

Approved: February 8, 1996
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 7, 1996 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Burke, Downey, Feleciano, Gooch, Harris, Hensley, Jordan, Petty, Ranson, Reynolds, Steffes and Vidricksen.

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:
Mike Reece, Manager, AT&T
Walker Hendrix, Counsel, Citizens' Utility Ratepayer Board
Melissa Hungerford, Kansas Hospital Association

Others attending: See attached list

Upon motion by Senator Jordan, seconded by Senator Steffes, the Minutes of the February 6, 1996 meeting were unanimously approved.

SB 555: Establishing end-user support fund

Mike Reece, Manager AT&T in Kansas, advised the Committee that AT&T supported the Telecommunications Strategic Planning Committee's (TSPC) recommendation establishing the end user support fund. Mr. Reece stated there is general agreement among the providers (Southwestern Bell, local independent companies and long distance companies) on amendment to Section one which would conform the language in the bill with Chapter IX of the *Final Report of The Telecommunications Strategic Planning Committee*. The amendment proposed in Section 1, strikes the language relative to universal service. Universal service reflects the idea of affordable local telephone service for all Kansas and is not what was intended by the TSPC. The intention of TSPC was to limit the use of the proposed fund to applications for premise equipment, installation of premise equipment, the funding of administrative expenses, and the financing of telecommunications service through end users for Kansans with special needs. The second amendment addresses the area of funding. The intent of TSPC was that up to a 1% surcharge would be assessed on all intrastate telecommunication retail billed revenue. The bill as written assesses a 1% surcharge only on retail toll minutes. Attachment 1

Walker Hendrix, Counsel, Citizens' Utility Ratepayer Board (CURB), stated SB 555 contains many laudable purposes. However, from the consumer point of view, the CURB does not support a billing surcharge on telephone rates. Mr. Hendrix advised the Committee it is better for governmental units to pay for infrastructure developments through the normal budget process rather than through a surcharge on consumers telephone bills. Mr. Hendrix also stated substantial revenues will be gained from telecommunications reform and restructuring, so perhaps the telephone industry should be encouraged to make contributions to the end-user fund rather than assessing the consumer. Attachment 2

Melissa Hungerford, Kansas Hospital Association, submitted written testimony. Ms. Hungerford's testimony relates the Association's support for the bill. However, the Association has serious concerns about costs of line charges. The ongoing charges are of more concern than the initial capital outlay for the purchase, installation and training related to telemedicine equipment. Attachment 3

The Committee discussed the impact of assessing a surcharge on all telephone usage versus the need for establishing an infrastructure ensuring Kansans the ability to be active participants in the next century.

The Chair stated the hearing is continued to February 8th.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on February 7, 1996.

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for February 8, 1996.

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: February 7, 1996

NAME	REPRESENTING
DAVID SCHLOSSER	PETE MCGILL & ASSOC.
TOM DAY	KCC
Scott Richardson	SWBT
BOB GRANT	KCC
Melissa Hungerford	Ks Hospital Assn
Anne Humphrey	Ks Hospital Assn
Eva Powers	MCI
Mike Reecht	AT+T
Roger Vonfelst	Rural Telephone Service Co.
Rob Hodges	KDA
George Barbee	RTMC
Henneman	KCC
Steve Miller	Sunflower
Doug Sutter	SITA
John D. Pincus	SITA
Ougina Star	ATET
Nancy Sorenson	SWB
Bill Drexel	SWBT
Denny Koch	SWBT



Mike Reecht
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**TESTIMONY ON BEHALF OF AT&T
BEFORE THE SENATE COMMERCE COMMITTEE
FEBRUARY 6, 1996
ON SB555
MIKE REECHT**

MADAM CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS MIKE REECHT. I AM THE STATE MANAGER FOR AT&T IN KANSAS. I APPEAR BEFORE YOU TODAY TO TESTIFY ON SENATE BILL 555.

AT&T SUPPORTED THE RECOMMENDATION IN THE TSPC COMMITTEE THAT CULMINATED IN SB555, ESTABLISHING AN END USER SUPPORT FUND.

HOWEVER, WE WOULD SUGGEST SEVERAL CHANGES TO THE SB555 TO BETTER REFLECT THE INTENTION OF THE COMMITTEE. I HAVE ATTACHED A COPY OF THE BALLOON AMENDMENT THAT DOES TWO BASIC THINGS.

THE FIRST CHANGES THE LANGUAGE RELATIVE TO UNIVERSAL SERVICE. UNIVERSAL SERVICE REFLECTS THE IDEA OF AFFORDABLE LOCAL TELEPHONE SERVICE FOR ALL KANSANS. THE END USER SUPPORT FUND IS SPECIFICALLY LIMITED TO APPLICATIONS FOR PREMISE EQUIPMENT, INSTALLATION OF PREMISE EQUIPMENT, THE FUNDING OF ADMINISTRATIVE EXPENSES, AND THE FINANCING OF TELECOMMUNICATIONS SERVICE THROUGH END USERS FOR KANSANS WITH SPECIAL NEEDS.

AS YOU WILL NOTICE, I ALSO ADDED THE PHRASE "THROUGH END USERS". THE SUB-COMMITTEE DISCUSSED THE APPLICATION OF THE FUND TO END USERS AS DEFINED IN SECTION 3 OF THE BILL. WITHOUT THIS CHANGE, IT MIGHT APPEAR THAT FUNDING WOULD GO DIRECTLY TO AN INDIVIDUAL WITH SPECIAL NEEDS.

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THE SECOND SET OF CHANGES IS IN THE AREA OF FUNDING. THE INTENT OF THE COMMITTEE WAS THAT UP TO A 1% SURCHARGE WOULD BE ASSESSED ON ALL INTRASTATE TELECOMMUNICATION RETAIL BILLED REVENUES. THE LANGUAGE AS DRAFTED LIMITS FUNDING TO LONG DISTANCE TOLL USERS. IF FUNDING FOR THE END USER FUND WERE LIMITED TO TOLL BILLS ONLY, THE REQUIRED FUNDING OF \$8-10 MILLION DOLLARS ANNUALLY WOULD NOT BE REALIZED.

LONG DISTANCE REVENUES IN KANSAS AMOUNT TO APPROXIMATELY \$146 MILLION ANNUALLY, WHEREAS TOTAL TELECOMMUNICATIONS REVENUES TOTAL APPROXIMATELY \$849 MILLION ANNUALLY. TO REALIZE \$8 MILLION ANNUALLY AT A 1% SURCHARGE, THE TOTAL INDUSTRY REVENUES MUST BE ASSESSED.

THESE NUMBERS WERE TAKEN FROM THE ASSESSMENT REPORT FILED WITH THE KANSAS CORPORATION COMMISSION ON JULY 18, 1995 FOR GROSS INTRASTATE REVENUES.

SENATE BILL No. 555

By Committee on Commerce

1-30

9 AN ACT concerning telecommunications; relating to end-user support.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (a) Not later than September 1, 1996, the state corpora-
13 tion commission shall establish a telecommunications end-user support
14 fund. Expenditures from the fund shall be for the purpose of supporting
15 telecommunications applications considered necessary to realize the pro-
16 vision of universal service to all Kansans. Specifically, the fund shall fi-
17 nance premises equipment, equipment installation and associated train-
18 ing for eligible end-users and finance telecommunications services for
19 Kansans with special needs. The fund may also be used to defray admin-
20 istrative expenses associated with the end-user support board established
21 pursuant to section 2.

for

through end-users

22 (b) (1) The aggregate revenues to be credited to the fund shall be
23 recovered through a per-minute surcharge assessed to the provider on all
24 intrastate retail billed toll minutes, including 800 service billed minutes,
25 of telecommunications companies, telephone companies and wireless
26 communications service providers. The per-minute surcharge shall be
27 collected from customers using any such service provided by any tele-
28 communications company, telephone company or wireless telecommu-
29 nications provider operating within the state. For purposes of this section,
30 a call originated and terminated on wireline facilities is an intrastate toll
31 call subject to this subsection if it terminates outside of the base rate or
32 extended local service area of the telephone company serving the area
33 where the call originates. For the purposes of this subsection, an intrastate
34 retail billed toll minute for wireless service providers shall mean each
35 intrastate minute billed by a wireless communications provider for wire-
36 less originated calls that are terminated outside of the base rate or ex-
37 tended service area of that provider or are terminated by another com-
38 pany outside the exchange area of the telephone company serving the
39 area where the wireless provider's switch is located. In addition, funding
40 from appropriations and special revenue transfers may be credited to the
41 fund.

all telecommunications service

s

revenues

42 (2) Minutes for calls that would be classified as toll minutes on the
43 effective date of this legislation shall be considered toll minutes irrespec-

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1 ~~tive of any future service repricing. Where minutes cannot be measured,~~
2 ~~surrogates approved by the state corporation commission shall be used.~~

3 (3) On March 1, 1997, and annually thereafter, the administrator shall
4 calculate the surcharge needed to recover all funding and administrative
5 costs required by the end-user support fund not to exceed 1% of all
6 revenues collected from assessed intrastate retail billed toll ~~minutes~~ ——— revenues
7 in the previous calendar year and shall notify all telecommunications com-
8 panies, telephone companies and wireless communications service pro-
9 viders in the state of the ~~per-minute~~ surcharge. All such providers shall
10 be authorized to collect the surcharge in addition to any other charges
11 they are authorized to recover by regulatory agency or otherwise. No
12 more than \$50,000,000 shall be credited to the end-user support fund
13 over the five-year period of its existence.

14 Sec. 2. (a) There is hereby established within the state corporation
15 commission the end-user support board. The board shall consist of seven
16 voting members. The members shall be appointed by the governor on a
17 geographically representative basis. No more than four voting members
18 shall be a member of the same political party. The initial seven members
19 of the board shall serve a three year term, except that three members of
20 the board shall serve a term of two years. The governor shall designate
21 the term of office of each member of the first board. The successors to
22 the initial members appointed to three year terms shall be appointed to
23 a term of two years. The successors to the initial members appointed to
24 two year terms shall be appointed to three year terms. In addition to the
25 seven voting members of the board, the governor shall appoint three
26 nonvoting members. The three nonvoting members of the board shall
27 include: A representative of the state corporation commission; the division
28 of information system and communications; and Kansas information re-
29 sources council.

30 (b) The board shall advise the state corporation commission concern-
31 ing the needs of end-users. The board's duties shall include:

32 (1) Writing requests for proposals; reviewing grant, matching grant,
33 or loan proposals from prospective end-users; developing criteria for grant
34 and matching grant awards or loans; developing reporting and monitoring
35 procedures; establishing a means of informing end-users about the exis-
36 tence of the end-user support fund; and establishing other procedures
37 necessary to assist the commission in administering the fund.

38 (2) Providing information to prospective end-users in a timely man-
39 ner about requests for proposals and information about other possible
40 sources of assistance. The board will not approve or disapprove proposals.
41 Its activities shall be confined to coordination efforts, referrals and tech-
42 nical assistance.

43 (3) Organizing information on emerging services and applications.

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1 The information shall be compiled periodically in the form of an anno-
2 tated bibliography and then given to the state library to disseminate on
3 the world wide web or blue skyways to all interested parties.

4 (4) Promoting the development of telecommunications programming
5 and services that: Combine and connect in a technologically neutral man-
6 ner a wide array of equipment in networks and on consumer premises;
7 with respect to applications and software, allow consumer access to or-
8 ganized and easily understood information and invest in people who use
9 new technologies to create, construct, manage and train.

10 (5) The board will report annually to the governor, the legislature,
11 and the public the activities undertaken to accomplish the responsibilities
12 set forth in this subsection.

13 (c) The provisions of this section shall expire on June 30, 2001.

14 Sec. 3. As used in this act, "end-user" means city and county gov-
15 ernments, local law enforcement agencies, hospitals, elementary and sec-
16 ondary schools, postsecondary educational institutions, local libraries, te-
17 lecommunity centers and televillages, and nonprofit service organizations.
18 End-user does not mean any private business other than business or re-
19 search consortia engaged in research endeavors.

20 Sec. 4. The state corporation commission, after consultation with the
21 end-user support board, shall issue an order establishing procedures for
22 the allocation of funds from the telecommunications end-user support
23 fund consistent with the conditions of subsection (a) of section 1. The
24 commission shall be responsible for decisions regarding grant or loan
25 awards from the end-user support fund based on recommendations from
26 the end-user support board.

27 Sec. 5. This act shall take effect and be in force from and after its
28 publication in the statute book.

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SENATE COMMITTEE ON COMMERCE

S. B. 555

Testimony of Walker Hendrix
Consumer Counsel for the Citizens' Utility Ratepayer Board

February 7, 1996

Senate Bill 555 establishes an end-user support fund. The fund is supported by a per minute surcharge on providers for each intrastate retail billed toll minute. In turn, this surcharge will be assessed back against the customer. In five years, the fund could raise up to \$50 million. Despite its name, the fund only benefits certain end-users, namely local governmental units, law enforcement, hospitals, schools and libraries. The bill has many laudable purposes. However, from a consumer standpoint, there are certain concerns that CURB has with a fund that is supported by a billing surcharge on toll rates, even though the surcharge to be passed along to customers is no more than 1% of the intrastate toll traffic.

TAX IMPLICATIONS

Senate Bill 555 appears to be an assessment that is borne by

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Attachment 2 thru 2-4

consumers to fund infrastructure development and equipment purchases by governmental units. There are policy issues concerning whether it is appropriate for telephone ratepayers to pick up the cost of these governmental expenditures.

Rate-rebalancing is being proposed by the Telecommunications Strategic Planning Committee. This plan would shift long distance charges on to the local service rate to reduce toll and access rates, which are perceived by most telecommunications companies to be too high. The surcharge would reimpose charges to long distance rates and undermine the rate-rebalancing plan in the TSPC report. (CURB also takes issue with the rate-rebalancing proposal of the TSCP, but this is a subject for later discussion.)

CURB takes the position that it is better for governmental units to pay for infrastructure developments through the normal appropriation and budget processes. Because there are substantial revenues to be gained from telecommunications reform and restructuring, it may also make some sense to encourage the telephone industry to make contributions to fund infrastructure developments without assessing consumers.

WHAT IS TO BE FUNDED ?

The bill is unclear what infrastructure development and equipment purchases will be funded. If the goal is to fund interactive video development for schools and local governments, there are additional questions concerning the rates and charges which will be ongoing to defray subscriber monthly rates to the telecommunications carrier. For example, assuming grants are made to fund studio equipment for interactive video, there are still expenditures for intra-cluster channel termination charges of \$1,155.00 per month, linkage and inter-site rates as well as ethernet usage rates. The compounded effect of this program could cause considerable growth in governmental spending over time. Given duplication in purpose and effort, this funding is better left to the scrutiny of appropriations or other budget processes.

AFFORDABLE ?

Unfortunately, Kansas is in a downward economic cycle. Poverty levels are increasing faster in Kansas than the national average. Real median household income is declining. Telephone penetration has dropped a surprisingly 1% in 1994. Kansas has a relatively large elderly population.

Given these demographics, some concern should be given to the cost

of phone service and the impact of this surcharge. Universal Service could be impaired. Because of the funding mechanism, CURB would oppose S.B. 555 and encourage the committee to look at other proposals for infrastructure and equipment development.



Memorandum

Donald A. Wilson
President

To: Senate Committee on Commerce

From: Kansas Hospital Association

Re: Senate Bill 555

Date: February 7, 1996

The Kansas Hospital Association appreciates the opportunity to comment regarding the provisions of Senate Bill 555. This proposal would allow hospitals to apply for funds to support the purchase, installation and training related to costly telemedicine equipment.

While we support the bill, we wish to remind the committee that the costs of line charges associated with the use of telemedicine equipment are a more significant issue to our hospitals. These charges are not consistent, and often leave the smaller, mostly rural health care providers, with ongoing costs that are more onerous than the cost of the equipment itself. Neither the costs of the equipment nor the ongoing costs are considered reimbursable by health insurance companies. We are hopeful that this issue will be addressed in other legislative and regulatory efforts.

The end-user support fund is a vehicle that will help make needed health care services available in areas where access is a problem. It is for this reason that KHA encourages the committee to act on Senate Bill 555 favorably.

*Senate Commerce Committee
February 7, 1996*

Attachment 3