

1
2 An act relating to telecommunications; amending
3 s. 364.025, F.S.; extending the interim
4 mechanism for maintaining universal service
5 objectives and carrier-of-last-resort
6 obligations until a specified date; amending s.
7 337.401; F.S.; specifying that specified
8 provisions do not apply to the provision of pay
9 telephone service on public or municipal roads
10 or rights-of-way; amending s. 364.0252, F.S.;
11 directing the Florida Public Service Commission
12 to inform consumers about specific matters in
13 the telecommunications services market;
14 amending s. 364.24 F.S.; providing for
15 telephonic customer account information;
16 amending s. 240.311, F.S.; authorizing the
17 State Board of Community Colleges to develop
18 and produce certain work products related to
19 distance learning; authorizing fees for such
20 materials for purposes of educational use;
21 requiring annual postaudits; requiring the
22 adoption of rules; requiring the submission of
23 reports; creating ss. 241.001-241.004, F.S.;
24 defining terms; prescribing duties of the
25 Department of Education with respect to
26 distance learning; creating the Florida
27 Distance Learning Network Advisory Council and
28 providing for its membership, meetings, and
29 responsibilities; creating a grant program to
30 award grants to certain educational
31 institutions; repealing ss. 364.509, 364.510,

1 364.511, 364.512, 364.513, 364.514, F.S.,
2 relating to the Education Facilities
3 Infrastructure Improvement Act; establishing a
4 task force in the Department of Management
5 Services; providing for representation;
6 providing responsibilities; providing for
7 meetings of the task force; providing for
8 support staff for the task force; requiring
9 reports; providing for the dissolution of the
10 task force; providing an appropriation;
11 repealing s. 59(4) of SB 2502, enacted in the
12 1999 Regular Session of the Legislature,
13 relating to performance measures for the
14 Florida Public Service Commission; providing
15 effective dates.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 364.025, Florida Statutes, 1998
20 Supplement, is amended to read:

21 364.025 Universal service.--

22 (1) For the purposes of this section, the term
23 "universal service" means an evolving level of access to
24 telecommunications services that, taking into account advances
25 in technologies, services, and market demand for essential
26 services, the commission determines should be provided at
27 just, reasonable, and affordable rates to customers, including
28 those in rural, economically disadvantaged, and high-cost
29 areas. It is the intent of the Legislature that universal
30 service objectives be maintained after the local exchange
31 market is opened to competitively provided services. It is

1 also the intent of the Legislature that during this transition
2 period the ubiquitous nature of the local exchange
3 telecommunications companies be used to satisfy these
4 objectives. For a period of 5 ~~4~~ years after January 1, 1996,
5 each local exchange telecommunications company shall be
6 required to furnish basic local exchange telecommunications
7 service within a reasonable time period to any person
8 requesting such service within the company's service
9 territory.

10 (2) The Legislature finds that each telecommunications
11 company should contribute its fair share to the support of the
12 universal service objectives and carrier-of-last-resort
13 obligations. For a transitional period not to exceed January
14 1, 2001 ~~2000~~, an interim mechanism for maintaining universal
15 service objectives and funding carrier-of-last-resort
16 obligations shall be established by the commission, pending
17 the implementation of a permanent mechanism. The interim
18 mechanism shall be applied in a manner that ensures that each
19 alternative local exchange telecommunications company
20 contributes its fair share to the support of universal service
21 and carrier-of-last-resort obligations. The interim mechanism
22 applied to each alternative local exchange telecommunications
23 company shall reflect a fair share of the local exchange
24 telecommunications company's recovery of investments made in
25 fulfilling its carrier-of-last-resort obligations, and the
26 maintenance of universal service objectives. The commission
27 shall ensure that the interim mechanism does not impede the
28 development of residential consumer choice or create an
29 unreasonable barrier to competition. In reaching its
30 determination, the commission shall not inquire into or
31 consider any factor that is inconsistent with s.

1 364.051(1)(c). The costs and expenses of any government
2 program or project required in part II of this chapter shall
3 not be recovered under this section.

4 (3) In the event any party, prior to January 1, 2001
5 ~~2000~~, believes that circumstances have changed substantially
6 to warrant a change in the interim mechanism, that party may
7 petition the commission for a change, but the commission shall
8 grant such petition only after an opportunity for a hearing
9 and a compelling showing of changed circumstances, including
10 that the provider's customer population includes as many
11 residential as business customers. The commission shall act
12 on any such petition within 120 days.

13 (4)(a) Prior to January 1, 2001 ~~the expiration of this~~
14 ~~4-year period~~, the Legislature shall establish a permanent
15 universal service mechanism upon the effective date of which
16 any interim recovery mechanism for universal service
17 objectives or carrier-of-last-resort obligations imposed on
18 alternative local exchange telecommunications companies shall
19 terminate.

20 (b) To assist the Legislature in establishing a
21 permanent universal service mechanism, the commission, by
22 February 15, 1999, shall determine and report to the President
23 of the Senate and the Speaker of the House of Representatives
24 the total forward-looking cost, based upon the most recent
25 commercially available technology and equipment and generally
26 accepted design and placement principles, of providing basic
27 local telecommunications service on a basis no greater than a
28 wire center basis using a cost proxy model to be selected by
29 the commission after notice and opportunity for hearing.

30 (c) In determining the cost of providing basic local
31 telecommunications service for small local exchange

1 telecommunications companies, which serve less than 100,000
2 access lines, the commission shall not be required to use the
3 cost proxy model selected pursuant to paragraph (b) until a
4 mechanism is implemented by the Federal Government for small
5 companies, but no sooner than January 1, 2001. The commission
6 shall calculate a small local exchange telecommunications
7 company's cost of providing basic local telecommunications
8 services based on one of the following options:

9 1. A different proxy model; or

10 2. A fully distributed allocation of embedded costs,
11 identifying high-cost areas within the local exchange area the
12 company serves and including all embedded investments and
13 expenses incurred by the company in the provision of universal
14 service. Such calculations may be made using fully distributed
15 costs consistent with 47 C.F.R. ss. 32, 36, and 64. The
16 geographic basis for the calculations shall be no smaller than
17 a census block group.

18 (d) The commission, by February 15, 1999, shall
19 determine and report to the President of the Senate and the
20 Speaker of the House of Representatives the amount of support
21 necessary to provide residential basic local
22 telecommunications service to low-income customers. For
23 purposes of this section, low-income customers are customers
24 who qualify for Lifeline service as defined in s. 364.10(2).

25 (5) After January 1, 2001 ~~2000~~, an alternative local
26 exchange telecommunications company may petition the
27 commission to become the universal service provider and
28 carrier of last resort in areas requested to be served by that
29 alternative local exchange telecommunications company. Upon
30 petition of an alternative local exchange telecommunications
31 company, the commission shall have 120 days to vote on

1 granting in whole or in part or denying the petition of the
2 alternative local exchange company. The commission may
3 establish the alternative local exchange telecommunications
4 company as the universal service provider and carrier of last
5 resort, provided that the commission first determines that the
6 alternative local exchange telecommunications company will
7 provide high-quality, reliable service. In the order
8 establishing the alternative local exchange telecommunications
9 company as the universal service provider and carrier of last
10 resort, the commission shall set the period of time in which
11 such company must meet those objectives and obligations and
12 shall set up any mechanism needed to aid such company in
13 carrying out these duties.

14 Section 2. Subsection (10) is added to section
15 337.401, Florida Statutes, 1998 Supplement, to read:

16 337.401 Use of right-of-way for utilities subject to
17 regulation; permit; fees.--

18 (10) This section, except subsections (1), (2), and
19 (6), does not apply to the provision of pay telephone service
20 on public or municipal roads or rights-of-way.

21 Section 3. Effective July 1, 1999, section 364.0252,
22 Florida Statutes, 1998 Supplement, is amended to read:

23 364.0252 Expansion of consumer information programs;
24 customer assistance; rulemaking authority.--~~By January 1,~~
25 ~~1999,~~The Florida Public Service Commission shall expand its
26 current consumer information program to inform consumers of
27 their rights as customers of competitive telecommunications
28 services and shall assist customers in resolving any billing
29 and service disputes that customers are unable to resolve
30 directly with the company. The commission may, pursuant to
31 this program, require all telecommunications companies

1 providing local or long distance telecommunications services
2 to develop and provide information to customers. The
3 commission may specify by rule the types of information to be
4 developed and the manner by which the information will be
5 provided to the customers. The Florida Public Service
6 Commission shall undertake a comprehensive and ongoing effort
7 to inform consumers regarding how to protect themselves in a
8 competitive telecommunications market. Of specific concern
9 are informing consumers concerning the availability of the
10 Lifeline and Link-Up Programs for low-income households and
11 alerting consumers to how they can avoid having their service
12 changed or unauthorized charges added to their telephone
13 bills.

14 Section 4. Subsection (2) of section 364.24, Florida
15 Statutes, is amended to read:

16 364.24 Penalty for making telephone message or
17 customer account information known.--

18 (2) Any officer or person in the employ of any
19 telecommunications company shall not intentionally disclose
20 customer account records except as authorized by the customer
21 or as necessary for billing purposes, or required by subpoena,
22 court order, other process of court, or as otherwise allowed
23 by law. Any person who violates any provision of this section
24 commits a misdemeanor of the second degree, punishable as
25 provided in s. 775.082 or s. 775.083. Nothing herein precludes
26 disclosure of customers' names, addresses, or telephone
27 numbers to the extent they are otherwise publicly available.
28 Nothing herein precludes a telecommunications company from
29 making available to its customers a customer's own customer
30 account record through telephonic means.

31

1 Section 5. Subsection (8) is added to section 240.311,
2 Florida Statutes, 1998 Supplement, to read:

3 240.311 State Board of Community Colleges; powers and
4 duties.--

5 (8)(a) The State Board of Community Colleges is
6 authorized to develop and produce work products which relate
7 to mechanisms to provide for consolidated and coordinated
8 program development and educational endeavors to support
9 distance learning instruction which are subject to trademark,
10 copyright, or patent statutes. To this end, the board shall
11 consider the relative contribution by the personnel employed
12 in the development of such work products and shall enter into
13 binding agreements with such personnel, organizations,
14 corporations, or government entities, which agreements shall
15 establish the percentage of ownership of such trademarks,
16 copyrights, or patents. Any other law to the contrary
17 notwithstanding, the board is authorized in its own name to:

18 1. Perform all things necessary to secure letters of
19 patent, copyrights, and trademarks on any such work products
20 and to enforce its rights therein.

21 2. License, lease, assign, or otherwise give written
22 consent to any person, firm, or corporation for the
23 manufacture or use thereof on a royalty basis or for such
24 other consideration as the board deems proper.

25 3. Take any action necessary, including legal action,
26 to protect the same against improper or unlawful use or
27 infringement.

28 4. Enforce the collection of any sums due the board
29 for the manufacture or use thereof by any other party.

30 5. Sell any such work products and execute all
31 instruments necessary to consummate any such sale.

1 6. Perform all other acts necessary and proper for the
2 execution of powers and duties provided by this paragraph.

3
4 Any proceeds therefrom shall be deposited and expended by a
5 Florida not-for-profit corporation, incorporated under the
6 provisions of chapter 617 and approved by the Department of
7 State, to be used as directed by the board to pay the cost of
8 producing and disseminating educational materials and products
9 to carry out the intent of this act. Any action taken by the
10 board in securing or exploiting such trademarks, copyrights,
11 or patents shall, within 30 days, be reported by the board to
12 the Department of State.

13 (b) The board is authorized to publish, produce, or
14 have produced materials and products and shall make them
15 readily available for appropriate use in the state system of
16 education. The board is authorized to charge an amount
17 adequate to cover the essential cost of producing and
18 disseminating such materials and products in the state system
19 of education and is authorized to sell copies for educational
20 use to nonpublic schools in the state and to the public.

21 (c) Any Florida not-for-profit corporation receiving
22 funds pursuant to this section shall make provisions for an
23 annual postaudit of its financial accounts to be conducted by
24 an independent certified public accountant in accordance with
25 rules to be adopted by the board. The annual audit report
26 shall be submitted to the Auditor General and the board for
27 review. The board and the Auditor General shall have the
28 authority to require and receive from the organization or from
29 its independent auditor any detail or supplemental data
30 relative to the operation of the organization.

31

1 (d) By December 31, 1999, and annually thereafter, the
2 State Board of Community Colleges shall report on the
3 implementation of this section to the Speaker of the House of
4 Representatives and the President of the Senate.

5 Section 6. Section 241.001, Florida Statutes, is
6 created to read:

7 241.001 Definitions.--As used in ss. 241.001-241.004,
8 the term:

9 (1) "Advanced telecommunications services" means
10 network-based or wireless services that provide additional
11 communications capabilities enabling the use of applications
12 such as distance learning, video conferencing, data
13 communications, and access to Internet.

14 (2) "Department" means the Department of Education.

15 (3) "Eligible facilities" includes all approved
16 campuses and instructional centers of all public universities,
17 public community colleges, area technical centers, public
18 elementary schools, middle schools, and high schools,
19 including school administrative offices, public libraries,
20 teaching hospitals, the research institute described in s.
21 240.512, and rural public hospitals as defined in s. 395.602.
22 If no rural public hospital exists in a community, the public
23 health clinic that is responsible for individuals before they
24 can be transferred to a regional hospital shall be considered
25 eligible.

26 Section 7. Section 241.002, Florida Statutes, is
27 created to read:

28 241.002 Duties of the Department of Education.--The
29 duties of the Department of Education concerning distance
30 learning include, but are not limited to, the duty to:

31

1 (1) Facilitate the implementation of a statewide
2 coordinated system and resource system for cost-efficient
3 advanced telecommunications services and distance education
4 which will increase overall student access to education.

5 (2) Coordinate the use of existing resources,
6 including, but not limited to, the state's satellite
7 transponders on the education satellites, the SUNCOM Network,
8 the Florida Information Resource Network (FIRN), the
9 Department of Management Services, the Department of
10 Corrections, and the Department of Children and Family
11 Services' satellite communication facilities to support a
12 statewide advanced telecommunications services and distance
13 learning network.

14 (3) Assist in the coordination of the utilization of
15 the production and uplink capabilities available through
16 Florida's public television stations, eligible facilities,
17 independent colleges and universities, private firms, and
18 others as needed.

19 (4) Seek the assistance and cooperation of Florida's
20 cable television providers in the implementation of the
21 statewide advanced telecommunications services and distance
22 learning network.

23 (5) Seek the assistance and cooperation of Florida's
24 telecommunications carriers to provide affordable student
25 access to advanced telecommunications services and to distance
26 learning.

27 (6) Coordinate partnerships for development,
28 acquisition, use, and distribution of distance learning.

29 (7) Secure and administer funding for programs and
30 activities for distance learning from federal, state, local,
31

1 and private sources and from fees derived from services and
2 materials.

3 (8) Manage the state's satellite transponder resources
4 and enter into lease agreements to maximize the use of
5 available transponder time. All net revenue realized through
6 the leasing of available transponder time, after deducting the
7 costs of performing the management function, shall be recycled
8 to support the public education distance learning in this
9 state based upon an allocation formula of one-third to the
10 Department of Education, one-third to the State Board of
11 Community Colleges, and one-third to the State University
12 System.

13 (9) Hire appropriate staff which may include a
14 position that shall be exempt from part II of chapter 110 and
15 is included in the Senior Management Service in accordance
16 with s. 110.205.

17
18 Nothing in ss. 241.001-241.004 shall be construed to abrogate,
19 supersede, alter, or amend the powers and duties of any state
20 agency, district school board, community college board of
21 trustees, the State Board of Community Colleges, or the Board
22 of Regents.

23 Section 8. Section 241.003, Florida Statutes, is
24 created to read:

25 241.003 The Florida Distance Learning Network Advisory
26 Council; creation; membership; organization; meetings.--

27 (1) The Florida Distance Learning Network Advisory
28 Council is created in the Department of Education to advise
29 and assist the department in carrying out its duties relating
30 to distance learning.

31

1 (a) Composition.--The advisory council, to be
2 appointed by and serve at the pleasure of the Commissioner of
3 Education, shall not exceed 13 members, selected from the
4 various entities who have interests in distance learning, and
5 who are, when possible, leading members of statewide or
6 regional organizations representing institutional consumers
7 and providers so as to establish a broadly based and
8 representative distance learning advisory council.

9 (b) Representation.--The organizations represented on
10 the advisory council may include, but are not limited to,
11 public and private elementary and secondary schools; public
12 and private postsecondary institutions, including vocational
13 and technical centers; state agencies; libraries; the health
14 care community, including urban, rural, and teaching
15 hospitals; the cable telecommunications industry; the local
16 exchange telecommunications industry; and the interexchange
17 industry. Two members shall be the Chancellor of the State
18 University System or the chancellor's designee and the
19 Executive Director of the Florida Community College System or
20 the executive director's designee. One member may be a lay
21 citizen.

22 (c) Organization, procedure, and compensation.--

23 1. The advisory council shall meet at least annually.

24 2. The advisory council shall elect a chair, a
25 vice-chair, and a secretary from its membership for 1-year
26 terms. Officers may be reelected.

27 3. The advisory council shall meet at the call of its
28 chair, at the request of the majority of its membership, the
29 commissioner, or at such times as its membership prescribes.

30 (2) The advisory council may study and recommend to
31 the department concerning:

1 (a) A marketing program statewide, nationally, and
2 internationally, as deemed appropriate.

3 (b) The recipients of the Educational Technology Grant
4 Program provided in s. 241.004.

5 (c) Suggested legislation concerning distance
6 learning.

7 (d) Any other issue regarding distance learning that
8 the council deems appropriate.

9 (3) The department shall provide administrative and
10 support services to the advisory council.

11 Section 9. Section 241.004, Florida Statutes, is
12 created to read:

13 241.004 Educational Technology Grant Program.--

14 (1) The Department of Education shall annually award
15 grants to school districts, area technical centers, community
16 colleges, state universities, and independent institutions
17 eligible to participate in state student assistance programs
18 established in part IV of chapter 240. The department shall
19 give priority to cooperative proposals submitted by two or
20 more institutions or delivery systems. The proposals shall
21 include:

22 (a) Information which describes the educational
23 significance of the program or service in addressing state
24 educational priorities.

25 (b) The target population for the program.

26 (c) The program content to be transmitted.

27 (d) The support services to be provided.

28 (e) Provisions to use at least 20 percent of any funds
29 awarded for training both faculty and student learners in the
30 use and application of the products developed.

31

1 (2) Programs and courses developed through the grant
2 program shall be marketed statewide and nationwide with a
3 portion of any profits from the sale or use of such programs
4 retained by the developing institutions or systems and a
5 portion reinvested in the grant program for further program
6 development. The distribution of any revenues received shall
7 be determined by formal agreement between the department and
8 the developing system or institution.

9 (3) The department shall identify state educational
10 priorities and issue a request for proposals by June 1 in
11 every year in which funds are available for grants. The
12 department shall ensure the quality of the programs and
13 courses produced through the grants and produce an annual
14 status report by March 1 describing the projects funded and
15 accounting for any proceeds.

16 Section 10. Sections 364.509, 364.510, 364.511,
17 364.512, 364.513, and 364.514, Florida Statutes, are repealed.

18 Section 11. (1) There is created the Information
19 Service Technology Development Task Force which shall be
20 located within the Department of Management Services for the
21 purpose of developing policies that will benefit residents of
22 this state by fostering the free-market development and
23 beneficial use of advanced communications networks and
24 information technologies within this state. The task force
25 shall be composed of 34 members as follows:

26 (a) The Attorney General, the executive director of
27 the Florida Department of Law Enforcement, the Chancellor of
28 the State University System, the Commissioner of Education,
29 the executive director of the State Board of Community
30 Colleges, the director of the Office of Tourism, Trade, and
31 Economic Development, the executive director of the Department

1 of Revenue, a representative of the Florida Council of
2 American Electronics Association, a representative of the
3 Florida Internet Providers Association, a representative of
4 the United States Internet Council, the chair of the State
5 Technology Council, and the secretary of the Department of
6 Management Services.

7 (b) The President of the Senate shall appoint one
8 member from each of the following categories: a
9 facilities-based interexchange telecommunications company, a
10 wireless telecommunications company, an alternative local
11 exchange telecommunications company, an internet service
12 provider with more than one million customers, the
13 entertainment industry, a computer or telecommunications
14 manufacturing company, and one member of the Florida Senate.

15 (c) The Speaker of the House of Representatives shall
16 appoint one member from each of the following categories: a
17 cable television provider, a computer software company, the
18 banking industry, an internet search engine company, a local
19 exchange telecommunications company, the tourist industry, and
20 one member of the House of Representatives.

21 (d) The Governor shall name the chair, and appoint
22 members as follows: one college student who relies on the
23 Internet for personal or academic use, a representative of a
24 local government that is an alternative local exchange
25 telecommunications company or an Internet service provider,
26 and four members as determined by the Governor to
27 appropriately represent technology providers, manufacturers,
28 retailers, and users.

29 (e) The minority leader of the House of
30 Representatives shall appoint one member of the House of
31 Representatives.

1 (f) The minority leader of the Senate shall appoint
2 one member of the Senate.

3 (2) The task force shall exist for 2 years and shall
4 meet at least four times per year. Failure of a member to
5 participate in three consecutive meetings shall result in the
6 member's replacement by the Governor. The task force is
7 encouraged to implement electronic bulletin boards and other
8 means for the exchange of ideas throughout the year.

9 (3) The task force shall develop overarching
10 principles to guide state policy decisions with respect to the
11 free-market development and beneficial use of advanced
12 communications networks and information technologies, identify
13 factors that will affect whether these technologies will
14 flourish in Florida, and develop policy recommendations for
15 each factor.

16 (4) By February 14 of calendar years 2000 and 2001,
17 the task force shall submit a report to the Governor, the
18 President of the Senate, and the Speaker of the House of
19 Representatives outlining principles, policy recommendations,
20 and any suggested legislation. The task force may develop and
21 publish other documents throughout the year.

22 (5) The State Technology Office within the Department
23 of Management Services shall provide support staff for the
24 task force and promote public awareness of the development of
25 principles and policy recommendations by the task force. The
26 State University System shall assist the task force as
27 necessary.

28 (6) The task force shall dissolve effective July 1,
29 2001.

30 Section 12. Effective July 1, 1999, the sum of
31 \$250,000 is appropriated from the General Revenue Fund to the

1 State Technology Office in the Department of Management
2 Services and four positions are created in the department for
3 the purpose of carrying out the provisions of this act which
4 create the Information Service Technology Development Task
5 Force.

6 Section 13. Subsection (4) of section 59 of Senate
7 Bill 2502, enacted in the 1999 Regular Session of the
8 Legislature, is repealed.

9 Section 14. Except as otherwise provided in this act,
10 this act shall take effect upon becoming a law.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31