

Approved: March 7, 2003 Carl Dean Holmes
Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:07 a.m. on January 23, 2003 in Room 526-S of the Capitol.

All members were present except: Representative Mary Compton
Representative Judy Morrison
Representative Jerry Williams

Committee staff present: Mary Galligan, Legislative Research
Dennis Hodgins, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Administrative Assistant

Conferees appearing before the committee: Randy Tomlin, SBC-Kansas
Bob Jayroe, SBC-Kansas
Bob LaGarde, LaGarde Company
Larry Powell, Butler County Economic Development
John Masterson, Allen County Community College
Cindy Elliott, Fort Hays State University
Debbie Snow, Communication Workers of America

Others attending: See Attached List

Chairman Holmes asked for bill introductions. Representative Sloan moved to introduce a committee bill amending the No-Call Act exemptions. Representative P. Long seconded the motion. The motion carried.

HB 2019 - State Corporation Commission prohibited from regulating high speed Internet access/broadband service

Conferees from the previous day, Randy Tomlin, SBC-Kansas President and Bob Jayroe, SBC-Kansas consultant, responded to questions from the committee. Additionally, Mr. Tim Pickering, SBC-Kansas legal counsel, also responded to questions.

Bob LaGarde, CEO of LeGarde Company, addressed the committee as a proponent of **HB 2019** (Attachment 1). Mr. LaGarde explained that his company produces e-business software and service products. He stated that without ready access of technology such as broadband internet access, their existing merchants will be drastically hindered in their ability to compete in the global marketplace and the future of state's economy will not be properly cultivated.

Larry Powell, appearing on behalf of Butler County Economic Development, provided testimony in support of **HB 2019** (Attachment 2). Mr. Powell stated that with the slowing economy, the government is looking for ways to stimulate the economy and increase spending of private dollars. He said that he used broadband technology in order to do his job effectively and efficiently. He explained that more investment by SBC in Butler County was needed so other communities can have the opportunity to prosper.

Allen County Community College President, John Masterson, spoke to the committee supporting **HB 2019** (Attachment 3). Mr. Masterson stated that Allen County currently has 244 students enrolled in Interactive Television courses and 334 students enrolled in on-line Internet courses. Mr. Masterson told the committee that education across Kansas is dependent upon and would be greatly enhanced by a wider deployment of broadband.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 526-S Statehouse, at 9:07 a.m. on January 23, 2003.

Cynthia Elliott, Dean of the Virtual College at Fort Hays State University, testified in favor of **HB 2019** (Attachment 4). Dean Elliott stated that the Virtual College supports the design, development, deliver and marketing of distance learning course-work. She explained that high speed DSL or cable modems make it more viable for students to take these courses rather than forcing the faculty to develop online courses with the slowest modem speeds. Ms. Elliott stated that broadband regulation needs to be changed so all broadband providers are regulated the same way.

Debbie Snow, representing the Communications Workers of America, Local 6401, appeared before the committee supporting **HB 2019** (Attachment 5). Ms. Snow is employed by SBC as a Communications Consultant and has been an elected officer for CWA. Ms. Snow stated that there is a need for a level playing field and that **HB 2019** would help to provide it, offering hope of new investment and new jobs in the state.

The conferees responded to questions from the committee.

Members of the committee requested specific information be provided to the committee. That information included, if available, property tax payments in Oklahoma, list of Chambers of Commerce supporting the bill, and percentage of customers in Oklahoma using DSL.

The meeting adjourned at 10:42 a.m.

The next meeting will be Friday, January 24, 2003 at 9:00 a.m.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 23, 2003

NAME	REPRESENTING
Wilson Krueger	Everest Connections
Debra Schmidt	WorldNet LLC
John Martinson	DeLa Co. Comm. College
Bob Taylor	SBC
Ernie Fogge	AARP
JANET BUCHANAN	KCC
Jim Graciner	SBC
Andy Shaw	Worldnet LLC
John D. Pinegar	State Independent Telephone Assn.
Mike Murray	Sprint
John Adriano	KCTA
Dan Spryng	Curb
Cindy Elliott	Fort Hays State University
George Barber	RTMC
Larry Powell	Butler Co. - SBC
Bob Labarre	LABARRÉ
Nancy Pollock	SBC
Chris Frank	Clayton
Randy Tomlin	SBC
Eddie Rodriguez	SBC

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 23, 2003

NAME	REPRESENTING
Mike Moffit	SWIFT
Robert M. Badenoch	PUD
Rebra Friveau	FHCU
Anne Spiess	KTIA - ks. Telecommunications Industry Assn.
Debbie Snow	C.W.A.
Mike Reecht	ATT
Tom Day	KCC
Tim Pickering	SBC

Testimony in Support of HB2019
Bob LaGarde, CEO LaGarde Company
House Utilities Committee
Jan. 23, 2003

Good Morning Chairman Holmes and members of the House Utilities Committee. Thank you for allowing me time to speak with you today in support of HB2019.

My name is Bob LaGarde. I am the Founder and CEO of a software company located in Olathe, Kansas. The most important thing to note about my company is the fact that we produce ebusiness software and service products for the small to medium sized business sector. We have been producing ebusiness products for this sector since 1998. Currently our products power more than 40,000 web stores operating in over 70 countries around the world. With this background I feel that I can speak as an expert on the importance of technology enablement for the growth of the small and medium sized business sector.

Two years ago LaGarde was a finalist for the Governor's Exporter of the Year Award. In that capacity I looked closely at the Kansas economy in order to ascertain how technology was being used in building the state's economy. What I saw was a sustained downward trend in the vitality of several of our traditional industries, particularly aerospace and agriculture. What I did not see was the corresponding growth in new economy industries.

I know without a doubt that our customer's ability to compete in the global marketplace is inextricably tied to their ability to access technology and specifically internet connectivity. I know furthermore from both first hand experience and from anecdotal experience in the industry that technical entrepreneurialism is fostered when technology becomes embedded in the environment where one lives and works. If we are not exposed to readily available technology then there is little likelihood that we will build technology based business ventures.

It appears to me to be clear that technology providers will be dis-incented to invest in bringing new and expanded technology to Kansas if they cannot be assured of a fair and equitable competitive environment in which to invest. It seems clear that companies such as SBC Corporation cannot be expected to invest in bringing new and expanded technology to the cities and communities across Kansas unless they are assured of fair opportunity to leverage their investment in creating new and expanded markets for their services. If they are left with the threat and expectation that their investments will be co-opted by the state of Kansas and re-allocated at state regulated prices to competitors then clearly we cannot reasonably expect them to further invest in building out new resources and new technology in our state.

And I know that without ready access and pervasive availability of technology such as broadband internet access that our existing merchants will be drastically hindered in their ability to compete in the global marketplace and that new technology entrepreneurs vital to the future of our state's economy will not be properly cultivated. I therefore urge you to vote in favor of House Bill No. 2019.

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ATTACHMENT 1

2003-2004
KANSAS HOUSE OF REPRESENTATIVES COMMITTEE ON UTILITIES
TESTIMONY BY LARRY POWELL
BUTLER COUNTY ECONOMIC DEVELOPMENT

Good Morning, Chairman Holmes and Honorable Committee members. Thank you for holding these important hearings and for allowing me to address you this morning in support of HB 2019. Technology today is moving at a record pace and the private business or government entity that does not review and embrace a technology that enhances and improves its profitably and makes it more efficient does so at its own peril.

The State of Kansas and Butler County are facing difficult financial decisions. The economy has slowed and in some fields had become flat. Government is looking for ways to stimulate the economy and to increase the spending of private dollars especially the investment in plant and equipment. Which in turn allows for the expansion of the tax base and maintains jobs and hopefully will create new jobs.

The telecommunications and technology industry has accounted for about 25% of the economic growth in recent years and has invested millions of dollars to bring DSL broadband technology to Kansas. This driving force however has suffered a dramatic decrease in Kansas and across the United States and affected thousands of local workers through layoffs. This is a trend that must be reversed. Allowing and encouraging SBC to invest in proven broadband technology is one vital step that can be taken by the State. SBC has agreed to invest its private funds in the next generation of services. All the State has to do is allow for that investment to be protected by fair regulation. Oklahoma has recently passed a similar bill and SBC is investing millions to deploy DSL in that state. We need that investment to occur in Kansas.

I work with thirteen (13) cities within Butler County, eight (8) of them are served by SBC. Two (2) of the eight (8) cities have received technology investments and improvements to the Broadband systems that are available for their use. This is wonderful for those two cities and has allowed me to include this capability when I represent them to business prospects. However this lack of investment in other communities has imposed limits on the kinds and types of business that I am able to direct to suitable sites in those other communities.

Butler County Economic Development is responsible for the creating and updating of the web pages used to help advertise Butler County and its communities on our site at www.bucoks.com. BCED serves as the liaison between the local economic development groups and the state of Kansas and acts as the gather of information which consultants and businesses use in order to make site selection decisions. I use broadband technology in order to do my job, effectively and efficiently. I need to have more investment by SBC in my county so other communities can have the opportunity to prosper. Extending Broadband access to more people would stimulate a very slow economy by creating more jobs and generating more tax revenue.

I urge you to approve House Bill No. 2019. Thank you for your time and consideration today.

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ATTACHMENT 2

Summary Testimony Regarding HB 2019
John Masterson, President
Allen County Community College
January 23, 2003

Allen County Community College

- ◆ Six County Service Area – Allen, Anderson, Coffey, Osage, Wabaunsee, and Woodson
- ◆ 3,600 Students Served 2001-2002
- ◆ 2,200 Students (1,350 FTE) Spring 2003

Use of Technology

- ◆ Interactive Television – Currently 244 Students
- ◆ Internet On-line Courses – Currently 334 Students Taking 15 classes
- ◆ Library is On-line
- ◆ All Computers in Faculty/Staff Offices are On-line
- ◆ All Residence Hall Rooms are Internet Accessible

Need for Broadband

- ◆ Time Bound and Place Bound Student Access Would Increase
- ◆ Delivery to Remote Areas Would Increase
- ◆ Services Would Expand
- ◆ Competition Would Increase

Support for HB 2019

- ◆ Will Enhance Wider Deployment of Broadband
- ◆ Will Enhance Education Across Kansas
- ◆ Would Make Regulation in Kansas More Fair

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ATTACHMENT 3

Testimony Regarding House Bill 2019
John Masterson, President
Allen County Community College
January 23, 2003

Chairman Holmes and Members of the House Utilities Committee:

My name is John Masterson and I am president of Allen County Community College. I would like to thank you for the opportunity to speak to you today regarding House Bill 2019. I urge your support of this important legislation.

Allen County Community College serves a six county service area that includes Allen, Coffey, Osage, Woodson, and parts of Anderson and Wabaunsee Counties. The main campus in Iola and the branch campus in Burlingame support over twenty outreach sites located throughout the six counties. Last year over 3,600 individuals took course work from the college. Approximately 2,200 students take at least one class from us each semester. Our typical full time equivalency (total hours divided by 15) is around 1,350 each semester split almost evenly between Iola and outreach.

One of the most important roles that our college strives to fulfill is that of providing access to higher education. Technology has enabled us to provide more opportunity within and even outside our service area.

In the last few years, we have begun to offer classes using interactive television and the Internet. Both are dependent on technology. In 1998 we began delivering classes via ITV. This semester, 244 students located at Marmaton Valley High School in Moran, Northern Heights High School in Allen, Frontenac High School, Yates Center High School, and Burlington High School have joined students at the studio/classroom located on campus in Iola to take classes via interactive television.

Even more exciting to me is the growth in both the number of classes and the number of students taking classes on-line. Our first on-line class was offered the summer of 2000 and had an enrollment of 18 students. By the spring of 2002, 72 students were enrolled in a half dozen courses. This spring, we have 334 students enrolled in 15 classes. It is my understanding that a student has enrolled in Bogota, Columbia. Our service area is expanding.

In addition to these delivery systems, our teaching, research, and library capabilities are also directly affected by broadband capabilities. On the two campuses we have well over 200 computers located in computer laboratories, the library, the Instructional Resource Center, and faculty and staff offices. All have Internet access. Last summer, we spent several thousand dollars making Internet access available to each student living in campus housing. Our library is now

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accessible via the Internet, whether a student lives in a residence hall on campus or in Melvern - as long as they have Internet access.

I feel that we are just on the tip of the iceberg with ways that colleges can use broad band services. Our ability to provide educational services to working students and/or those who live too far from a campus to commute for classes will become dependent on the ability to deliver those services via the Internet. Our dream of being able to connect interactively with our campus at Burlingame is technically right around the corner. Some of the problems relating to delivery of junior and senior level courses to individuals in Southwest Kansas could be addressed through on-line programs. However, all of these services are dependent on high speed, broadband access.

Allen County currently is limited to the local cable company for high-speed access. Last summer, when we added Internet access for our residence hall students, our only choice was the cable company. While we are fairly satisfied with their service, it does not place the college in a very good negotiating position. There are also some Kansas communities who have either no access or only slow dial-up services available.

Education across Kansas is dependent upon and would be greatly enhanced by a wider deployment of broadband. I am in favor of HB 2019 because it will facilitate that deployment. It seems that fairness would dictate that all providers be treated the same from a regulatory standpoint. Again, HB 2019 would bring some parity to regulation of broadband in Kansas.

In closing, I would encourage you to pass HB 2019. I feel that it will provide the impetus for key players to become involved in the delivery of broadband services in Kansas, which will benefit education.

Thank you for the opportunity to be heard.

**TESTIMONY FOR HOUSE COMMITTEE ON UTILITIES
REGARDING HOUSE BILL #2019**

**BY CYNTHIA A. ELLIOTT
DEAN OF THE VIRTUAL COLLEGE
FORT HAYS STATE UNIVERSITY**

Many folks driving in their SUV's somewhere between Salina and Goodland, Kansas, probably inevitably think to themselves, "I hope I don't break down here. This is in the middle of nowhere." However, what city folk perceive as "nowhere", many Kansans call home. And even though living in rural Kansas has many rewards (like its beauty, the quiet, the relationship of people to the land, the sense of place), sometimes living in places that city folk refer to as "nowhere" can pose many challenges (like isolation, lack of economic opportunity and less-than-adequate public utilities, such as electricity, telephone and Internet service). Now we live in a new digital era and the boundaries between "somewhere" and "nowhere" have changed many challenges faced by rural communities. But this is only if rural areas have access to the same digital technologies. In many rural towns of 500-2,500 people, the new digital economy has yet to arrive. In fact, the only effect that the new economy has had on rural Kansas is that now residents can be perceived as being nowhere in the real world and nowhere in the digital world.

As Dean of the Virtual College at Fort Hays State University, I have been asked to speak to you today regarding the need for expanded telecommunications infrastructure to support distance learning, and, thus, in support of House Bill 2019. I have been involved in distance learning since the early 1980s. I have had the privilege of serving nationally on many educational technology boards and working with and observing many other educational institutions in other states. I am proud to say that Fort Hays State University is a leader among colleges and universities in using the Internet and router technology in support of our mission to serve the diverse geographic area of rural Western Kansas. However, Kansas is behind other states in its deployment of broadband throughout the entire state so as to close the digital divide.

The Virtual College is the division of FHSU that supports the design, development, delivery and marketing of distance learning for both synchronous and asynchronous coursework. By way of our interactive television network, today delivered over Internet Protocol or IPTV, we connect faculty members in Hays with classrooms on community college campuses in Western Kansas (Colby, Pratt, Dodge City, Garden City, Seward County, Barton County). We utilize dedicated T-1 lines to deliver this high-quality, high-speed video signal. If more broadband access were available in the region, students could access and interact with their faculty in their homes or in community centers over our IPTV network. Convenience is critical for non-traditional students, who have many, many demands of home and work life. Traveling a couple hours to one of the present community college locations (although better than driving all the way to Hays) is not improving access. If broadband were available in homes or in other locations, then

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ATTACHMENT 4

convenience would ultimately be improved and educational opportunities could be enhanced.

The Virtual College also delivers online or asynchronous courses. High speed DSL or cable modems make it more viable for students to take these courses with the richness of the World Wide Web, rather than forcing our faculty to develop online courses for the lowest common denominator of those with the slowest modem speeds. At the present time, if homes do have Internet access, they normally access through modems with speeds of 28.8 kps or slower. This limits the type of educational delivery FHSU can bring to them. Online courses with streaming audio and video could be as common as static texts and graphics. We need students to access at speeds of 1.5 megabytes per second. This is realistic with broadband for DSL or cable modems.

In addition to IPTV and online coursework, FHSU is deploying Geographic Information System (GIS). Ultimately, a professionally managed GIS program will use Internet-based technology along with Environmental Systems Research Institute's software to make county data available to the community from one's home or office. An important part of a GIS program is a server, on which will be stored all the digital data that is and will be available for good government and non-government decision making. Having a GIS program in place will allow Western Kansas to share map-related data with federal, state and local entities. FHSU can't even plan to do this without broadband deployed to a greater extent.

Another advantage of broadband to the homes is that it provides information to citizens about employment opportunities, job training programs, and city and state services to people who desperately need it. Families can not only take advantage of distance learning courses, but also can receive information on preventive health care issues and social services. And much of this can be bilingual. One-stop shopping social services... a concept that I pioneered with a grant from the Federal government in inner city areas of Miami, Florida, where I used to live. And, a concept that should be replicated in rural areas throughout Kansas. What it takes is expanded broadband technology.

As more applications, especially distance education, are developed exclusively for broadband, those without such access will have limited options and may even find that they are without educational advantages. Of the people using the Internet outside of their home in 2000...for example in community centers and libraries...32.2 percent were using it to take courses nationally and 4.3 million people used the Web to search for jobs. The public is using the Internet in beneficial ways. Low-income job seekers, in particular, are striving to improve their skills through education, and thus to fill vacant positions in a time of massive layoffs and economic uncertainty.

Broadband regulation needs to be changed so all broadband providers are regulated the same way. Broadband is bigger than any one company. It doesn't make sense to overly regulate SBC's DSL service, yet allow cable companies to operate free of any KCC regulation. Regulation should be applied equally to all competitors. Companies offering the SAME product should be treated the SAME by regulators. If this doesn't occur, then

companies that have the ability to expand the telecommunications infrastructure will have a disincentive to continue to make the huge investments necessary to widely deploy broadband services. Companies, like SBC, that have already invested millions, shouldn't be forced to give its network away. Regulation should not favor any one competitor, and it should not harm any one competitor. The new rules of House Bill 2019 should spark investment because a more equal playing field will encourage more companies to bring technology to all of Kansas.

I agree that it is as important to create useful content on the Internet as it is to provide computers and Internet connections. For Americans that are at risk of being left behind, useful content includes: (1) education, employment, business development and other information; (2) information that can be clearly understood by limited literacy users; (3) information in multiple languages; (4) opportunities to create content and interact with it so that it is culturally appropriate.

Thus, as policy makers, if you risk changing state regulations to allow private companies to invest in technology, we as educators will risk in developing needed, highly engaging coursework and in partnering with communities to address their social and education needs.

I don't know who gave this bill its subtitle, but I like it: "Keeping Kansas Up to Speed." I also think you might have considered titling it: "Nowhere to Somewhere" or "Amended Regulations Between the Haves and the Have-Mores." Western Kansas deserves to have equal access to higher education and distance learning, providing enhanced economic development. In my opinion, without the kind of allowances mentioned in this bill, the non-profit sector of education will suffer. In other words, within the broadband context, the World Wide Web will be neither worldly nor wide in Kansas.

Thank you for allowing me the opportunity to express my viewpoints here today.

House Utilities Committee
Testimony in Support of HB2019
By Debbie Snow, Communications Workers of America
January 23, 2003

Chairman Holmes and members of the committee: I thank you for the privilege of speaking with you today concerning the need to support the passage of HB2019, that will promote a level playing field for all broadband providers.

My name is Debbie Snow and I am employed by SBC. My job title is Communications Consultant. I have worked for SBC for 29 years, of which 27 years, I have been an elected officer and president of local 6401, Topeka, Kansas, with the Communications Workers of America. Today I am here representing the CWA in SBC in the state of Kansas. We are a labor union that in Kansas has a membership of approximately 3,500 strong. Our 12 locals span the state from Wichita to Hays, Topeka to Garden City, Salina, Manhattan, Hutchinson, Parsons, metropolitan Kansas City and many points in between.

Through the collective bargaining process these workers across this state have premium wages and health benefits that they share with their respective communities, through United Way participation, blood bank donation, volunteerism in countless endeavors, and contribute to the tax base our state and local budgets desperately need. These CWA/SBC Kansas workers helped to build the foundation of the telecommunications industry in our country that was second to none in the world before the breakup of the Bell system. And we are still the best. These workers have such a high work ethic for customer service, coupled with superior knowledge and experience that enable them to bring stability in the event of natural disasters such as ice storm, floods and are prepared to rally for the sake of state or national security.

We need a level playing field. HB2019 will help to provide that. As it stands now in the race of competition we in SBC have one foot nailed to the floor. Reaching a fully competitive marketplace should not be accomplished by making us extinct. As an example, the only telephone operators in Kansas today are at the relay center for the hearing impaired in Lawrence. The rest are all gone. So when you dial O for operator, no one in your state will answer.

Are there pending layoffs now in my local? Yes. Do I think, if HB2019 is passed, it will end all future layoffs? Possibly not. But I believe if it *is* passed, I will not become extinct. If it's not? The economic difficulties that plague our industry, our country and our state make the future uncertain. But I believe that HB2019 offers hope of new investment and new jobs. The CWA has built the past, we maintain the present and we need to be a part of the future. So we implore you to create a level playing field and support HB 2019.

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ATTACHMENT 5