

Approved April 4, 2002
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Vice Chairman Huff at 9:02 a.m. on March 27, 2002 in Room 519-S of the Capitol.

All members were present except:

- Representative Cook, excused
- Representative Edmonds, excused
- Representative Flora, excused
- Representative Gatewood, excused
- Representative Hutchins, excused
- Representative Mays, excused
- Representative Palmer, excused
- Representative Powers, excused
- Representative Tafanelli, excused
- Representative Vickery, excused
- Representative Wilson, excused

Committee staff present:

- Chris Courtwright, Legislative Research Department
- April Holman, Legislative Research Department
- Don Hayward, Revisor
- Winnie Crapson, Secretary

Conferrees appearing before the Committee:

- Mark Beshears, Sprint
- Mike Reece, A T & T

Written Testimony: Howard Segermark, International Prepaid Communications Association

Others Attending: See attached list.

Hearing was opened on

SB 372 - Sourcing of mobile telecommunications services for sales tax purposes.

Mark Beshears presented testimony in support of **SB 372 (Attachment #1)** on behalf of Sprint and was also appearing on behalf of Cingular and Verizon. Mr. Beshears testified that the Federal Mobile Telecommunications Sourcing Act (MTSA) passed by Congress in July, 2000, was the by-product of nearly four years of efforts between industry and government representatives, including the National Governor's Association, National League of Cities, Federation of Tax Administrators and Multi-State Tax Commission. Its provisions become effective August 1, 2002. To ensure that state statutory language is in conformity with the provisions in the controlling federal law, the Kansas statutory tax provisions must be amended.

The federal legislation provides that tax revenues from sales of wireless telecommunications services will be sourced to the customer's place of primary use, the residential or business street address of the customer, regardless of the state where the calls originate, terminate or pass through. It does not alter in any way the tax base for existing state and local tax provisions but clarifies how tax will be sourced. Mr. Beshears provided a report on the status of state conformity bills with reference to MTSA which indicated states where laws had been enacted, introduced and pending, not introduced, and where a bill was vetoed.

In response to a question, Mr. Beshears said that without the bill the protocol in the federal legislation is self-enacting and becomes the law in Kansas.

CONTINUATION SHEET

Revisor Hayward explained that it would allow the state to provide mechanisms to enforce the federal mandate and establish rules. Lines 24-26 are important in establishing methodology and gives the Secretary of Revenue authorization to perform any act under federal law to implement the provisions of that federal law.

Hearing was closed on **SB 372**.

Hearing was opened on

SB 472 - Sales taxation of prepaid telephone calls.

Mike Reeht presented testimony in support of **SB 472** on behalf of AT&T (Attachment #2). He said that in 1998 the legislature passed a law that provided that these cards are taxed where purchased. At that time the only cards available were measured in units of time and those prepaid minutes were specified in the law. Cards are now being marketed by dollar amount and technically there is a question whether dollar value cards are covered by our law. Changes in **SB 472** would strike any specific reference to cards measured in minutes and make it applicable to all cards.

Mr. Reeht also presented written testimony in support of **SB 472** by Howard Segermark on behalf of the International Prepaid Communications Association (IPCA) (Attachment #3). IPCA represents the producers, distributors, and suppliers of the prepaid telecom industry.

Mark Beshears provided written testimony in support of **SB 472** on behalf of Sprint (Attachment #4).

Hearing on **SB 472** was closed.

Meeting adjourned at 9:25 a.m. Next meeting is March 28.

GUEST LIST

DATE Mar. 27, 2002

NAME	REPRESENTING
George Petersen	KTN
Elizabeth Schelcher	Federico Consulting
Deann Williams	K M CA
Christi Stewart	K M CA
Larry R Baer	LK M
Jim Yonally	Verizon Wireless
Nelson Krueger	Western Wireless
Mike Leecht	AT&T
Bill Yauk	KS Assn of REALTORS
Tom Bruno	Cingular Wireless
Gunn Durkes	DOB
Karl Peterson	NS Taxpayers Metheek



Mark Beshears
Assistant Vice President

State & Local Tax
6500 Sprint Parkway
Overland Park, KS 66251
Mailstop KSOPHL0512

MEMORANDUM

TO: The Honorable John Edmonds, Chairperson
House Committee on Assessment and Taxation

FROM: Mark Beshears, Assistant Vice-President
State and Local Tax, Sprint

DATE: March 25, 2002

RE: Senate Bill No. 372-Federal Mobile Telecommunication Sourcing
Act

I am Mark Beshears, Vice-President of State and Local Tax for Sprint Corporation located in Overland Park, Kansas. I am appearing on behalf of Sprint PCS, our wireless telecommunications company. I am pleased to be here today to ask for your support for Senate Bill No. 372 which implements the Federal Mobile Telecommunications Sourcing Act ("MTSA") passed by Congress in July, 2000.

The MTSA was the by-product of nearly four years of efforts between industry and government representatives. Representatives of the National Governor's Association, National League of Cities, Federation of Tax Administrators and Multi-State Tax Commission all testified in favor of this legislation. The provisions of the MTSA become effective on August 1, 2002. Therefore, the Kansas statutory tax provisions must be amended to insure the state statutory language is in conformity with the provisions in the controlling federal law.

The MTSA is a model of simplification. It insures the taxation of wireless telecommunications in a fair and efficient manner by providing a uniform method of sourcing tax revenues from the sales of mobile transactions thereby avoiding multiple taxation of a customer's purchase of wireless telecommunications services.

The federal legislation provides that tax revenues from sales of wireless telecommunications services will be sourced to the customer's place of primary use - the residential or business street address of the customer, regardless of the state where the individual's calls originate, terminate, or pass through. The MTSA only clarifies how tax revenues will be sourced - it does not alter in anyway the tax base for existing state and local tax provisions.

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Attach. No. 1
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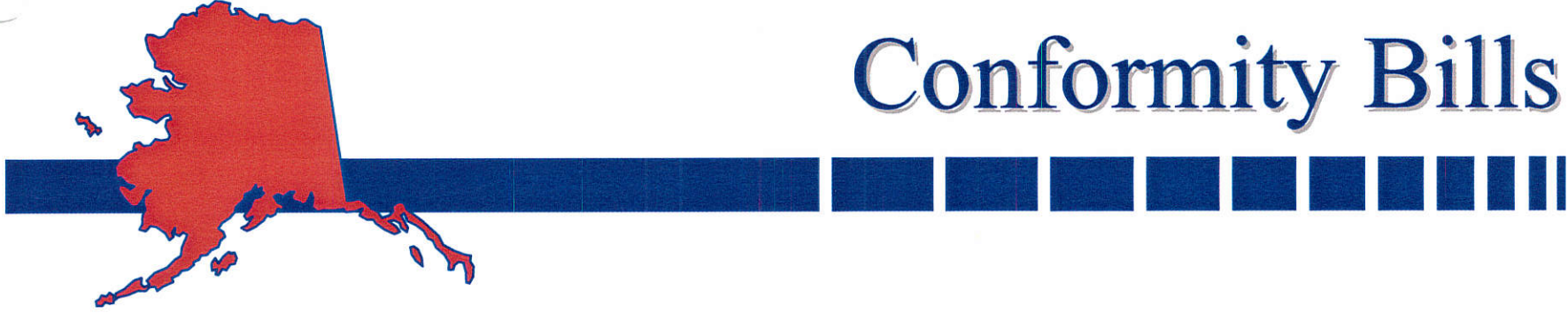
We believe the federal legislation is a win-win situation for both industry and government. Industry supports the federal legislation because it prevents multiple taxation, achieves administrative simplicity and cost savings in the billing process, avoids expensive audit and litigation exposure when multiple states assert jurisdiction. State and local governments support the legislation because it prevents "nowhere taxation" and brings administrative simplicity and cost savings to tax administration.

I urge the Committee's support for Senate Bill No. 372. The telecommunications industry commits to work with Committee staff and the Kansas Department of Revenue to implement any legislation which will effectuate the purposes of the federal law by the August, 2002 deadline.

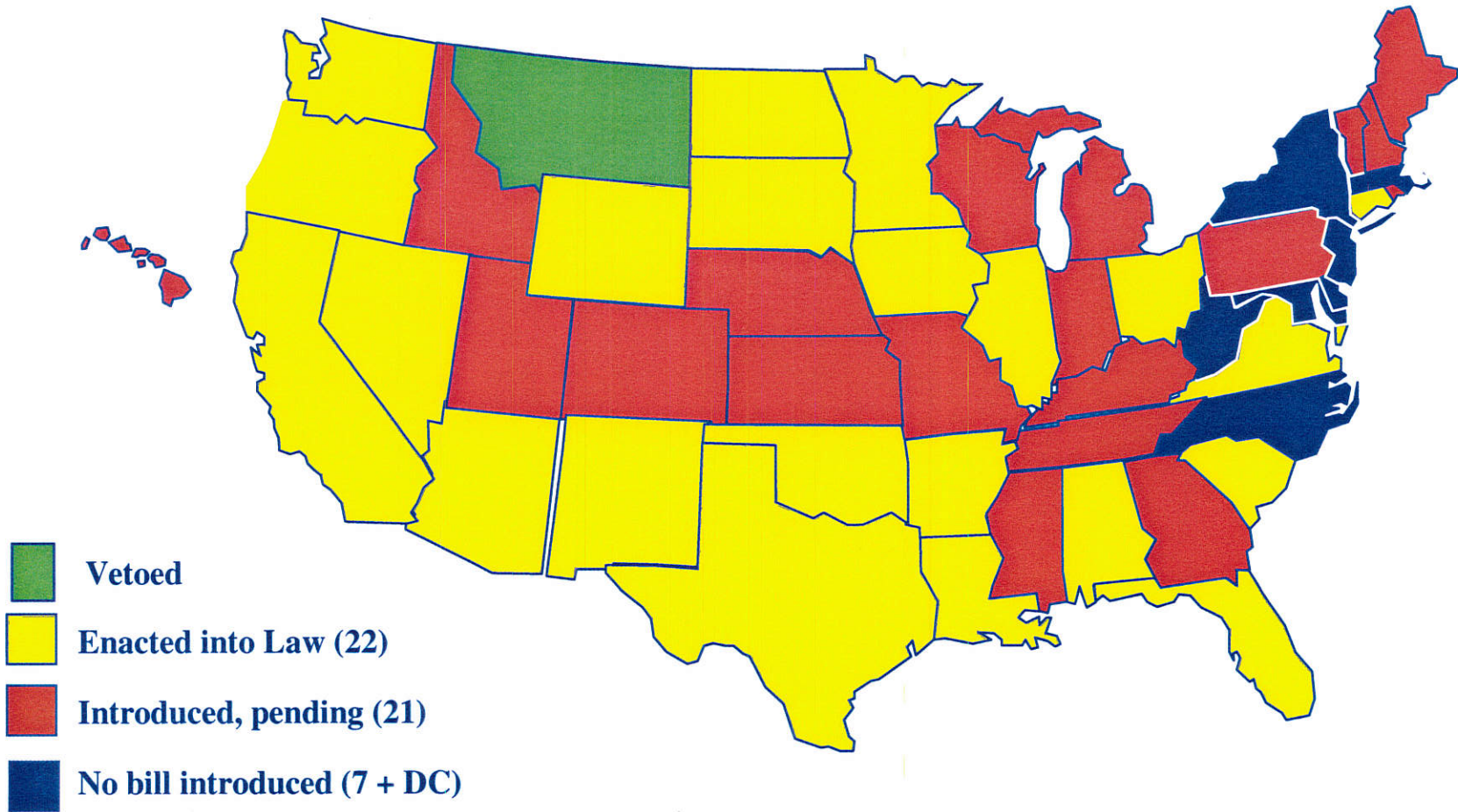
Thank you for the opportunity to speak in support of this proposal. I would be happy to respond to any questions that you might have.

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Status of MTSA Conformity Bills



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MIKE REECHT

GOVERNMENT AFFAIRS CONSULTANT

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Testimony on Behalf of AT&T Before the House Taxation Committee Regarding SB 472

March 27, 2002

Mr. Chairman and Members of the Committee:

My name is Mike Reeht and I appear before you today on behalf of AT&T in support of SB 472 regarding the application of sales tax to the sale of Prepaid Calling Cards.

Most of you are familiar with the prepaid calling card. You can purchase them at most convenience stores, discount stores, gas stations, and even the Post Office. The cards sell for a variety of prices and at times have restrictions regarding the use of the card. Some cards have expiration dates. The card works on the basis that a customer pays in advance for a certain amount of phone time and can use it at their convenience.

In 1998 the Kansas Legislature passed legislation that changed the method of taxation on these cards from a usage based system to a point of sale based system. At that time cards were sold in minutes or other units of time measurements. The legislation passed at that time reflected the current marketing practices of the prepaid card.

Marketing of these cards is changing. Cards are no longer marketed or sold exclusively with the designation of time, but with a designation of value. As an example, Sams Club sells cards in increment of 200, 500, or 1000 minutes as stated on the card. But cards are now also being marketed on the basis of monetary value. For instance, you can purchase a card for \$50.00. The minutes associated with the value of the card may vary depending on the calling and called locations.

The intent of the legislation as it was proposed by the industry in 1998 was to tax the prepaid calling card at the point of sale. The phrase of "with the prepaid value measured in minutes or other time units" was included because that was the only type of card being issued at that time. AT&T is supporting the change to the language to insure that all prepaid calling cards are taxed consistently at the point of sale. Currently cards sold based on a monetary value may not be technically covered by the existing statute.

These changes have been covered with the Department of Revenue and it is my understanding they have no problems with the proposal.

I urge your favorable consideration of changes proposed in KSA 79-3603 (b) and (u) as reflected in SB 472, and would be glad to answer any questions that you might have.

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Flat Rate
PrePaid Card

30
MINUTES
Within U.S. International Flat Rates Vary



No Hidden Surcharges • No Monthly Fees



Value+
phone card

\$20

2.9c
PER MINUTE
WITHIN THE U.S.

*Plus first-minute surcharge; see back for full rate information.

+ Great International Rates!

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 Attach. No. 2
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March 20, 2002

The Hon. John Edmonds, Chairman
and Members of the House Taxation Committee
State Capitol
Topeka Kansas 66612-1504

Dear Mr. Chairman and Members of the Committee:

The International Prepaid Communications Association represents the producers, distributors, suppliers of the prepaid telecom industry. We submit this statement to express our support for the proposal, SB 472, which would clarify Kansas' taxation of prepaid phonecards.

Approximately \$3.8 billion of prepaid phonecards will be sold in the U.S. this year. Phonecards are sold in wide variety of calling and charging patterns which offer a given consumer the best mix for his or her calling preferences.

We compliment your panel for considering this clarification in existing law. Some consumers prefer unit-based cards. Some prefer dollar-based cards. A consumer's choice should not be prejudiced by the tax code, but should be determined by how a phonecard can best serve that consumer's needs.

The phonecard industry is still relatively new — eight years ago, the industry was less than one-tenth the current size. In addition, there have been great strides in technology which have enabled phonecard issuers to offer the consumer greater choices.

The bill ensures continued consumer choice by keeping the Kansas market open to phonecard issuers who potentially could have suffered a tax disadvantage. Ultimately this will mean more choices for Kansans and for many, more calling for their dollar.

In addition, by clarifying the statutes, we believe that the bill will eliminate any confusion and insure compliance with the law that was passed in 1998.

Thank you for consideration of our support. If we can provide answers to any questions you may have, please let me know by mail, phone or email.

Sincerely,


Howard Segermark,
Executive Director

Howard Segermark
Executive Director
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Attach. No. 3
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Mark Beshears
Assistant Vice President

State & Local Tax
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Mailstop KSOPHL0512

MEMORANDUM

TO: The Honorable John Edmonds, Chairperson
House Committee on Assessment and Taxation

FROM: Mark Beshears, Assistant Vice-President
State and Local Tax, Sprint

DATE: March 25, 2002

RE: Senate Bill No. 472-Technical Corrections Regarding Tax
Treatment of Prepaid Calling Cards.

I am Mark Beshears, Vice-President of State and Local Tax for Sprint Corporation located in Overland Park, Kansas. I am pleased to be here today to ask for your support for legislation providing certain technical corrections regarding the tax treatment of prepaid calling cards.

K.S.A. 79-3603(u) currently imposes the state's sales tax on the gross receipts received from the sale of prepaid telephone calling cards or prepaid authorization numbers and the recharge of such cards or numbers. By definition, prepaid calling cards are limited to cards and authorization numbers which provide the right to exclusively make telephone calls, paid for in advance, with the prepaid value measured in minutes or other time units. The proposed legislation would treat prepaid cards with the prepaid value measured in terms of dollars in the same manner as prepaid cards that have their value measured in minutes or other time units. The legislation merely reflects developments in the market place in terms of how prepaid calling cards and authorization numbers are sold.

I would again urge the Committee's support for this technical amendment. I would be happy to respond to any questions that you may have.

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