."~~

122 ~~"(4) An incumbent service provider that elects to terminate a franchise under this~~
 123 ~~subsection shall continue to provide PEG access support, as such existed on January 1,~~
 124 ~~2007, under the same terms as the terminated local franchise had it not been terminated~~
 125 ~~until the local franchise would have expired under its own terms Reserved."~~

126 "(8) Each holder of a state franchise shall have the obligation to provide access to the
 127 same number of PEG channels pursuant to Code Section 36-76-8 ~~and the additional PEG~~
 128 ~~support cash payments specified in this paragraph for PEG access facilities in a service~~
 129 ~~area as the incumbent service provider with the most subscribers in such service area as~~
 130 ~~of January 1, 2007, which obligation shall continue until the local franchise would have~~
 131 ~~expired under its own terms as specified in paragraph (4) of this subsection; provided,~~
 132 ~~however, that if a local franchise would have expired before July 1, 2012, the holder of~~
 133 ~~a state franchise shall continue to provide access to the same number of PEG channels~~

134 until July 1, 2012, as provided in paragraph (5) of this subsection. ~~To the extent such~~
 135 ~~incumbent service provider provides PEG access support during said period in the form~~
 136 ~~of periodic payments to the municipal or county governing authority equal to a~~
 137 ~~percentage of gross revenue or a prescribed per subscriber amount, the state franchise~~
 138 ~~holder shall be obligated to make the same periodic payments to the governing authority~~
 139 ~~at the same time and equal to the same percentage of gross revenue or prescribed per~~
 140 ~~subscriber amount. To the extent such incumbent service provider provides PEG access~~
 141 ~~support to the applicable governing authority during said period in the form of a lump~~
 142 ~~sum payment that remains unsatisfied as of January 1, 2008, the holder of a state~~
 143 ~~franchise shall be obligated to provide a lump sum payment to said authority based on its~~
 144 ~~proportion of the total number of cable service and video service subscribers of all service~~
 145 ~~providers in such service area. No payments shall be due under this paragraph until the~~
 146 ~~municipality or county notifies the respective providers, in writing, of the percentage of~~
 147 ~~gross revenues, the per subscriber amount, or the lump sum payment amount and the~~
 148 ~~expiration date of the local franchise obtaining such obligations. The holder of a state~~
 149 ~~franchise may designate that portion of the subscriber's bill attributable to any fee~~
 150 ~~imposed pursuant to this paragraph as a separate item on the bill and recover such amount~~
 151 ~~from the subscriber."~~

152 **SECTION 5.**

153 Said Title 36 is further amended by revising Code Section 36-76-6, relating to franchise fees,
 154 as follows:

155 "36-76-6.

156 (a)(1) ~~The holder of a state franchise, whether a cable service provider or a video service~~
 157 ~~provider, shall pay to each affected local governing authority which complies with this~~
 158 ~~Code section a franchise fee which shall not exceed the maximum percentage rate~~
 159 ~~permitted in 47 U.S.C. Section 542(b) of such holder's gross revenues received from the~~
 160 ~~provision of cable service or video service to subscribers located within such holder's~~
 161 ~~service area.~~

162 (2) ~~Each affected local governing authority or its authorized designee shall provide~~
 163 ~~written notice to the Secretary of State and each applicant for or holder of a state~~
 164 ~~franchise with a service area located within that affected local governing authority's~~
 165 ~~jurisdiction of the franchise fee rate that applies to the applicant for or holder of such state~~
 166 ~~franchise. The applicant for or holder of a state franchise shall start assessing the~~
 167 ~~franchise fee within 15 days of receipt of written notice from the affected local governing~~
 168 ~~authority or its authorized designee and shall not be required to pay such franchise fee~~
 169 ~~until the expiration of 15 days after receipt of such written notice. Any incumbent service~~

170 ~~provider who obtains a state franchise under paragraph (1) of subsection (g) of Code~~
171 ~~Section 36-76-4 shall pay its existing franchise fee during the 15-day period after receipt~~
172 ~~of written notice of the new fee. The franchise fee rate shall be uniformly applicable to~~
173 ~~all cable service providers and video service providers that obtain a state franchise within~~
174 ~~the affected local governing authority. For purposes of this Code section, an authorized~~
175 ~~designee is an agent authorized by charter or other act of the affected local governing~~
176 ~~authority.~~

177 ~~(3) Any affected local governing authority may change the franchise fee applicable to~~
178 ~~holders of a state franchise once every two years. The affected local governing authority~~
179 ~~or its authorized designee shall provide written notice to the Secretary of State and the~~
180 ~~applicants for or holders of a state franchise with a service area within that affected local~~
181 ~~governing authority's jurisdiction of the new franchise fee rate. The holder of a state~~
182 ~~franchise shall start assessing the new franchise fee within 45 days of receipt of written~~
183 ~~notice of the change from the affected local governing authority or its authorized~~
184 ~~designee. The franchise fee rate shall be uniformly applicable to all cable service~~
185 ~~providers and video service providers that obtain a state franchise within the affected~~
186 ~~local governing authority's jurisdiction.~~

187 ~~(b) Such franchise fee shall be paid directly to each affected local governing authority~~
188 ~~within 30 days after the last day of each calendar quarter. Such payment shall be~~
189 ~~considered complete if accompanied by a statement showing, for the quarter covered by~~
190 ~~the payment:~~

191 ~~(1) The aggregate amount of the state franchise holder's gross revenues, specifically~~
192 ~~identifying subscriber and advertising and home shopping services revenues under this~~
193 ~~chapter insofar as the franchise holder's existing billing systems include such capability,~~
194 ~~attributable to such municipality or unincorporated areas of the county; and~~

195 ~~(2) The amount of the franchise fee payment due to such municipality or county.~~

196 ~~In the event that franchise fees are not paid on or before the dates specified above, then the~~
197 ~~affected local governing authority shall provide written notice to the franchise holder~~
198 ~~giving the cable service provider or video service provider 15 days from the date of the~~
199 ~~franchise holder's receipt of such notice to cure any such nonpayment. In the event~~
200 ~~franchise fees are not remitted to the affected local government authority postmarked on~~
201 ~~or before the expiration of the 15-day cure period, then the holder of the state franchise~~
202 ~~shall pay interest thereon at a rate of 1 percent per month to the affected local governing~~
203 ~~authority. If the 15-day cure period expires on Saturday, Sunday, or a legal holiday, the~~
204 ~~due date shall be the next business day. Moreover, the franchise holder shall not be~~
205 ~~assessed interest on late payments if franchise payments were submitted in error to a~~
206 ~~neighboring local governing authority.~~

207 ~~(c) Each affected local governing authority may, no more than once annually, audit the~~
208 ~~business records of the state franchise holder to the extent necessary to ensure payment in~~
209 ~~accordance with this Code section. For purposes of this subsection, an audit shall be~~
210 ~~defined as a comprehensive review of the records of the holder of a state franchise. Once~~
211 ~~any audited period of a state franchise holder has been the subject of a requested audit, such~~
212 ~~audited period of such state franchise holder shall not again be the subject of any audit. In~~
213 ~~the event of a dispute concerning the amount of the franchise fee due to an affected local~~
214 ~~governing authority under this Code section, an action may be brought in a court of~~
215 ~~competent jurisdiction by an affected local governing authority seeking to recover an~~
216 ~~additional amount alleged to be due or by a state franchise holder seeking a refund of an~~
217 ~~alleged overpayment; provided, however, that any such action shall be brought within three~~
218 ~~years following the end of the quarter to which the disputed amount relates. Such time~~
219 ~~period may be extended by written agreement between the state issued franchise holder and~~
220 ~~such affected local governing authority. Each party shall bear the party's own costs~~
221 ~~incurred in connection with any such examination or dispute. In the event that an affected~~
222 ~~local governing authority files an action to recover alleged underpayments of franchise fees~~
223 ~~and a court of competent jurisdiction determines the cable service provider or video service~~
224 ~~provider has underpaid franchise fees due for any 12 month period by 10 percent or more,~~
225 ~~the cable service provider or video service provider may be required to pay the affected~~
226 ~~local governing authority its reasonable costs associated with the audit along with any~~
227 ~~franchise fee underpayments; provided, however, late payments shall not apply.~~
228 ~~(d) The statements made pursuant to subsection (b) of this Code section and any records~~
229 ~~or information furnished or disclosed by a cable service provider or video service provider~~
230 ~~to an affected local governing authority pursuant to subsection (c) of this Code section shall~~
231 ~~be exempt from public inspection under Article 4 of Chapter 18 of Title 50.~~
232 ~~(e) No acceptance of any payment shall be construed as a release or as an accord and~~
233 ~~satisfaction of any claim an affected local governing authority may have for further or~~
234 ~~additional sums payable as a franchise fee.~~
235 ~~(f) Any amounts overpaid by the holder of a state franchise shall be deducted from future~~
236 ~~franchise payments.~~
237 ~~(g) The holder of a state franchise may designate that portion of a subscriber's bill~~
238 ~~attributable to any franchise fee imposed pursuant to this Code section as a separate item~~
239 ~~on the bill and recover such amount from the subscriber; provided, however, that such~~
240 ~~separate listing shall be referred to as a 'franchise' or a 'franchise fee.'~~
241 ~~(h) No affected local governing authority shall levy any additional tax, license, fee,~~
242 ~~surcharge, or other assessment on a cable service provider or video service provider for or~~
243 ~~with respect to the use of any public right of way other than the franchise fee authorized~~

244 ~~by this Code section. Nor shall an affected local governing authority levy any other tax,~~
 245 ~~license, fee, or assessment on a cable service provider or video service provider or its~~
 246 ~~subscribers that is not generally imposed and applicable to a majority of all other~~
 247 ~~businesses. The franchise fee authorized by this Code section shall be in lieu of any permit~~
 248 ~~fee, encroachment fee, degradation fee, or other fee that could otherwise be assessed on a~~
 249 ~~state issued franchise holder for the holder's occupation or work within the public right of~~
 250 ~~way; provided, however, that nothing in this Code section shall restrict the right of any~~
 251 ~~municipal or county governing authority to impose ad valorem taxes, sales taxes, or other~~
 252 ~~taxes lawfully imposed on a majority of all other businesses within such municipality or~~
 253 ~~county Reserved.~~"

254 **SECTION 6.**

255 Said Title 36 is further amended in Code Section 36-76-10, relating to limitations on
 256 requirements for state franchise holders, by revising paragraph (4) as follows:

257 "(4) The enactment and enforcement of lawful and reasonable laws and rules and
 258 municipal or county ordinances and regulations concerning excavation, permitting,
 259 bonding requirements, indemnification requirements, and placement and maintenance of
 260 facilities in any public right of way that are generally applicable to all users of any public
 261 right of way, ~~except to the extent specifically precluded by subsection (h) of Code~~
 262 ~~Section 36-76-6; and"~~

263 **SECTION 7.**

264 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 265 amended in Code Section 48-8-2, relating to definitions regarding sales and use taxes, by
 266 revising paragraphs (31) and (39) and by adding new paragraphs to read as follows:

267 "(4.1) 'Call center' means one or more locations that utilize telecommunications services
 268 in one or more of the following activities: customer services, soliciting sales, reactivating
 269 dormant accounts, conducting surveys or research, fundraising, collection of receivables,
 270 receiving reservations, receiving orders, or taking orders."

271 "(5.1) 'Communications services' means ancillary services, information services,
 272 telecommunications services, video programming services, and wireless services. The
 273 term shall not include internet access service."

274 "(16.05) 'Information services' shall have the same meaning as provided for the term
 275 'information service' in 47 U.S.C. Section 153(24), as it existed on January 1, 2018.

276 (16.06) 'Internet access service' means a service that enables users to connect to the
 277 internet to access content, information, or other services offered over the internet, without
 278 regard to whether such service is referred to as telecommunications, communications,

279 transmission, or similar services, and without regard to whether a provider of such service
 280 is subject to regulation by the Georgia Public Service Commission or the Federal
 281 Communications Commission. The term includes the purchase, use, or sale of
 282 communications services by a provider of internet access service to the extent such
 283 communications services are purchased, used, or sold to provide internet access service,
 284 regardless of the level of such service, or to otherwise enable users to access content,
 285 information, or other services offered over the internet."

286 "(18.1) 'Mobile telecommunications service' has the same meaning given to such term
 287 in Section 124(7) of the Mobile Telecommunications Sourcing Act, P.L. 106-252, as it
 288 existed on January 1, 2018."

289 "(31) 'Retail sale' or a 'sale at retail' means any sale, lease, or rental for any purpose other
 290 than for resale, sublease, or subrent. Sales for resale must be made in strict compliance
 291 with the commissioner's rules and regulations. Any dealer making a sale for resale which
 292 is not in strict compliance with the commissioner's rules and regulations shall be liable
 293 for and shall pay the tax. The terms 'retail sale' or 'sale at retail' include, but are not
 294 limited to, the following:

295 (A) Except as otherwise provided in this chapter, the sale of natural or artificial gas,
 296 oil, electricity, solid fuel, transportation, ~~local telephone services~~ prepaid calling
 297 services and prepaid wireless calling services, alcoholic beverages, and tobacco
 298 products, when made to any purchaser for purposes other than resale. Sales of
 299 communications services other than prepaid calling services and prepaid wireless
 300 calling services shall not be retail sales or sales at retail for purposes of this chapter and
 301 shall not be subject to the tax imposed by this chapter;

302 (B) The sale or charges for any room, lodging, or accommodation furnished to
 303 transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which
 304 rooms, lodgings, or accommodations are regularly furnished to transients for a
 305 consideration. This tax shall not apply to rooms, lodgings, or accommodations supplied
 306 for a period of 90 continuous days or more;

307 (C) Sales of tickets, fees, or charges made for admission to places of amusement,
 308 sports, or entertainment, including, but not limited to:

- 309 (i) Billiard and pool rooms;
- 310 (ii) Bowling alleys;
- 311 (iii) Amusement devices;
- 312 (iv) Musical devices;
- 313 (v) Theaters;
- 314 (vi) Opera houses;
- 315 (vii) Moving picture shows;

- 316 (viii) Vaudeville;
- 317 (ix) Amusement parks;
- 318 (x) Athletic contests, including, but not limited to, wrestling matches, prize fights,
- 319 boxing and wrestling exhibitions, football games, and baseball games;
- 320 (xi) Skating rinks;
- 321 (xii) Race tracks;
- 322 (xiii) Public bathing places;
- 323 (xiv) Public dance halls; and
- 324 (xv) Any other place at which any exhibition, display, amusement, or entertainment
- 325 is offered to the public or any other place where an admission fee is charged;
- 326 (D) Charges made for participation in games and amusement activities;
- 327 (E) Sales of tangible personal property to persons for resale when there is a likelihood
- 328 that the state will lose tax funds due to the difficulty of policing the business operations
- 329 because:
- 330 (i) Of the operation of the business;
- 331 (ii) Of the very nature of the business;
- 332 (iii) Of the turnover of so-called independent contractors;
- 333 (iv) Of the lack of a place of business in which to display a certificate of registration;
- 334 (v) Of the lack of a place of business in which to keep records;
- 335 (vi) Of the lack of adequate records;
- 336 (vii) The persons are minors or transients;
- 337 (viii) The persons are engaged in essentially service businesses; or
- 338 (ix) Of any other reasonable reason.
- 339 The commissioner may promulgate rules and regulations requiring vendors of persons
- 340 described in this subparagraph to collect the tax imposed by this article on the retail
- 341 price of the tangible personal property. The commissioner shall refuse to issue
- 342 certificates of registration and may revoke certificates of registration issued in violation
- 343 of his or her rules and regulations; or
- 344 ~~(F) Charges, which applied to sales of telephone service, made for local exchange~~
- 345 ~~telephone service, except coin operated telephone service, except as otherwise provided~~
- 346 ~~in subparagraph (G) of this paragraph; or~~
- 347 ~~(G)(F)(i)~~ If the price is attributable to products or services that are taxable and
- 348 products or services that are nontaxable, the portion of the price attributable to the
- 349 nontaxable products or services may be subject to tax unless the provider can identify
- 350 by reasonable and verifiable standards such portion from its books and records that
- 351 are kept in the regular course of business for other purposes, including, but not limited
- 352 to, nontax purposes.

353 (ii) If the price is attributable to products or services that are subject to tax at different
 354 tax rates or subject to different taxes, the total price may be treated as attributable to
 355 the products or services subject to tax at the highest tax higher tax or the higher-rate
 356 tax rate unless the provider can identify by reasonable and verifiable standards the
 357 portion of the price attributable to the products or services subject to tax at the lower
 358 rate from the provider's books and records that are kept in the regular course of
 359 business for other purposes, including, but not limited to, nontax purposes."

360 "(39) 'Telecommunications ~~service~~ services' means the electronic transmission,
 361 conveyance, or routing of voice, data, audio, video, or any other information or signals
 362 to a point, or between or among points. The term telecommunications ~~service~~ services
 363 includes such transmission, conveyance, or routing in which computer processing
 364 applications are used to act on the form, code, or protocol of the content for purposes of
 365 transmission, conveyance, or routing without regard to whether such ~~service is~~ services
 366 are referred to as voice over ~~Internet protocol~~ internet protocol (VoIP) services or is are
 367 classified by the Federal Communications Commission as enhanced or value added.
 368 Telecommunications ~~service~~ services shall not include:

- 369 (A) Data processing and information services that allow data to be generated, acquired,
 370 stored, processed, or retrieved and delivered by an electronic transmission to a
 371 purchaser where such purchaser's primary purpose for the underlying transaction is the
 372 processed data or information;
- 373 (B) Installation or maintenance of wiring or equipment on a customer's premises;
- 374 (C) Tangible personal property;
- 375 (D) Advertising, including, but not limited to directory advertising;
- 376 (E) Billing and collection services provided to third parties;
- 377 (F) Internet access service;
- 378 (G) ~~Radio and television audio and video~~ Video programming services, ~~regardless of~~
 379 ~~the medium, including the furnishing of transmission, conveyance, and routing of such~~
 380 ~~services by the programming service provider. Radio and television audio and video~~
 381 ~~programming services shall include but not be limited to cable service as defined in 47~~
 382 ~~U.S.C. Section 522(6) and audio and video programming services delivered by~~
 383 ~~commercial mobile radio service providers, as defined in 47 C.F.R. Section 20.3;~~
- 384 (H) Ancillary services; or
- 385 (I) Digital products delivered electronically, including, but not limited to software,
 386 music, video, reading materials, or ~~ring tones~~ ringtones."

387 "(44) 'Wireless services' means any services provided using a licensed or unlicensed
 388 spectrum including, but not limited to, the use of Wi-Fi, whether at a fixed location or
 389 mobile, using wireless facilities."

390

SECTION 8.

391 Said Title 48 is further amended in Code Section 48-8-3, relating to exemptions from sales
 392 and use tax, by deleting "or" at the end of division (102)(E)(iii), by replacing the period with
 393 ";" at the end of subparagraph (G) of paragraph (103), and by adding new paragraphs to read
 394 as follows:

395 “(104) Internet access service; or

396 (105)(A) Sales of broadband equipment used by a communications services provider
 397 or internet service provider in the business of providing broadband services in this state.

398 (B) As used in this paragraph, the term:

399 (i) 'Broadband equipment used by a communications services provider or internet
 400 service provider in the business of providing broadband services' means all
 401 equipment, machinery, supplies, or other tangible personal property capable of being
 402 used for or in connection with broadband services by a communications services
 403 provider or internet service provider, including customer premises equipment,
 404 machinery, software, or other infrastructure that is used in whole or in part in
 405 producing, broadcasting, distributing, sending, receiving, storing, transmitting,
 406 retransmitting, amplifying, switching, or routing broadband services, including the
 407 monitoring, testing, maintaining, enabling, or facilitating of such equipment,
 408 machinery, software, or other infrastructure. Such term includes, but is not limited
 409 to, wires, cables, antennas, poles, switches, routers, amplifiers, rectifiers, repeaters,
 410 receivers, multiplexers, duplexers, transmitters, power equipment, backup power
 411 equipment, diagnostic equipment, storage devices, converters, remote controls, digital
 412 video recording devices, modems, headends, and other general central office
 413 equipment, such as channel cards, frames, and cabinets.

414 (ii) 'Broadband services' means wired or wireless services that consist of the
 415 capability to transmit at a rate not less than 10 megabits per second in the downstream
 416 direction and at least 1 megabit per second in the upstream direction to end users.

417 (iii) 'Communications services provider' means every person who provides internet
 418 access service to subscribers or customers in this state.

419 (iv) 'Internet access service' has the same meaning as defined in 47 U.S.C. Section
 420 151, note.

421 (v) 'Video services' means the sale, offering, transmission, conveyance, or routing of
 422 video programming or other video content for purchase by subscribers or customers,
 423 regardless of the medium, technology, or method of display and regardless of the
 424 payment schedule or storage method used to purchase or access such video
 425 programming or video content. The term shall also include, but shall not be limited
 426 to, the provision of video programming by a multichannel video programming

427 distributor, as defined in paragraphs (20) and (13) of 47 U.S.C. Section 522, including
 428 cable service, as defined in 47 U.S.C. Section 522 and any substantially equivalent
 429 successor technology.

430 (C) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, by June 30 each
 431 year any taxpayer seeking to claim the exemption provided for in subparagraph (A) of
 432 this paragraph shall electronically submit to the department, at the time of application
 433 for such exemption the total amount of exempt purchases made by the taxpayer in the
 434 preceding calendar year. The department shall then issue a report to the chairpersons
 435 of the House Committee on Ways and Means and the Senate Finance Committee
 436 containing such information as aggregated for an entire taxable year."

437 **SECTION 9.**

438 Said Title 48 is further amended by revising Code Section 48-8-32, relating to collectability
 439 and rates of sales and use taxes, as follows:

440 "48-8-32.

441 ~~The tax at the rate of 4 percent of the retail sales price at the time of sale or 4 percent of the~~
 442 ~~purchase price at the time of purchase, as the case may be, imposed by this article shall be~~
 443 collectable from all persons engaged as dealers in the sale at retail, or in the use,
 444 consumption, distribution, or storage for use or consumption in this state of tangible
 445 personal property, prepaid calling services, and prepaid wireless calling services."

446 **SECTION 10.**

447 Said Title 48 is further amended in Code Section 48-8-39, relating to the effect of certain use
 448 of sales tax certificates, by revising subsection (a) as follows:

449 "(a) If a purchaser who gives a certificate stating that property is purchased for resale
 450 makes any use of the property other than retention, demonstration, or display while holding
 451 it for sale in the regular course of business, the use shall be deemed a retail sale by the
 452 purchaser as of the time the property is first used by ~~him~~ the purchaser, and the purchase
 453 price of the property to ~~him~~ the purchaser shall be deemed the gross receipts from the retail
 454 sale. If the sole use of the property other than retention, demonstration, or display in the
 455 regular course of business is the rental of the property while holding it for sale or the
 456 transportation of persons for hire while holding the property for sale, the purchaser may
 457 elect to include in ~~his~~ the purchaser's gross receipts either the amount of the rental charged
 458 or the total amount of the charges made by ~~him~~ the purchaser for the transportation rather
 459 than the cost of the property to ~~him~~ the purchaser. If the sole use of the property by a
 460 purchaser, other than retention, demonstration, or display in the regular course of business,
 461 is the transfer of such property, either free of charge or at a sale price not exceeding the

462 purchase price of the property, to another person in conjunction with such other person
 463 entering into a contract to purchase communications services subject to the tax imposed
 464 under Chapter 17 of this title, then such use shall be treated as a retail sale to such other
 465 person for no consideration, in the case of a transfer that is free of charge, or for the sale
 466 price collected with respect to such transfer."

467 **SECTION 11.**

468 Said Title 48 is further amended in Code Section 48-8-42, relating to credit for taxes paid in
 469 other states, by adding a new subsection to read as follows:

470 "(c) Any communications services provider that erroneously but in good faith pays the tax
 471 imposed by Chapter 17 of this title on an item of tangible personal property or a service
 472 subject to the tax imposed by this chapter shall be allowed a credit against the tax imposed
 473 by this chapter to the extent of the amount of such tax paid if claimed within three years
 474 of the date of the erroneous payments."

475 **SECTION 12.**

476 Said Title 48 is further amended by repealing subsection (e) of Code Section 48-8-77,
 477 relating to sourcing of local telecommunications services.

478 **SECTION 13.**

479 Said Title 48 is further amended by adding a new Code section to read as follows:

480 "48-8-78.

481 (a) As used in this Code section, the term:

482 (1) 'Air-to-ground radiotelephone service' means a radio service, as such term is defined
 483 in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio
 484 telecommunications services for hire to subscribers in an aircraft.

485 (2) 'Call-by-call basis' means any method of charging for telecommunications services
 486 where the price is measured by individual calls.

487 (3) 'Communications channel' means a physical or virtual path of communications over
 488 which signals are transmitted between or among customer channel termination points.

489 (4) 'Customer' means the person or entity that contracts with the seller of
 490 telecommunications services. If the end user of the telecommunications services is not
 491 the contracting party, the end user of the telecommunications services is the customer of
 492 the telecommunications services but only for the purpose of sourcing sales of
 493 telecommunications services. The term shall not include a reseller of telecommunications
 494 services or, for mobile telecommunications service, a serving carrier under an agreement
 495 to serve the customer outside the home service provider's licensed service area.

496 (5) 'Customer channel termination point' means, in the context of a private
497 communications service, the location where the customer either inputs or receives
498 communications.

499 (6) 'End user' means the person who utilizes a telecommunications service. In the case
500 of an entity, the term means the individual who utilizes a service on behalf of the entity.

501 (7) 'Home service provider' has the same meaning given to such term in Section 124(5)
502 of the Mobile Telecommunications Sourcing Act, P.L. 106-252, 4 U.S.C. Section 124(5).

503 (8) 'Postpaid calling service' means a telecommunications service obtained by making
504 a payment on a call-by-call basis either through the use of a credit card or payment
505 mechanism such as a bank card, travel card, credit card, or debit card, or by charge made
506 to a telephone number which is not associated with the origination or termination of the
507 telecommunications service. A postpaid calling service includes a telecommunications
508 service, excluding a prepaid wireless calling service, that would be a prepaid calling
509 service, except that the right provided is not exclusively to access telecommunications
510 services.

511 (9) 'Private communications service' means a telecommunications service that entitles
512 the customer to exclusive or priority use of a communications channel or group of
513 channels between or among termination points, regardless of the manner in which such
514 channel or channels are connected, and includes switching capacity, extension lines,
515 stations, and any other associated services that are provided in connection with the use
516 of such channel or channels.

517 (10) 'Service address' means:

518 (A) The location of the telecommunications equipment to which a customer's call is
519 charged and from which the call originates or terminates, regardless of where the call
520 is billed or paid;

521 (B) If the location under subparagraph (A) of this paragraph is unknown, the
522 origination point of the signal of the telecommunications service first identified by
523 either the seller's telecommunications system or, in information received by the seller
524 from its service provider, where the system used to transport such signal is not that of
525 the seller; or

526 (C) If the locations under both subparagraphs (A) and (B) of this paragraph are
527 unknown, the location of the customer's place of primary use.

528 (b) The provisions of this Code section are solely for the purposes of sourcing
529 communications services, the taxability of which is governed by this chapter with respect
530 to prepaid calling services and prepaid wireless calling services and Chapter 17 of this title
531 with respect to all other communications services.

532 (c) The following sourcing rules shall apply to telecommunications services:

533 (1) Except as otherwise provided in paragraph (4) of this subsection, telecommunications
534 services sold on a call-by-call basis shall be sourced to this state if either of the following
535 occurs:

536 (A) The call both originates and terminates in this state; or

537 (B) The call either originates in this state or terminates in this state and the service
538 address associated with the call is located in this state;

539 (2) Except as otherwise provided in paragraph (4) of this subsection, any
540 telecommunications service sold on a basis other than a call-by-call basis shall be sourced
541 to this state if the telecommunications service is charged to a customer whose place of
542 primary use is located in this state;

543 (3) Except as otherwise provided in paragraph (4) of this subsection, mobile
544 telecommunications service provided by a customer's home service provider shall be
545 sourced to this state if the customer's place of primary use is located in this state; and

546 (4) Notwithstanding the provisions of paragraphs (1), (2), and (3) of this subsection, the
547 following rules shall apply:

548 (A) Air-to-ground radiotelephone service shall be sourced to this state if the customer's
549 place of primary use is located in this state;

550 (B) Postpaid calling service shall be sourced to this state if the origination point of the
551 telecommunications signal is located in this state, as first identified by either of the
552 following:

553 (i) The seller's telecommunications system; or

554 (ii) Information received by the seller from its service provider, where the system
555 used to transport such signal is not that of the seller;

556 (C) Private communications services shall be sourced to this state under the following
557 rules:

558 (i) Service for a separate charge related to a customer channel termination point shall
559 be sourced to this state if the customer channel termination point is located in this
560 state;

561 (ii) Service for a separate charge for the use of a channel that is exclusively between
562 two channel termination points located in this state shall be sourced to this state; and

563 (iii) Where channel termination points of a channel are located both within and
564 outside this state:

565 (I) Fifty percent of any separate charge for a segment of a channel between two
566 such channel termination points; and

567 (II) To the extent that the charge for any segment or segments of a channel is not
568 separately billed, an amount equal to the total charge for such channel segment or
569 segments multiplied by a fraction, the numerator of which is the number of channel

570 termination points located in this state and the denominator of which is the total
 571 number of channel termination points; and
 572 (D) A sale of a prepaid calling service or a sale of a prepaid wireless calling service
 573 shall be sourced in accordance with subsection (b) of Code Section 48-8-77; provided,
 574 however, that in the case of a sale of a prepaid wireless calling service, the rule
 575 provided in subparagraph (b)(1)(E) of Code Section 48-8-77 shall include as an option
 576 the location associated with the mobile telephone number.
 577 (d) All communications services other than telecommunications services shall be sourced
 578 to the customer's place of primary use if located in this state."

579 **SECTION 14.**

580 Said Title 48 is further amended by revising Chapter 17, which was previously redesignated
 581 and reserved, as follows:

582 "CHAPTER 17

583 48-17-1.

584 As used in this chapter, the term:

585 (1) 'Communications services' means telecommunications services, video services,
 586 digital goods or services, or specified digital products; provided, however, that such term
 587 shall not include internet access service.

588 (2) 'Communications services providers' means every person who provides
 589 communications services to subscribers or customers in this state.

590 (3) 'Digital code' means a key, activation, or enabling code that provides a purchaser with
 591 a right to obtain one or more specified digital products that may be obtained by any
 592 means, including by electronic delivery or by tangible means; provided, however, that
 593 such term does not include a code that represents stored monetary value that is deducted
 594 from a total as it is used by the purchaser or a redeemable card, gift card, or gift
 595 certificate that entitles the holder to select specified digital products of an indicated cash
 596 value.

597 (4) 'Digital goods or services' means:

598 (A) Specified digital products or prewritten computer software delivered electronically
 599 to an end user regardless of whether or not the end user receives permanent or less than
 600 permanent rights to access or utilize such products or software or whether the end user
 601 is required to make continued payments for such rights;

602 (B) A digital code;

603 (C) The right to access or utilize specified digital products or prewritten computer
604 software, where possession of the products or software is maintained by the seller or
605 a third party, regardless of whether charges for access or utilization are on a per use, per
606 user, per license, subscription, or some other basis; or

607 (D) Rights, licenses, or benefits delivered electronically to enhance, maintain, update,
608 renew, upgrade, or expand benefits for specified digital products or prewritten computer
609 software.

610 (5) 'Direct broadcast satellite service' means the distribution or broadcasting of video
611 programming or service by satellite directly to a subscriber's or customer's receiving
612 equipment.

613 (6) 'Internet access service' has the same meaning as defined in 47 U.S.C. Section 151,
614 note.

615 (7) 'Specified digital products' means digital:

616 (A) Audio-visual works;

617 (B) Audio works;

618 (C) Books;

619 (D) Artwork;

620 (E) Photographs;

621 (F) Periodicals;

622 (G) Newspapers;

623 (H) Magazines;

624 (I) Video greeting cards;

625 (J) Audio greeting cards; or

626 (K) Video games.

627 (8) 'Subscription streaming service' means a service that offers to an end user the limited
628 right to access or utilize a library of video services, specified digital products, or digital
629 goods or services that are only delivered electronically to such end user and such end
630 user's right to access or utilize such library expires after a period of at least seven days
631 and not more than one year.

632 (9) 'Telecommunications services' means the electronic transmission, conveyance, or
633 routing of voice, data, audio, video, or any other information or signals to a point, or
634 between or among points. The term includes such transmission, conveyance, or routing
635 in which computer processing applications are used to act on the form, code, or protocol
636 of the content for purposes of transmission, conveyance, or routing without regard to
637 whether such services are referred to as voice over internet protocol (VoIP) services or
638 are classified by the Federal Communications Commission as enhanced or value added.
639 The term shall not include:

640 (A) Data processing and information services that allow data to be generated, acquired,
 641 stored, processed, or retrieved and delivered by an electronic transmission to a
 642 purchaser where such purchaser's primary purpose for the underlying transaction is the
 643 processed data or information;

644 (B) Installation or maintenance of wiring or equipment on a customer's premises;

645 (C) Tangible personal property;

646 (D) Advertising, including, but not limited to, directory advertising;

647 (E) Billing and collection services provided to third parties; or

648 (F) Internet access service.

649 (10) 'Video services' means the sale, offering, transmission, conveyance, or routing of
 650 video programming or other video content for purchase by subscribers or customers,
 651 regardless of the medium, technology, or method of display and regardless of the
 652 payment schedule or storage method used to purchase or access such video programming
 653 or video content. The term shall also include, but shall not be limited to, the provision
 654 of video programming by a multichannel video programming distributor, as defined in
 655 paragraphs (20) and (13) of 47 U.S.C. Section 522, including cable service, as defined
 656 in 47 U.S.C. Section 522 and any substantially equivalent successor technology.

657 48-17-2.

658 (a) Except as otherwise provided in this Code section, there is imposed on communications
 659 services providers a tax on the sales price, as such term is defined in paragraph (34) of
 660 Code Section 48-8-2, paid for the retail purchase of communications services that are
 661 sourced to this state pursuant to Code Section 48-8-78. Such tax shall be levied at the
 662 following rates:

663 (1) A state tax on direct broadcast satellite service at the rate of 2 percent;

664 (2) A state tax on communications services other than direct broadcast satellite service
 665 and subscription streaming services at the rate of 2 percent; and

666 (3)(A) A local tax on communications services other than direct broadcast satellite
 667 service and subscription streaming services at the rate of 2 percent.

668 (B) If a county or consolidated government fails to comply with the requirements of
 669 subsection (e) of Code Section 48-17-6, then the tax imposed by this paragraph within
 670 the unincorporated area of such county shall be an additional 2 percent state tax on
 671 communications services other than direct broadcast satellite service and subscription
 672 streaming services.

673 (C) If a municipality located in such county or consolidated government described in
 674 subparagraph (B) of this paragraph fails to comply with the requirements of
 675 subsection (e) of Code Section 48-17-6, then the tax imposed by this paragraph within

676 such municipality shall be an additional 2 percent state tax on communications services
677 other than direct broadcast satellite service and subscription streaming services.

678 (b) For the purposes of this chapter, sales price shall exclude the tax imposed by this
679 chapter or any other tax or fee imposed on communications services or communications
680 services providers by a federal, state, or local government entity or authority and required
681 or permitted to be collected or required to be paid by a person and remitted to such entity
682 or authority, irrespective of whether such tax or fee is separately stated on binding sales or
683 other supporting sales related documentation made available to the customer in paper or
684 electronic form, including, but not limited to, an invoice, bill of sale, receipt, contract,
685 service agreement, lease agreement, periodic notice of rates and services, rate card, or price
686 list.

687 (c) It is the intent of the General Assembly that a total combined state and local tax rate
688 of 4 percent shall be imposed on communications services, other than direct broadcast
689 satellite services and subscription streaming services, throughout the state.

690 48-17-3.

691 (a) Notwithstanding any provision of law to the contrary, with respect to sales of
692 telecommunications services to any person for use in the operation of one or more call
693 centers, the state tax imposed by this chapter shall not exceed \$12,500.00 per calendar year,
694 and the local tax imposed by this chapter shall not exceed \$12,500.00 per calendar year.

695 (b) The limitation set forth in subsection (a) of this Code section shall apply only to
696 holders of a direct payment number issued by the department. In order to obtain such
697 direct payment number, the applicant shall establish that the applicant satisfies the criteria
698 for a call center as defined in paragraph (4.1) of Code Section 48-8-2.

699 (c) The department shall not issue any refunds of taxes paid prior to receiving a direct
700 payment number.

701 (d) All entities wholly owned by the same person or entity shall be considered a single
702 person.

703 48-17-4.

704 (a) To prevent multistate taxation of communications services subject to taxation under
705 this chapter, any taxpayer, upon proof that such taxpayer has paid a tax in another state on
706 such service, shall be allowed a credit against the tax imposed by this chapter to the extent
707 of the amount of such tax paid in such other state.

708 (b) Any communications services provider that erroneously but in good faith pays the tax
709 imposed by Chapter 8 of this title on the provision of communications services shall be

710 allowed credit against the tax imposed by this chapter to the extent of the amount of such
 711 tax paid upon the filing of a claim within three years of the date of the erroneous payment.

712 48-17-5.

713 All procedural and administrative provisions of Chapters 2 and 8 of this title, including
 714 those which set forth the limitations periods and procedures for assessment, collection,
 715 refunds, and credits; those which fix penalties and interest for nonpayment of tax and for
 716 noncompliance with the provisions of this title; and all other requirements and duties
 717 imposed upon the taxpayer, shall apply to all taxpayers liable for the communications
 718 services tax imposed under the provisions of this chapter and to all providers of
 719 communications services required to collect and remit such taxes. In addition, all
 720 definitions, sourcing rules, customer remedy rules, and bundled transaction rules, which
 721 have been enacted in compliance with the Streamlined Sales and Use Tax Agreement and
 722 codified in Chapter 8 of this title, shall apply to the communications services tax imposed
 723 under the provisions of this chapter unless otherwise provided in this chapter. The
 724 commissioner shall exercise all power and authority and perform all duties with respect to
 725 persons obligated under this chapter as are provided in Chapters 2 and 8 of this title, except
 726 where there is a conflict, in which case the provisions of this chapter shall control. The
 727 commissioner may from time to time make such rules and regulations not inconsistent with
 728 this chapter as may be deemed necessary to carry out its provisions.

729 48-17-6.

730 (a) A communications services provider shall be permitted to deduct and retain 2 percent
 731 of the total communications services tax that is collected and remitted on a timely basis by
 732 the provider to the department.

733 (b) The tax imposed by Code Section 48-17-2, including any penalties or interest
 734 attributable to the nonpayment of such tax or for noncompliance with the provisions of this
 735 chapter, shall be collected by the department and shall be accounted for separately from all
 736 other taxes. One percent of the amounts collected shall be paid into the general fund of the
 737 state treasury in order to defray the costs of administration.

738 (c)(1) The remaining amounts collected pursuant to paragraphs (1) and (2) of subsection
 739 (a) of Code Section 48-17-2 shall be credited in the same manner as the state sales and
 740 use taxes collected pursuant to Article 1 of Chapter 8 of this title.

741 (2) The remaining amounts collected pursuant to paragraph (3) of subsection (a) of Code
 742 Section 48-17-2 shall be distributed as follows:

743 (A) Each municipality, county, or consolidated government that has complied with the
 744 requirements of subsection (e) of this Code section shall receive an amount equal to the

745 average monthly revenues that were received from communications services providers
 746 during 2019 by such municipality, county, or consolidated government pursuant to
 747 taxes, charges, and fees, other than local option sales taxes prohibited by Code Section
 748 48-8-6, which were validly imposed and in effect during that time. All or part of the
 749 proceeds received by a county or consolidated government pursuant to this
 750 subparagraph may be expended for services provided within the unincorporated area
 751 of the county or consolidated government including within any special district created
 752 by a county or consolidated government for the provision of services in all or parts of
 753 the unincorporated area of the county or consolidated government; and

754 (B) The amount remaining after the distributions required by subparagraph (A) of this
 755 paragraph shall be distributed as follows:

756 (i) Each municipality that has complied with the requirements of subsection (e) of
 757 this Code section shall receive an amount equal to such remaining amount multiplied
 758 by a fraction, the numerator of which is the population in such municipality and the
 759 denominator of which is the total population of this state, using the most recent annual
 760 estimates of the population of cities and counties in Georgia as prepared by the United
 761 States Bureau of the Census; and

762 (ii) Each county or consolidated government that has complied with the requirements
 763 of subsection (e) of this Code section shall receive an amount equal to such remaining
 764 amount multiplied by a fraction, the numerator of which is the sum of the population
 765 within the unincorporated areas of such county or consolidated government and the
 766 denominator of which is the total population of this state, using the most recent annual
 767 estimates of the population of cities and counties in Georgia as prepared by the United
 768 States Bureau of the Census.

769 (d)(1) Each consolidated government, county, or municipality that received in 2018
 770 taxes, charges, or fees, other than local option sales taxes prohibited by Code Section
 771 48-8-6, which were validly imposed and in effect during that time shall report the amount
 772 of such taxes, charges, or fees received in 2018 to the department by October 31, 2019.

773 (2) Each communications services provider that paid in 2018 taxes, charges, or fees,
 774 other than local option sales taxes prohibited by Code Section 48-8-6, shall report the
 775 amount of such taxes, charges, or fees paid in 2018 to the department by October 31,
 776 2019.

777 (3) The department shall be charged with reviewing such data from all political
 778 subdivisions and communications services providers to ensure accuracy and to reconcile
 779 the data based on the best information available.

780 (e) Each consolidated government, county, or municipality shall impose by ordinance or
 781 resolution a local tax on communications services other than direct broadcast satellite

782 service and subscription streaming services pursuant to paragraph (3) of subsection (a) of
 783 Code Section 48-17-2 under the following conditions:

784 (1) On or before December 31 of the year prior to enactment, the consolidated
 785 government, county, or municipality shall file with the department a certified copy of the
 786 pertinent parts of all ordinances, resolutions, and amendments thereto which levy the 2
 787 percent tax on communications services other than direct broadcast satellite service and
 788 subscription streaming services;

789 (2) Such ordinance shall have an effective date of January 1 of the following year;

790 (3) The filing required by this subsection shall be a condition to the imposition of the
 791 local tax pursuant to paragraph (3) of subsection (a) of Code Section 48-17-2 by a
 792 consolidated government, a county, or a municipality; and

793 (4) If a consolidated government, county, or municipality does not file with the
 794 department a certified copy of the pertinent parts of all ordinances, resolutions, and
 795 amendments thereto which levy the 2 percent tax on communications services other than
 796 direct broadcast satellite service and subscription streaming services as required in
 797 paragraph (1) of this subsection, or if a county or municipality does not provide the
 798 department with the amount of taxes, charges, or fees received in 2018, as required in
 799 paragraph (1) of subsection (d) of this Code section, the department shall upon receipt of
 800 such information distribute such funds on the first day of the next succeeding calendar
 801 quarter.

802 (f) Other than for purposes of collecting and remitting certain enhanced 9-1-1 charges,
 803 providers of communications services shall not be required to identify, report, or source
 804 communications services or a communications services tax on the county or municipal
 805 level.

806 (g) The state auditor shall annually review the disbursements pursuant to paragraph (2) of
 807 subsection (c) of this Code section for each fiscal year. The state auditor shall issue such
 808 state auditor's findings to the Governor on or before December 31 of each year, and a copy
 809 shall be posted on the state auditor's website.

810 48-17-7.

811 (a)(1) For purposes of this subsection, the term 'communications services providers' shall
 812 include parties providing infrastructure directly involved in the transmission, receipt, or
 813 processing of radio waves or electrical signals used in the provision or provisioning of
 814 communications services. Infrastructure shall include, but shall not be limited to, towers,
 815 poles, and other structures of whatever kind to which are attached antennas or other
 816 equipment for the transmission or receipt of radio waves, light beams, or electrical
 817 signals, as well as fixtures necessary to affix antennas or other equipment to such towers,

818 poles, or structures. Infrastructure shall not include residences or commercial or
 819 industrial buildings. Parties providing infrastructure are considered communications
 820 services providers only to the extent of their provision or provisioning of such
 821 infrastructure.

822 (2) Except as provided in paragraph (4) of this subsection, no county, municipality, or
 823 other political subdivision of this state shall:

824 (A) Levy any tax, charge, fee, or other imposition on or with respect to
 825 communications services, or collect any such tax, charge, fee, or other imposition from
 826 communications services providers;

827 (B) Require any communications services provider, including, but not limited to, cable
 828 service providers or other video programming services providers, to enter into or extend
 829 the term of a franchise or other agreement which requires the payment of a tax, charge,
 830 fee, or other imposition; or

831 (C) Adopt or enforce any provision of any ordinance or agreement to the extent that
 832 such provision obligates a communications services provider to pay to the county and
 833 municipality a tax, charge, fee, or other imposition.

834 (3) For purposes of this subsection, a tax, charge, fee, or other imposition includes any
 835 amount or in-kind payment of property or services which is required by ordinance or
 836 agreement to be paid or furnished to a political subdivision by or through a
 837 communications services provider, regardless of whether such tax, charge, fee, or in-kind
 838 payment of property or services is:

839 (A) Designated as a franchise fee, excise tax, sales tax, services tax, user fee,
 840 occupancy fee, occupational or business license tax or fee, subscriber charge, tower fee,
 841 base station fee, or otherwise;

842 (B) Measured by the amounts charged or received for services, the type of equipment
 843 or facilities deployed, or otherwise;

844 (C) Intended as compensation for the use of public rights of way, the right to conduct
 845 business, or otherwise; or

846 (D) Permitted or required to be separately stated on the customer's bill.

847 (4) This subsection shall not apply to:

848 (A) Ad valorem taxes levied pursuant to Chapter 5 of this title;

849 (B) Emergency telephone surcharges;

850 (C) Amounts charged for the rental or other use of property owned by a public body
 851 which is not in the public rights of way to a communications services provider for any
 852 purpose, including, but not limited to, the placement or attachment of equipment used
 853 in the provision of communications services;

854 (D) Amounts charged for the rental of space on a utility pole or tower owned by a
 855 political subdivision of this state, whether in the public right of way or not, for the
 856 attachment of equipment used in the provision of communications services;

857 (E) Permit fees generally imposed and applicable to a majority of all other businesses,
 858 which are not related to placing or maintaining facilities in or on public roads or rights
 859 of way;

860 (F) Taxes, charges, and fees which are ordinary and generally applicable and which are
 861 validly levied and required to be paid by a person in a capacity other than its capacity
 862 as a communications services provider. Such taxes, charges, and fees include, by way
 863 of example, but are not limited to, taxes, charges, and fees for water, sewer, electricity,
 864 sanitation, police, fire, or other such services, or any special district, community
 865 improvement district, or similar such district services, or any taxes, fees, or assessments
 866 imposed to pay bonded indebtedness;

867 (G) Taxes imposed pursuant to paragraph (3) of subsection (a) of Code Section
 868 48-17-2;

869 (H) Zoning, construction, and similar application fees, provided that such fees do not
 870 exceed the lower of either the actual direct cost incurred by the county or municipality
 871 in the review of such applications or the amount generally imposed by the consolidated
 872 government, county, or municipality for zoning, construction, and similar applications;
 873 and

874 (I) Any civil penalties or fines, any criminal penalties or fines, or both.

875 (5) This subsection shall not preempt the provisions of Code Section 25-9-6 or 25-9-13
 876 and shall not be construed to prohibit any consolidated government, municipality, or
 877 county from seeking to recover the actual direct cost of repairing damage to public streets
 878 caused by a communications services provider's installation or repair of its facilities.

879 (b) In establishing guidelines and conditions for placing, constructing, repairing, or
 880 maintaining communications lines or facilities over, on, under, through, or along any public
 881 highways, public roads, public streets, or other public places or rights of way, neither the
 882 state nor any agency or political subdivision thereof shall discriminate between or among
 883 communications services providers in violation of 47 U.S.C. Section 253(c)."

884 **SECTION 15.**

885 This Act shall become effective on July 1, 2019.

886 **SECTION 16.**

887 All laws and parts of laws in conflict with this Act are repealed.