

Approved: 3/3/00
Date

MINUTES OF THE HOUSE TAXATION COMMITTEE.

The meeting was called to order by Chairperson Wagle at 9:00 a.m. on February 21, 2000, in Room 519-S of the Capitol.

All members were present except: Rep. Howell - excused
Rep. Wilk - excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Sicilian, Department of Revenue
Ann Deitcher, Committee Secretary
Edith Beaty, Taxation Secretary

Conferees appearing before the committee: Mark Beshears, Sprint
Michael Reece, AT&T
Robert Fasl, Southwestern Bell
Jim Ludwig, Western Resources

HB 2589 - income tax credit for property tax paid by telecommunications companies

The Chair introduced Mark Beshears of Sprint who spoke as a proponent to **HB 2589**. (Attachment 1).

Representative Sharp asked Mr. Beshears what the category was of the others who provide telecommunication services if they're not being taxed the same way as Sprint. He said they were treated as commercial and industrial property tax owners. They're classified at 25% – they're not classified as a public utility.

Michael Reece representing AT&T, spoke next to the Committee in support of **HB 2589**. (Attachment 2).

Chairperson Wagle suggested to the Committee that they examine the figures in paragraph 3 on page 2.

Appearing next as a proponent of **HB 2589** was Robert Fasl, Director of Property Tax for Southwestern Bell in Kansas. (Attachment 3).

Jim Ludwig of Western Resources spoke to the Committee in favor of the passage of **HB 2589**. (Attachment 4). He offered an amendment (attached) to **HB 2589** that would extend the income tax credits to public utilities for any new utility property, i.e., property acquired, built or put in service after January 1, 2000.

The Chair said that she would like to put **HB 2589** in a subcommittee that would really be willing to look at it in depth and work it. She asked for those who would be interested in serving on this subcommittee to let her know.

Representative Edmonds made a motion to adopt a bill for non-profit humane societies. It was seconded by Representative Tomlinson and carried on a voice vote.

The meeting was adjourned at 10:00 a.m. The next meeting is scheduled for Tuesday, February 22, 2000.



Mark Beshears
Assistant Vice President, State & Local Tax

6500 Sprint Parkway
Overland Park, KS 66251
Mailstop KSOPHL0512-5A903
Voice 913 315 5833
Fax 913 315 0324
mark.beshears@mail.sprint.com

February 21, 2000

The Honorable Susan Wagle, Chairperson
House Assessment and Taxation Committee

Re: House Bill 2589 - Tax Credit for Telecommunication Companies

Testimony on behalf of Sprint Corporation

Topeka, Kansas

February 21, 2000

I am Mark Beshears, AVP of State and Local Tax for Sprint Corporation located in Overland Park, Kansas. I am pleased to be here today to provide input and ask for your support for legislation which authorizes certain income tax credits for telecommunication companies. The creation of a sound, fair and equitable tax system is of paramount importance to Sprint and the economy of Kansas. The current policy in Kansas of taxing some telecommunication companies at 33% and other companies at 25% is inherently discriminatory and creates an economic disincentive for investing in Kansas. In developing tax policy in Kansas and in other states, there must be a consistent vision to create a fair and equitable system of taxation that does not discriminate against one type of telecommunication provider over another.

Kansas has a property tax system for state assessed telecommunication companies based on the old concept that rate regulated companies should bear a higher property tax burden as a monopoly than a typical commercial business. In the past, providers of telecommunications were public utilities with no competition and little need for tax incentives. However, the recent deregulation of the telecommunications industry has dramatically changed the industry's competitive landscape. Deregulation has brought about a constant increase in demand by consumers and business for more affordable, advanced and accessible telecommunications. This trend will continue in Kansas and nationwide as our economy becomes more service based and increases its

House Taxation
Date 2/21/00
Attachment # 1-1

reliance on telecommunications. As our industry grows, the state's current tax structure needs to be updated to keep pace with the industry's rapidly advancing technology, competition and other changes attributable to deregulation.

Today, traditional telecommunication providers such as Sprint, face new competition from cable companies, resellers, wireless and paging companies. These new competitors are able to provide telecommunication services in Kansas and are assessed at the lower 25% assessment rate and thus, receive an economic advantage.

The proposed statutory language is very simple. It creates a refundable income tax credit equal to the difference between the property tax paid at the 33% classification rate versus property tax paid at the 25% classification rate. Because this is a state income tax credit, the local tax jurisdictions continue to receive the same tax revenue. The fiscal impact of the legislation is reduced because of the phase-in of the credit. The credit will be allowed in full beginning in tax year 2000 only for all property acquired on and after January 1, 2000. The credit will be phased in over 4 years beginning in tax year 2003 for all property acquired prior to January 1, 2000.

At Sprint, we are creating a product line of seamless services that we refer to as "One Sprint". This concept will allow our customers to choose from a wide range of services bundled together as an integrated product. These services include long distance, wireless, paging, Internet and local telephone service. We believe these services should be valued, assessed and taxed in a similar manner and at a similar rate. I respectfully request your support for the proposed legislation and ask that you recommend it favorable for passage.

If you have any questions, I would be happy to address them at this time.

MIKE REECHT

GOVERNMENT AFFAIRS CONSULTANT

SMOOT & ASSOCIATES
800 SW JACKSON, SUITE 808
TOPEKA, KANSAS 66612
(785) 233-0016
(785) 234-3687 (fax)

10200 STATE LINE ROAD
SUITE 230
LEAWOOD, KANSAS 66206
(913) 649-6836

Testimony of Mike Reecht
On Behalf of AT&T
Regarding HB 2589
Before the House Taxation Committee

February 21, 2000

Madam Chairperson and members of the Committee:

My name is Mike Reecht representing AT&T. I appear before you today on a matter of significant importance to the telecommunications industry and economic development in our state. Property tax is a critical factor in the deployment of telephone infrastructure in the state. Kansas has a discriminatory tax treatment policy relative to Telecommunications Public Utilities and creates an economic disincentive to invest in the state.

Historically, consumers really had no choice from whom they received their telephone service. AT&T provided all of the long distance, while Southwestern Bell, Sprint or one of the smaller rural companies provided local service. As a result, the legislature authorized assessing the property of these franchised monopolies at a higher rate than residential or commercial business property. As you know, residential property is assessed at 11 1/2 percent and commercial business property is assessed at a rate of 25%, while telecommunications public utilities are assessed at 33%. In addition, utilities are assessed on a statewide basis (state assessed), where other categories are assessed at the local level (locally assessed).

Previous proposals presented to the legislature would have reduced the assessment level for a telecommunications public utility from 33% to 25%, the same level as general business property. On that basis, local units of government would have been impacted differently based on the amount of telephone investment in that county. This would have caused some counties to incur a significant revenue loss.

The legislation, proposed in HB 2589, would revise the methodology to minimize the impact on any individual local unit. Under this proposal, the differential in property tax paid at 33% versus 25% would be treated as an income tax credit to the telecommunications company's income tax liability.

The bill would differentiate a telecommunication public utility's property into two categories. First, any new property that is acquired after January 1, 2000 will receive an income tax credit equal to the difference between the property tax paid at the 33% classification rate and the property tax that would have been paid at the 25% rate. Secondly, property that was on the company's books prior to January 1, 2000 will be entitled to an income tax credit phased in at 25% per year over a four-year period beginning in tax year 2003.

As an example, for tax year 2003 if the property on the company's books prior to January 1, 2000 was valued at \$100,000, property tax would be assessed on \$33,000 and remitted to the proper local taxing jurisdiction. However, the company would be entitled to an income tax credit in taxable year 2003 of 25% of the difference between what it paid at 33% and what would have been paid at a 25% assessment rate. In tax year 2004, the credit would be 50% of the difference. In 2005, the credit would equal 75% and in year 2006, the credit would be 100%.

House Taxation

Date 2/21/00

Attachment # 2-1

The reasons the issue is of critical importance to Kansas are fundamental. The industry has become competitive. The industry is no longer made up of franchised monopoly territories. The Federal Telecommunications Act of 1996 and the Kansas Act of the same year changed the environment by encouraging more competition in the already competitive long distance market and opening competition in the local market. Consumers are no longer tied to one long distance company, and many are now able to pick another local provider. Cellular service is a competitive alternative for landline service. **Landline equipment is assessed at 33%, while cellular investment is assessed at 25%. This is a clearly an example of discrimination in Kansas tax policy.**

Second, changes in technology have blurred the classic definition of a telephone provider. AT&T has announced its intention to enter the local telephone market by utilizing cable facilities that are locally assessed at 25%, as well as by utilizing its existing investment which is assessed at the higher 33%. **This would require AT&T to account for its property at two different rates and assessed by two different jurisdictions.**

Additionally, current technology permits placement of telephone switching equipment remotely from the customer that the equipment serves. In making its decisions on where to place new switching equipment, the level of property tax will be a prominent factor. Kansas' effective property tax rate for telecommunications public utilities is 3.24% which puts the state at a significant disadvantage relative to its surrounding states of Missouri (2.05%), Nebraska (2.10%), Colorado (2.40%) and Oklahoma (1.9%). Kansas needs to insure that its tax policy is keeping pace with ever-changing technology in order to attract business investment and related jobs to the state. **If the state tax laws do not recognize the impact of new technology, it will prove to be a disincentive to new investment throughout Kansas, particularly in the rural areas.**

Finally, an advanced telecommunications infrastructure will be crucial if Kansas business and government hope to meet the economic and social challenges of the information age. Telecommunications networks can deliver high speed far-reaching critical services that are more efficient, effective and equitable. Digital fiber optics technology today ties public school classrooms to college campuses. Urban hospitals are able to reach into rural areas with continuing education for health care professionals. Telecommunications is at the heart of this world of high-speed technology. **The state's tax policies must be modernized to ensure that this new technology is deployed sooner rather than later.**

The State must recognize the importance of this issue in keeping Kansas on the cutting edge of equipment and infrastructure necessary to be a part of the information age. Tax policy must recognize the emergence of new technology, and be set to encourage ongoing investment.

We request your support for HB 2589 on this extremely important tax policy consideration.



Robert J. Fasl
Director-Property Taxes

SBC Communications Inc.
825 S.E. Quincy
Room 800
Topeka, Kansas 66612-1189
Phone 785 276-8205
Fax 785 276-5748
Email: rf4695@ksmail.sbc.com

**Testimony on behalf of Southwestern Bell Telephone Company
Before the House Taxation Committee
Presented by Robert Fasl
February 21, 2000**

Representative Wagle, members of the Committee, good morning.

My name is Robert Fasl. I am the Director of Property Tax for Southwestern Bell in Kansas.

My testimony today is in support of House Bill 2589 and will focus upon how competition in the telecommunications market should result in legislation which mitigates the burdensome *public utility* assessment of telecommunications real and personal property valuation in Kansas.

Deregulation has dramatically changed the competitive landscape of the telecommunications industry. In the past, a telecommunications company, as a public utility, charged the cost of service directly to customers. As a regulated monopoly, a telecommunications company did not operate in a competitive environment. Accordingly, attention given to tax expense was not a high priority. However, with competition today from resellers, cable companies and others, every telecommunications company now operates with a keen focus upon the financial impact of its overall tax liability.

Since early 1996, competition has existed in the local telecommunications market in Kansas. An example of competition is the emergence of the Competitive Local Exchange Carrier, known within the telecommunications industry by acronym CLEC. To date, 112 entities have been certified by the Kansas Corporation Commission, 58 have approved tariffs and have executed an interconnection or resale agreement with Southwestern Bell, and 32 are actively conducting business in Kansas. Additionally, Southwestern Bell is currently negotiating interconnection or resale agreements with 93 other entities.

Since competition was introduced into the local telecommunications market in Kansas, Southwestern Bell has experienced a loss of approximately 109,000 access lines. An additional 57,000 access lines are now served by facilities-based CLECs. Furthermore, CLECs are currently serving customers in 129 of the 134 local exchanges served by Southwestern Bell in Kansas, which represents 96% of the company's total operating territory.



To illustrate the competitive local telecommunications market in Kansas, attached to your copy of my testimony are pages 5 and 6 from the current Southwestern Bell Topeka and Vicinity Telephone Directory. These pages, titled Local Service Alternatives, provide contact information for 13 CLECs operating in the Topeka market. These CLECs offer either residential and/or business service. Southwestern Bell directories throughout Kansas provide similar CLEC contact information.

Another example of competition in Kansas is **local toll calling**. A telephone call between Topeka and Lawrence is a competitive telecommunications market in Kansas. Accordingly, Southwestern Bell competes in not one, but two, telecommunications markets in Kansas: local and local toll calling.

In Kansas, most competitive businesses are assessed at 25% of value. Despite the competitive telecommunications market that Southwestern Bell now operates in, the company is still assessed as a *public utility* at 33% of value. The assessment of Southwestern Bell's real and personal property at the *public utility* 33% rate does not reflect the competition in the Kansas telecommunications market but rather a continuation of the perception that Southwestern Bell operates as a regulated monopoly.

After almost 4 years of competition in the telecommunications market in Kansas, Southwestern Bell's real and personal property is currently assessed higher than other businesses in direct competition with each other. Given the significant changes in the competitive telecommunications environment, this significantly more burdensome property valuation assessment of Southwestern Bell should be mitigated by the income tax credit proposed by House Bill 2589.

Telecommunications is an important and vital segment of the Kansas economy. Every Kansas citizen and all industry within the state rely upon telecommunications. Dependable and efficient telecommunications systems are critical to the future economic growth of Kansas.

On behalf of Southwestern Bell Telephone Company, I thank you Madame Chair and each member of the Committee for this opportunity to present my testimony. I respectfully request each of you to support House Bill 2589 which mitigates the discrimination in the assessment of property values as competition in the Kansas telecommunications market has become a reality.


Local Service Alternatives

You now have a choice of local telephone service providers. At the time this directory was published, the following companies, in addition to Southwestern Bell, offer local service in the Topeka Area and requested that their listings appear in the Southwestern Bell directory.

Detailed information about the availability of local service from companies other than Southwestern Bell may be obtained directly from these companies.

<p>BasicPhone</p> <p>Business Office: 1-800-503-3663 Business Services: 1-800-503-3663 Residence Services: 1-800-503-3663 Repair: 1-800-503-3663</p>	<p>Burch telecom</p> <p>Business Office Business Service 1-888-772-4724 Residence Service 1-888-772-4724 RepairService 1-888-772-4724</p>
<p>BTC BarTel Communications, Inc.</p> <p>Residential Services Customer Service 1-800-417-5500 Repair Service 1-888-490-0055 Corporate Offices 1-888-742-0055</p>	<p>DIALTONE USA "YOUR BEST SERVICE CONNECTION TO THE WORLD"</p> <p>Business Services 1-877-663-8663 Residence Services 1-877-663-8663</p>
<p>FEIST Long Distance</p> <p>Business Office Business Services 1-800-783-9702 Residence Services 1-800-783-9702 Repair Services 1-800-783-9702</p>	<p>frontier COMMUNICATIONS</p> <p>Business Office Business 913-722-0055 Customer Service 1-800-414-1973</p>
<p>LOGIX COMMUNICATIONS</p> <p>Business Office Customer Service 1-888-391-8700 Repair Service 1-888-391-8705 Sales Department 1-888-391-8710</p>	<p>MaxCom</p> <p>Business Office Business Services 1-800-888-3157</p>

Local Service Alternatives

<p>Max-Tel Communications, Inc.</p> <p>Residential Services Business Office 817-427-2149 Customer Service 1-800-583-2289 Repairs 1-800-583-2289</p>	 <p>Business Office Business Services 1-800-555-1414 Residence 1-800-477-1992 Repair Services 1-800-909-6939</p>
<p><small>Inc. Incorporated</small> </p> <p>Business Office Residential 1-800-696-8079 Business 1-800-696-8079 Service and Repair 1-800-454-9685</p>	<p>1-800-RECONEX <i>Because Everybody Needs A Place.</i></p> <p>Business Office New Sales 1-800-732-6639 Customer Service 1-800-275-8223</p>
<p>Universal Telephone</p> <p>Business Office Residential Services 1-888-522-5224 Repair Service 1-888-522-5224</p>	

Testimony
before the
HOUSE TAX COMMITTEE

by
Wayne Kitchen, Vice President, Regulatory/Environmental
Western Resources
February 21, 2000

Chair Wagle and members of the Committee:

Western Resources believes HB 2589 properly acknowledges trends toward greater competition in the telecommunications business. Although telecommunications deregulation started earlier and is further along, the electric utility business is becoming more competitive as well. The property tax burden these industries bear should become more and more like that borne by their competitors.

HB 2589 would provide income tax credits to telecommunications companies equal to the difference between the 25 percent commercial and industrial assessment rate and the 33 percent assessment rate for public utilities. New telecommunications property would receive the income tax credits beginning January 1, 2000. Credits would be phased in for existing property over four years, beginning in 2002.

Western Resources supports amending HB 2589 to extend the income tax credits to public utilities for any *new* utility property, i.e., property acquired, built or put in service after January 1, 2000. Our opposed amendment is attached to my testimony.

Western Resources *is not* seeking to phase in tax credits for *existing* utility property. At the time retail wheeling is implemented in Kansas, it would then be appropriate to extend the income tax credits for the rest of utility property.

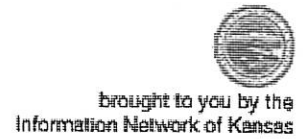
We believe our amendment is a reasonable first step in light of competitive developments in the electric industry. Because we are also mindful of concerns about erosion of tax revenues, we are asking for tax credits only for new property, not existing property. A 1999 interim committee on tax issues recommended the legislature consider whether treatment similar to the provisions of this bill should be provided to electric utilities. The interim committee said and I quote "The Committee recommends that the standing tax committees seriously consider amendments which would authorize income tax credits similar to those provided in subsection (a) for new property purchased by electric generation facilities." Our amendment accomplishes the interim committee's recommendations without reducing current property tax revenues.

We urge the committee to support HB 2589 with our amendment.

House Taxation
Date 2/21/00
Attachment # 4-1

Full Text of Bills

Kansas Legislative Services



[INK Home](#) > [Government](#) > [Legislative](#) > [Full Text of Bills](#) > [House Bill No. 2589](#)

Session of 1999

HOUSE BILL No. 2589

By Special Committee on Assessment and Taxation

12-16

10 AN ACT relating to income taxation; authorizing credits for property tax
11 paid by certain telecommunications companies. and public utility

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) For all taxable years commencing after December 31,
15 1999, and with respect to property acquired on and after January 1, 2000,
16 there shall be allowed as a credit against the tax liability imposed by the , constructed or
placed in service
17 Kansas income tax act of a telecommunications company, as defined in
18 K.S.A. 79-3271 and amendments thereto, an amount equal to the differ- or public utility
19 ence between the property tax levied and paid on property assessed at
20 the 33% assessment rate and the property tax which would be levied and
21 paid on such property if assessed at a 25% assessment rate.

22 (b) For all taxable years commencing after December 31, 2002, and
23 with respect to property acquired prior to January 1, 2000, there shall be
24 allowed as a credit against the tax liability imposed by the Kansas income
25 tax act of a telecommunications company, as defined in K.S.A. 79-3271
26 and amendments thereto, an amount equal to the difference between the
27 property tax levied and paid on property assessed at the 33% assessment
28 rate and the property tax which would be levied and paid on such property
29 if assessed at a 25% assessment rate, except that, for taxable year 2003,
30 the credit shall be equal to 25% of such amount, for taxable year 2004,
31 the credit shall be equal to 50% of such amount, for taxable year 2005,
32 the credit shall be equal to 75% of such amount and for taxable year 2006,
33 and all such taxable years thereafter, the credit shall be equal to 100% of
34 such amount.

35 (c) If the amount of the tax credit determined under subsections (a)
36 and (b) exceeds the tax liability for the telecommunications company for or public utility
37 any taxable year, the amount thereof which exceeds such tax liability shall
38 be refunded to the telecommunications company. If the telecommuni- or public utility
39 cations company is a corporation having an election in effect under sub-
40 chapter S of the federal internal revenue code, a partnership or a limited or public utility
41 liability company, the credit provided by this section shall be claimed by
42 the shareholders of such corporation, the partners of such partnership or
43 the members of such limited liability company in the same manner as

4-2

1 such shareholders, partners or members account for their proportionate
2 shares of income or loss of the corporation, partnership or limited liability
3 company.

4 (d) As used in this section, the term "acquired" shall not include the
5 transfer of property pursuant to an exchange for stock securities, or the
6 transfer of assets of one business entity to another due to a merger or
7 other consolidation.

8 Sec. 2. This act shall take effect and be in force from and after its
9 publication in the statute book.
