

Approved: January 22, 1998
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on January 21, 1998 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Barone, Brownlee, Donovan, Feleciano, Gooch, Jordan, Ranson, Steffes and Umbarger.

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:
Gary Sherrer, Lieutenant Governor/Secretary, Department of Commerce and Housing
Mary Faye LaFaver, Director, Community Development Division, Department of Commerce and Housing

Others attending: See attached list

Research staff distributed an article "Telecommunications Discounts: Financial Windfall or Fool's Gold?" pertaining to universal service discounts offered to libraries and schools in the Federal Telecommunications Act of 1996. (Attachment 1)

Upon motion by Senator Feleciano, seconded by Senator Steffes, the Minutes of the January 20, 1998 Meeting were unanimously approved.

SB 416 - Extending economic development incentives to financial institutions and insurance companies

Bob Nugent, Revisor of Statutes, stated that last year, as a part of the premium tax reform to settle with out-of-state insurance companies, the privilege tax on insurance companies was repealed. The privilege tax on insurance companies was essentially an income tax on their earnings. The privilege tax was repealed and certain adjustments were made to the premium tax. **SB 416** addresses some tax credits which were available to the insurance companies previously allowing a tax credit against the privilege tax. When the privilege tax was repealed there were a number of tax credits that were not picked up in that process. **SB 416** addresses two of the credits, the enterprise zone credit and the high performance incentive program credit. **SB 416** strikes reference to the privilege tax and inserts in lieu thereof language as follows: "*the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto*". K.S.A. 40-252 is where the premium tax is located in the statute. **SB 416** is to substitute the credits previously available against the privilege tax to now be taken against the premium tax.

Mr. Nugent stated the fiscal note occurs because the privilege tax was a small tax compared to the premium tax.

Senator Steffes stated **SB 416** is one of five recommendations resulting from the Task Force on the Insurance Industry study.

Lieutenant Governor/Secretary Gary Sherrer, Department of Commerce and Housing (DOCH), appeared in support of **SB 416**, stating passage will enable Kansas to be competitive in attracting regional insurance and financial institutions to the state.

Mary Faye LaFaver, Director, Community Services Division, DOCH, submitted two amendments to **SB 416**. The first amendment strikes language referring to the 1991 blueprint for investment in Kansas children and their families, inasmuch as the blueprint was developed by the Corporation for Change which no longer exists and the blueprint will become outdated. The proposed amendment includes those areas set forth

originally in the blueprint. The second proposed amendment sets forth the eligibility credit criteria in Chapter 79, as a tax on gross premium receipts of insurance companies. Ms. LaFaver reviewed the community service program, its funding and how the money is distributed. Ms. LaFaver stated the three areas for funding programs are: crime prevention, health care and community service. The fund is a maximum of \$5 Million.

A second amendment addresses the same problem following the repeal of the privilege tax pertaining to a tax credit for firms that make donations to community service organizations.

Bob Nugent submitted an amendment to include the tax credit for making a facility handicapped accessible. This provision is current now but must be amended to allow insurance companies to take the credit against the premium tax.

Senator Feleciano moved, seconded by Senator Steffes, to approve the amendment that substitutes language for the blueprint for children and families: designed to achieve "improved educational and social service for Kansas children and their families, in particular at risk children and families, and which are coordinated with existing service in communities". The amendment was adopted unanimously on a voice vote.

Senator Feleciano moved, seconded by Senator Steffes, to adopt an amendment to K.S.A. 79-32,196 by striking the word "net income" and inserting "gross premium receipts of insurance companies imposed pursuant to K.S.A. 40-252 and amendments thereto, striking the following "under article 28 of chapter 40 of the Kansas Statutes Annotated". The amendment was adopted unanimously on a voice vote.

Senator Feleciano moved, seconded by Senator Steffes, adoption of an amendment to provide a credit for making a facility handicapped accessible. The amendment was adopted unanimously on a voice vote.

Senator Feleciano moved, seconded by Senator Steffes that SB 416 be recommended favorable for passage as amended. The recorded vote was 10 - yeas, 1 abstention.

SB - 59 Kansas river basin economic development; creation; powers and duties

The Chair advised the Committee SB 59 was heard last session and the Committee presented a Resolution in the Senate on this matter.

Senator Steffes moved, seconded by Senator Jordan, that SB 59 be reported adversely. The voice vote was unanimous in favor of the motion.

SB - 347 Workers compensation reform

The Chair advised the Committee SB 347 raised attorney fees, provided retirement for members of the Workers Compensation Board, and provided additional enforcement authority. There were hearings held last year on SB 347 and certain provisions were included in the Workers Compensation bill (SB 140) passed.

Senator Feleciano moved, seconded by Senator Ranson that SB 347 be reported adversely. The voice vote was unanimous in favor of the motion.

HB 2479 Notification of eligibility or selection to win a prize; application of restrictions.

The Chair advised the Committee HB 2479 was heard during the 1997 Sessions of the Legislature. The Attorney General's office was to provide the Committee new material. The material has not been received. The Chair has been advised the Attorney General would have no legislation to be considered this year.

Senator Feleciano moved, seconded by Senator Barone that HB 2479 be reported adversely. The voice vote was unanimous in favor of the motion.

The Committee adjourned at 8:50 a.m.

The next meeting is scheduled for Thursday, January 22, 1998.

Lynne Holt

Telecommunications Discounts: Financial Windfall or Fool's Gold?

By Nancy M. Bolt and Phyllis M. Albritton

UNIVERSAL-SERVICE FUNDS OFFER A HUGE WINDFALL FOR LIBRARIES WILLING TO DEAL WITH THE APPLICATION HASSLES

“What the G.I. Bill was for veterans, the e-rate will be for schools and libraries in this century.” That’s how Senator Jay Rockefeller (D-W. Va.) feels about the universal service discounts offered to libraries and schools in the Telecommunications Act of 1996.

And he may be right. Never before have libraries been offered this kind of budgetary relief. Dick Akeroyd, library programs director for the Gates Library Foundation and former Connecticut State Librarian, calls the legislation “one of the best things that has come down the road from the federal government in quite some time.”

In short, a discount of 20 to 90% can make a big difference in a library’s ability to improve and expand its services. Congress, in passing the Telecommunications Act, cited the discounts for libraries and schools as being “critical to ensuring that these services are available on a universal basis. [This law] will help open new worlds of knowledge, learning and education to all Americans, rich and poor, rural and urban” (Conference Committee Report on the Telecommunications Act of 1996).

For example, the high school in rural Nucla, Colorado, with only 152 students, would have to pay more than \$1,100 a month for dedicated and reliable Internet access. Nucla’s 90% discount makes Internet service a distinct possibility that will provide access to a world of information and communication and prepare students for the technological world of tomorrow. Technological advances like these, made affordable by the e-rate, offer opportunities to all libraries and schools to better serve their patrons and students.

The library and education community greeted passage of the Telecommunications Act of 1996 with celebration and



hope (AL, Mar. 1996, p. 8–9). But the legislative victory was just the beginning of a long and difficult process to implement the program.

In compliance with the legislation, the Federal Communications Commission (FCC) convened a special body, known as the Federal-State Joint Board, to review the act’s universal service provisions and offer implementation recommendations. On May 8, 1997, the FCC unanimously approved the Joint Board’s recommendations:

- > discounts of between 20% and 90% depending on the economic status of the libraries and schools;
- > the discounts are to apply to all telecommunications services, Internet access, and internal connections, both ongoing and future purchases;
- > libraries and schools would participate in a nationwide competitive bidding process facilitated by the FCC to assure maximum competition;
- > an annual \$2.25-billion cap on spending in the program;

> maximum flexibility for libraries and schools to purchase the package of services that best meets their individual needs.

In late September the commission appointed the Universal Service Administration Company and the Schools and Libraries Corporation (SLC) to run the program (AL, Nov., p. 11–13). Both bodies have appointed strong members of the educational and library community. K. G. (Kathleen) Ouye, city librarian in San Mateo, California, was elected by her SLC peers to chair that important organization.

“This program gives libraries recognition for what we have done to date,” said Ouye. “The emphasis has typically been on the schools piece, and many industry representatives have had reticence about working with libraries based on an impression that we didn’t have the skills to utilize technology. But the reality is we haven’t had the money and have been using technology already, so this program provides us with the opportunity to send good money after good work.”

Wonderful as they are, actually obtaining the discounts is, as the old saying goes, sort of like making sausage: We will all be happy when it is over, but getting there is not the kind of thing normal people should watch closely.

The act defines libraries eligible to receive the discounts as those that are eligible for LSTA funds. Under the LSTA law, this includes academic libraries. The FCC, however, was concerned that higher-education institutions might

NANCY M. BOLT is ALA’s Reference and Date 1-21-97
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take advantage of this eligibility and claim the discount for telecommunication services going beyond academic libraries. To prevent this, the FCC ruled that only academic libraries with "completely separate" budgets from a higher-education institution are eligible to receive the discounts. Consequently, few academic libraries are in a financial arrangement that allows them to apply.

SBC Communications filed a lawsuit in July challenging the commission's implementation of the law (AL, Aug., p. 12). Subsequent to SBC's suit, other companies, including GTE and Bell Atlantic, joined the firm in its efforts to halt the program. The lawsuit included challenges to the discount program for schools and libraries, particularly the parts of the law that provide for the discounts on Internet service and internal wiring.

These issues are of concern to the petitioners because telephone companies are contributing to the universal service fund that will pay for the discounts. Generally, Internet service providers and companies providing the internal wiring do not contribute to the universal service fund; yet they are eligible to be reimbursed from it. Telephone companies feel this is unfair.

What does the lawsuit mean to libraries? In the short term, not much. The courts move at a very slow pace. First, SBC has to wait until the FCC acts on its internal petition to stop or change the program, which the commission has yet to do. Then SBC and its co-petitioners will have to convince the courts that their position is the appropriate one. Court cases can take months or years to resolve. Although there are risks involved, we believe libraries will be in better shape if they continue forward as if there were no lawsuit.

In an example of how the commission has kept the ground shifting under libraries' feet, it told libraries that any contract signed *after* November 8, 1996, and *before* the program was up and running must terminate December 31, 1998!

This sent chills throughout the library and education community. Logistically, it is cheaper to buy telecommunications services if they are purchased for longer than a year. Advanced telecommunications service contracts typically run on three- and five-year cycles. Many felt that the FCC was placing unfair and arbitrary limits on the terms of contracts libraries had to sign.

The FCC had a different view. The Telecommunications Act was an attempt to inject competition into the telecommunications marketplace, even where it hadn't existed before; the discount program for schools and libraries was no exception. As keepers of the competition, the commission was concerned that Regional Bell Operating Companies were intentionally scaring libraries and schools into signing long-term contracts so that they would not face any competition for the next couple of years.

After many libraries and schools expressed concern about this policy, the FCC agreed to reconsider its position. As of mid-November, the issue was still unresolved. But

many libraries, with ALA leading the charge, did come to the FCC on its policy.

Although the FCC issued its "final ruling" on the universal service discounts in May, by late September there were still no official application forms, nor had a deadline been set for the application forms to be submitted. In October, with the SLC board members finally in place, things began to happen. "The application process itself was the greatest concern," said SLC Chair Ouye. "We did what we felt was necessary to overcome logjams and keep the fires burning on this issue." Thanks to members' efforts, the application forms were released to libraries within a month of their appointments.

In late October the SLC fleshed out the FCC's Proposed "window" for applications. While the SLC did not finish its deliberations, a decision of whether to have a window of 60-75 days from the start of the program, during which all applications will be given equal priority, is expected shortly. After the window has closed, applications will be processed on a first-come, first-served basis.

Making mandatory plans

Another issue was the uncertainty surrounding mandatory technology plans. The commission requires that a library have an "approved" technology plan in place before it can apply for the discount program.

Most libraries did not have such technology plans. The commission provided little guidance on this issue, so states and regional authorities took on the responsibilities of helping libraries develop the plans. In Connecticut, the state library also took the initiative. "We started from virtually zero," explained Dick Akeroyd. "But we looked around and saw no one else was going to step in and get this done." In the fall of 1996, the state library sent information to all libraries on how to develop technology plans. It worked with the libraries to help them use their strategic planning as an appropriate basis for their technology plans. The state library also set up a process by which plans could be approved—the important first step toward applying for the discounts.

In the Joint Board's recommendations and in the FCC final rule, a significant amount of discussion was committed to encouraging libraries and schools to work together and with others in the community. The purpose of these alliances was to increase purchasing power *before* the discount was applied. In the short term, this kind of consortium-building makes the most sense for Internet access and inside wiring services, since they are unregulated and subject only to what the market will bear.

Recently, however, the U.S. Department of Education and the U.S. Department of Agriculture took the position that libraries and schools should have to separate out the costs and discounts for each individual building within a system and each individual member of a consortium, rather than aggregating the purchase. In most cases, this creates significantly more paperwork with little or no benefit. In addition, as Oregon State Librarian Jim Scheppke observes,

• *Survey respondents*
 • *used the same words*
 • *to describe the*
 • *attitudes of local*
 • *librarians: confused,*
 • *skeptical, impatient,*
 • *and frustrated.*

"Many libraries receive many of their telecommunications services from a city or county 'general services' department. This will make it more difficult for them to sort out their discounts." This is another issue that remains to be resolved.

As if these larger policy issues weren't enough to keep the library and education community busy, practical issues drew attention as well. A recent survey of state library agencies identified problems faced by local libraries in applying for the discounts. The difficulties were often keyed to the size of the library: Larger libraries might find the application process time-consuming, but they usually had staff who would eventually sort it out. Smaller libraries frequently did not have such resources and relied heavily on the state and regional libraries for assistance.

Respondents to the state library agency survey used the same words to describe the attitudes of local librarians: confused, skeptical, impatient, and frustrated. When asked what problems existed at the local level, state librarians responded with a litany:

- > minimal telecommunications infrastructure in rural areas;
- > little competition among telephone companies;
- > lack of technical expertise at the local level;
- > confusing and unresolved guidelines about eligibility, particularly for consortia;
- > the difficulty of getting technology plans in place quickly;
- > confusion about the required bidding process.

Despite all these challenges, the depth of the discounts can make telecommunications service—our modern-day gateway to the world of information and communication—available where it has never been before.

Judy Miller from rural Parachute, Colorado, writes, "I can testify that the e-rate discount program can have a tremendous impact on our district." By combining the potential money saved through the discount with a grant from another source, all the schools in her district will be wired. "This means no one will have to do without the Internet capabilities for the year. This also motivated the school board to authorize \$67,000 of computer equipment.... I don't think this would be happening without the universal service fund."

Whom do you call?

So if you feel your library would benefit by freeing up 20% to 90% of its technology budget, despite the headaches involved, where do you go for help?

Throughout the process, the American Library Association has been leading the charge. ALA has reached into the library community for "real life" examples to bring to the attention of the FCC and the SLC. It has commented on every policy issue that has appeared before these bodies. It

has also tried to get the word out to all libraries so that everyone will know what needs to happen if a library is to qualify and benefit from the discounts. The ALA Web site (www.ala.org/oitp/univserv.html) provides timely discussions of where things stand in the process. And ALA continues to contribute to the broader Education and Library Networks Coalition (EdLiNC).

Second, the SLC has a librarian at the helm—K. G. Ouye. "I feel the awesome responsibility, both in my job and as a representative to industry, community, and at the state level, to represent libraries well," said Ouye. "Librarians' lives are based on a commitment to sharing, whether it is books or knowledge, and that sharing should include our opinions and interests. I welcome comments and thought from my colleagues during this process."

LIBRARY TELECOMMUNICATION WEB SITES

ALA	www.ala.org/oitp/univserv.html
Alaska	www.educ.state.ak.us/lam/library/dev/usf.html
Arizona	www.dlapr.lib.az.us
Colorado	www.aclin.org/webtele/webtele.htm
Iowa	www.silo.lib.ia.us/teleco.html
Louisiana	smt.state.lib.la.us/statelib.htm
Michigan	www.merit.edu/k12.michigan/usf/action/lib.html
Nebraska	www.nlc.state.ne.us/nsf/universal.html
New Hampshire	www.state.nh.us/telecom
New Jersey	www.dsls.state.nj.us/erate/erate.htm
New York	www.nysed.gov
North Carolina	www.dcr.state.nc.us/hottopic/uniserv/uniserv.htm
Ohio	winslo.ohio.gov/erate.html
Oregon	www.osl.state.or.us/libdev/erate.html
Utah	www.uen.org/usf/ (in cooperation with the Utah Education Network)
Texas	www.tsl.state.tx/LD/USF
Washington	www.wa.gov/dis/discountinfo/
Wisconsin	www.dpi.state.wi.us/dlcl/pld/erate.html
FCC	www.fcc.gov/ccb/universal_service/welcome.html

According to the survey, state library agencies have tried to fill the information vacuum. Many agencies have designated someone to assist libraries in applying for the discount program, and in some cases the agency has even applied on behalf of local libraries. The assistance has been wide-ranging and comprehensive, including one-on-one consulting, workshops, sample application forms, and Web pages dedicated to the discount program (see sidebar). In some states, library cooperatives or regional systems are providing assistance as well.

So, considering the problems, is it worth the effort? In Colorado, many libraries said it was, demonstrated by the number of technology plans that have been approved. For example, as of early October the Colorado State Library had approved 90 technology plans, which represented 72% of the state's libraries. Most libraries understood that this was a new process and that they had nothing to lose but much to gain in applying for the discounts.

Of course, as Dick Akeroyd reminds us, "We need to do as good a job as we can this year. There are lots of eyes watching and not all are pro-universal service fund. We want to assure that the program continues because this is the best opportunity available from the federal government in a long time. If we do it right, we can really benefit." ❖

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