

DEPARTMENT OF TAXATION

2005 Fiscal Impact Statement

1. **Patron** Thomas K. Norment, Jr.

2. **Bill Number** SB 1116

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Retail Sales and Use Tax: Exemption for
Telecommunications Companies

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would restore the exemption from the retail sales and use tax for purchases of tangible personal property for use directly in rendition of their public service by certain telephone and telecommunication companies.

The effective date of this bill is July 1, 2006.

6. **Fiscal Impact Estimates are:** Preliminry. (See Line 8.)

Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2006-07	(\$30.6 million)	GF
	(\$4.5 million)	TTF
	(\$8.9 million)	Local
2007-08	(\$33.6 million)	GF
	(\$4.9 million)	TTF
	(\$9.8 million)	Local
2008-09	(\$34.0 million)	GF
	(\$5.0 million)	TTF
	(\$9.9 million)	Local
2009-10	(\$34.2 million)	GF
	(\$5.0 million)	TTF
	(\$10.0 million)	Local

7. **Budget amendment necessary:** Yes.

Item(s): Page 1, Revenue Estimates

8. Fiscal implications:

The Department would incur no administrative costs to implement this bill.

As drafted this bill would provide a much broader sales and use tax exemption to the affected companies than they had prior to the repeal of the exemption. The revenue estimates assume that the bill will be amended to limit the exemption to only purchases that were exempt prior to the repeal of the exemption by HB 5018 last year. If this bill is enacted, sales and use tax revenue is estimated to decrease by \$44.0 million in FY 2007, \$48.3 million in FY 2008, \$48.9 million in FY 2009, and 49.2 million in FY 2010. The estimate does not include purchases by mutual telephone companies that are included in this bill; however, these purchases are expected to have minimal impact. If this bill were to pass in its current form, the revenue impact would be significantly greater.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

As currently written, this bill would exempt all tangible personal property purchased by telecommunications companies as defined in § 58.1-400.1, not just the tangible personal property used directly in the rendition of its public service. If this bill is intended to reinstate the sales and use tax exemption for tangible personal property purchased or leased by telecommunication companies for direct use in the rendition of their public service, the following technical amendment is recommended.

Page 1, Line 39, After, § 58.1-400.1

Insert: for use or consumption by such telecommunications company directly in the rendition of its public service

11. Other comments:

Old Law

Prior to legislation enacted in 2004, public service corporations had an exemption for the purchase of all tangible personal property used directly in the rendition of their public service. Direct usage refers to those activities that are an integral part of the rendition of a public utility service, including all steps of a utility's production, generation or initiation process as well as a utility's transmission or distribution process, but not including incidental public utility functions such as administration and management. This exemption was enjoyed by i) public service corporations subject to state franchise or license tax on gross receipts, ii) telecommunications companies and certain telephone companies, and iii) common carriers of property or passengers by motor vehicle or railway.

2004 Law Change

With the exception of common carriers by railway, the 2004 tax reform repealed all the exemptions for public service corporations. These included all public service corporations subject to the state franchise and license tax on gross receipts, telecommunications and certain telephone companies, and motor vehicle common carriers. The new law that repealed these exemptions also allowed those entities that lost the exemption, with the exception of motor vehicle common carriers, to impose a separate line item surcharge on customer's bills to recoup the taxes paid resulting from the repeal of the exemption.

Proposed Changes In This Bill

This bill would reinstate the retail sales and use tax exemption for telecommunication companies and certain telephone companies, however, it does not reinstate the exemption for the other public service corporations that lost the exemption in 2004.

Similar Legislation

This bill is identical to **House Bill 2057**.

cc : Secretary of Finance

Date: 1/23/2005 WBS
DLAS SB1116F161