

Approved On: _____

Minutes of the House Committee on Assessment and Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on April 3, 1985 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives Crowell

Committee staff present:

Tom Severn, Legislative Research
Melinda Hanson, Legislative Research
Don Hayward, Reviser of Statutes
Millie Foose, Committee Secretary

Mr. Zoel Parenteau, KPTS, Wichita, testified as as opponent of HB-2596, an act imposing an excise tax upon cable television subscribers; providing for the administration, collection and enforcement thereof by the state department of revenue; providing for the disposition of revenue received. He said it would be unfair to cable subscribers, would result in income loss for cable operators, and would be discriminatory against rural viewers. (Attachment 1)

Mr. Dale Anderson, General Manager of KTWU-Channel 11, suggested that there be an interim study of HB-2596 to study the cable service in all fifty states and their methods of financing it.

Mr. Ralph Skoog, counsel for Kansas CATV Association, representing over 200 cable television service operators in Kansas, testified as an opponent of HB-2596. He said the proposed bill discriminates against the Association's members and he believes it to be sufficiently discriminatory to be considered an unlawful act. (Attachment 2)

Representative Fox moved, second by Representative Spaniol, that HB-2596 be tabled, and that questions concerning it be referred to computer technology. The motion carried.

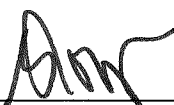
Representative Spaniol spoke as a proponent of HR-6097, a resolution concerning Internal Revenue Service regulations relating to the personal taxation of nonbusiness travel on business aircraft. (Attachment 3)

Representative Ott moved, second by Representative Vancrum, that HR-6097 be recommended favorably. The motion carried.

Chairman Rolfs requested that committee members list topics that should be considered for interim study and bring to the April 4 committee meeting.

The minutes of April 2 were reviewed. There were no changes and they were approved as presented.

There being no further business, the chairman adjourned the meeting.



Ed C. Rolfs, Chairman

Testimony of Zoel Parenteau - KPTS, Wichita
House Committee on Assessment and Taxation
April 3, 1985
House Bill No. 2596

General - Appreciate desire of the Ways & Means Committee
to provide assured support for PTV in Kansas.

A. Effect on subscription income:

1. Non-cable subscribers:

Support no longer would be needed, due to cable
support.

2. Cable subscribers:

a. Would be already paying through cable.

b. Salina example:

(1) Why Salina? (Fringe, virtually all cable
if view/support KPTS.)

(2) Cable factbook: 14,558 @ \$ 8.95/mo
Year total = \$ 1,563,529
2% = \$ 31,270

(3) KPTS subscribers: 1,020 @ \$ 36.52
Year total = \$ 37,255
19.1% more than 2%
collected.

(4) Explanation: Cable subscribers
accustomed to paying for TV.

(a) 1,020 subsc out of 5,042 viewers.

(b) 20.2% penetration vs. overall
18%.

3. Subscription income loss:

a. Subscription income: \$ 747,700 per year

b. State grant: 131,000 per year

c. "The subcommittee's intent is to offset
support from the State General Fund with moneys generated
from the imposition of an excise tax on subscribers of
cable television services."

3. Subscription income loss (cont'd):

d. Subscriber income, amounting to 47% of KPTS's \$ 1,602,898 budget would be jeopardized (and no doubt severely reduced), in order to provide funding of state PTV support, currently amounting to 8% of KPTS's budget, with this new tax on cable subscribers.

e. If this is the only alternative for the state to provide support to PTV, we would much rather lose that support than suffer untold financial woes from reduced subscriber support.

B. Other considerations:

1. Discriminatory against rural viewers, who need Cable to view any TV. Not a luxury. Many rural cable subscribers unable to watch Kansas PTV stations.

2. Hardship on small Cable operators. Paperwork. Forced to carry PTV signals by "must-carry" regulations, when biggest public demand is for other services. Could provide ammo for them to appeal to FCC for "must-carry" relief, which would deny cable subscribers from viewing PTV stations.

3. Would tax revenue collected, be distributed proportionally to stations on basis of numbers of subscribers located in any given station's area?

4. Cable subscribers do support PTV voluntarily. Some cable operators support as well. Cable subscribers should not be expected to subsidize the state's PTV system.

5. General tax support is important, since PTV serves not only the home viewer, but institutions and agencies of government as well, through programming for the public schools, colleges, universities, government bodies and agencies, organizations, churches, and businesses -- many of which are viewed in offices and classrooms, which are not counted by rating services.

3. Most of all, however, please do not use this method to support Public TV, because we cannot afford the revenue loss, which would surely result.

TESTIMONY OF KANSAS CATV ASSOCIATION

TO: Assessment and Taxation Committee
Kansas House of Representatives

RE: House Bill No. 2596

DATE: April 3, 1985

Mr. Chairman, Members of the Committee

Thank you for the opportunity given for the Kansas CATV Association to appear with reference to the provisions of House Bill No. 2596.

The Kansas CATV Association represents most of the more than 200 local cable television service operators, each operating by virtue of a franchise agreement with a city or county in the State of Kansas. Our best information indicates that these cable operators, on whose behalf we speak, provide service to an excess of 425,000 households in Kansas who are our subscribers.

Cable television subscribers in the State of Kansas, according to the existing information, represent less than half of the television households within the State.

The Association appears in opposition to the provisions of House Bill No. 2596 which provides for an excise tax on subscribers in the amount of 2% of the basic service charge for monthly services to our subscribers, the same to be collected by the cable operators and paid over to the State. Our opposition results from a strong feeling of obligation to our subscribers that the proposed statute severely discriminates against our subscribers in that, although they represent less than half of the television households within the State, they would be required to bear the entire burden of the cable television excise tax fund established for the purpose of providing revenue to fund public television systems in the State. No comparable obligation would be placed upon the television viewing householders who receive their television programming off the air by reason of a master antennae system or through the use of a satellite dish receiver.

It is also worthy of note that a number of cable television systems providing community service throughout the State do not have available and carry to their subscribers programming from public televisions stations.

There are two substantive, and we believe legal impediments to the enactment and collection of taxes pursuant to the provisions of House Bill No. 2596.

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Among the limitations on the power of the State to assess excise fees through cable operators upon cable subscribers are the provisions of Public Law 98-549, which is known as the Cable Communications Policy Act of 1984, adopted in the fall of 1984, by the United States Congress and signed by the President. Section 622 of the Act does specifically define the excise tax set forth in this bill, as a "franchise fee" in the following terms:

"(g)For the purposes of this section -
'(1) the term "franchise fee" includes any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such;"

We do not believe that the balance of Section (g) would be applicable to the term when it describes the exceptions.

Section 622 specifically provides that the "franchise fees" paid by a cable operator with respect to any cable system shall not exceed 5% of such cable operators gross revenues derived. . . from the operation of the cable system"

At present, although we are not privy to all of the provisions of all of the many franchises under which services are provided to Kansas citizens, they generally provide for a direct franchise fee to the city or county in an amount varying between 3 and 5 percent. We suggest that it is likely that the provisions of this Bill in some cases, establish a tax violating the Federal Act which by its specific terms, pre-empts State action.

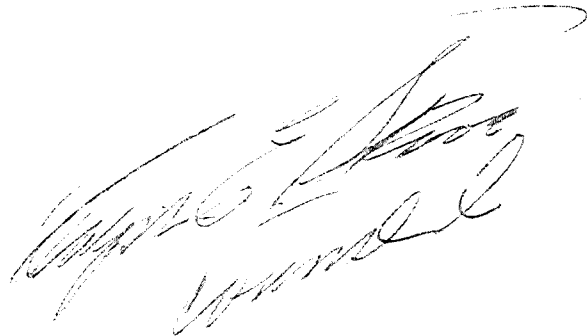
In addition, it is our belief, that although a State in enacting a tax for a specific purpose, that Legislatures have broad authority to classify property for tax purposes. The Constitutions of the State and Federal Government do require legislative enactments generally be based upon real and substantial differences between the persons properties or privileges taxed and those not taxed. As is frequently said, classifications for tax purposes to be valid, must bear some reasonable relationship to the object or purpose of the legislation or to some permissible governmental policy or legitimate end of governmental action. They must rest upon some difference which bears a reasonable relationship to the act in respect to which the classification is proposed. We sincerely believe that to place the special burden of support of public television only upon that portion of the viewers of

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television programming which receive their television as subscribers to cable television services, while exempting from that obligation the more than half of the television viewers in the State, do not fall within the classification that subscribers to cable television services is discriminatory, arbitrary and capricious, and falls outside of the authority of the Legislature.

As operators who value the opportunity to provide public television to our subscribers along with commercial television and other television services, we appreciate the concern which the Legislature has evidenced in seeking a stable and recurring economic base for the continuation of State support of public television. We are prepared to work with the Legislature and public television station management to aid in seeking fair, appropriate and non-discriminatory means to the laudable ends which the Ways and Means Committee has evidenced in introducing this proposal. It may be that an interim study directed toward the concern of the Committee, might satisfactorily meet the goal of the Committee, and that is, as we understand it, to aid in the economic support of public television. We would be prepared to answer any questions of the Committee.

Thank you for the courtesies extended to the Association.



A handwritten signature in cursive script, likely belonging to a representative of the CATV Association, is written over the typed text. The signature is written in dark ink and is somewhat stylized and difficult to decipher.

DENNIS SPANIOL
 REPRESENTATIVE, NINETY-FOURTH DISTRICT
 SEDGWICK COUNTY
 438 S. SOCORA
 WICHITA, KANSAS 67209
 (316) 722-2044
 ROOM 280-W, CAPITOL BLDG.
 TOPEKA, KANSAS 66612
 (913) 296-7640



TOPEKA
 HOUSE OF
 REPRESENTATIVES

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 MEMBER: ASSESSMENT AND TAXATION
 ENERGY AND NATURAL RESOURCES
 TRANSPORTATION
 JOINT COMMITTEE ON ADMINISTRATIVE
 RULES AND REGULATIONS

April 3, 1985

RE: HOUSE RESOLUTION No. 6097

As a portion of the tax reduction act of 1984, Congress declined to extend what had been a long-standing moratorium on taxation of fringe benefits. The IRS subsequently announced proposed rules dealing with the use of business aircraft for non-business purposes.

Under the preliminary guidelines issued by IRS, key employees traveling for personal reasons would have a tax liability of:

- (1) An amount equal to full coach fare on flights primarily for business.
- (2) An amount equal to approximately three times first class airline fare on flights not primarily for business.
- (3) An amount equal to the aircraft's retail charter rate on non-business related flights.

The proposed regulations are already having a marked effect on the sales of new aircraft. In the last 45 days Beech Aircraft has experienced sales totalling more than \$45 million either cancelled or delayed indefinitely as a result of the proposed IRS regulations.

I would appreciate your support on HR 6097.

DENNIS SPANIOL,
 Representative, 94th District