

Approved: _____
Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:09 a.m. on February 18, 2000 in Room 231-N of the Capitol.

All members were present.

Committee staff present: Lynne Holt, Legislative Research Department
Mary Torrence, Revisor of Statutes
Jo Cook, Committee Secretary

Conferees appearing before the committee: Richard Morris, Sprint
Wayne Bogart, Networks Plus
Richard Cimerman, National Cable TV Association
Mike Reece, A. T. & T.
Secretary Dean Carlson, Department of Transportation

Others attending: See Attached Guest List

A copy of an article from the Rutland Daily Herald entitled "Unnecessary Law" (Attachment 1) was distributed to the committee. The article deals with unwanted telephone solicitations.

HB 2704 - Cable operators required to provide access to broadband internet facilities for internet service providers.

Mr. W. Richard Morris, Vice President External Affairs/Local Markets for Sprint, testified in support of **HB 2704** (Attachment 2). He stated that Sprint urges the committee to adopt legislation that would require cable television operators to provide open access not only to internet service providers, but also to providers of non-video programming telecommunications services. Mr. Morris included a copy of a balloon amendment with his testimony.

Wayne Bogart, Director of Internet Services for Networks Plus, provided testimony as a proponent of **HB 2704** (Attachment 3). Mr. Bogart stated that the only way to have a competitive market for telecom services in the future is to allow competitors to share the wire leading to customer's homes. He also stated that cable companies are entering the two-way telecommunications world and must be subject to the same requirements as any other new entrant. Telephone companies do not have access blocked by the owners. Mr. Bogart said that a closed access policy will ultimately lead to broadband Internet access monopoly in the cable technology arena and threaten the health and growth of the Internet itself.

The proponent conferees responded to questions from Rep. Kuether, Rep. Alldritt, Rep. Klein, Rep. McClure, Rep. Krehbiel, Rep. Sloan, Rep. Dahl and Rep. Holmes.

Richard Cimerman, Director of State Telecommunications Policy for the National Cable Television Association, testified in opposition to **HB 2704** (Attachment 4). Mr. Cimerman stated that, like similar bills in other states, this bill would have the opposite effect its sponsors claim it will have. Passage of the bill would not be promoting investment and competition in Internet facilities and services, it would deter new investment and saddle the Internet with legacy regulation designed for the railroad and telephone monopolies of a century ago. It also appears to be inconsistent with federal law barring common carrier regulation of cable companies. He concluded by saying that the debate really boils down to whether one believes in government regulation of a competitive market or whether the competitive market place itself is the best way to encourage broadband deployment to meet the needs of consumers.

Mike Reece, on behalf of A. T. & T., provided testimony as an opponent to **HB 2704** (Attachment 5). Mr. Reece explained that A. T. & T. believes the bill would force cable providers to open their networks to ISP's through mandatory government regulation. He stated that this mandate would slow down the process of deployment of the much needed competitive infrastructure in Kansas.

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The opponent conferees responded to questions from Rep. Krehbiel.

Chairman Holmes announced the committee would reconvene at approximately 12:30 p.m.

Committee was recessed at 10:58 a.m.

Chairman Holmes reconvened the committee at 12:18 pm for a brief presentation by Secretary Dean Carlson, Kansas Department of Transportation. Secretary Carlson spoke to **HB 2897 - Grant of public easements for telecommunications access**. He apologized for not appearing the day of the hearing, but did have some remarks he wanted to share with the committee. Secretary Carlson read a letter from Department of Administration Secretary Stanley that gave approval for the right-of-way contract. He explained that DISC had been fully informed of the circumstances of the contract and that it was not a contract for telecommunications. The fibre optic cable will be used as part of a construction project to allow them to communicate from one interchange to the other. Secretary Carlson stated he wanted the committee to know, for the record, that KDOT has cooperated with DISC in every way so that they know that capacity is available for other agencies or other operations for the state.

The committee recessed at 12:25 p.m. for lunch and reconvened at 12:48 p.m.

HB 2945 -Task force to make recommendations to legislature regarding 911 and E911 telephone service.

Rep. McClure introduced a proposed balloon to the bill. The balloon would change the composition of the task force membership, remove the adjutant general's office and change support staff provisions. Rep. McClure moved to adopt the balloon, Rep. Long seconded the motion. Motion carried. Rep. Krehbiel moved to adding two members, one who has experience with a telecommunications local exchange carrier that serves more than 50,000 access lines in Kansas and one who has experience with less than 50,000 lines. Rep. Alldritt seconded the motion. Motion carried. Rep. McClure moved to change page 2, line 24 to read "...house standing committee on utilities or the senate standing committees on utilities or commerce." Rep. Long seconded the motion. Motion carried. Rep. Loyd moved to recommend favorable passage as amended. Rep. Vining seconded the motion. Motion carried. Rep. Morrison will carry the bill.

HB 2943 - Authorized uses of tax revenues collected for emergency (911) telephone service

Rep. McClure moved to amend page 1, line 36 by changing the words 'hearing impairments' to 'communication impairments'. Rep. Alldritt seconded the motion. Motion carried. Rep. Klein moved to add 'charges for vehicle preemption and priority control systems' as new section 6. Rep. Kuether seconded the motion. Motion failed. Rep. Loyd moved to table HB 2943. Seconded by Rep. Myers. Motion carried.

Rep. Sloan requested to reconsider **HB 2945** to change the reporting date to earlier in the legislative session.

HB 2945 -Task force to make recommendations to legislature regarding 911 and E911 telephone service.

Having voted on the prevailing side on HB 2945, Rep. Sloan moved to reconsider the previous action. Rep. McClure seconded the motion. Motion carried. Rep. Sloan moved to change page 2, line 22 to read 'the first day of the legislative session, 2001'. Rep. Alldritt seconded the motion. Motion carried. Rep. Sloan moved to recommend HB 2945, as amended, favorable for passage. Rep. Dahl seconded the motion. Motion carried.

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HB 2984 - Owners of fiber-optic cable required to submit certain information to state.

Rep. Sloan distributed a balloon amendment that would change the definition of owner of fiber optic cable to include telephony, internet and video transmission, that would exclude local intraexchange facilities with no Kansas access points, would designate certain items as proprietary and would remove the expiration date. Rep. Sloan moved to adopt the balloon and Rep. Alldritt seconded the motion. Motion carried. Rep. Dahl moved to change line 29 to read ...”other characteristics, excluding capacity ownership and quantity of dark fiber...”. Rep. Loyd seconded the motion. Motion carried. Rep. Sloan moved to report **HB 2984**, as amended, favorable for passage. Rep. Dahl seconded the motion. Motion carried. Rep. Compton will carry the bill.

HB 2897 - Grant of public easements for telecommunications access

Rep. Dreher moved to strike ‘secretary of education’ from line 23. Rep. McClure seconded the motion. Motion carried. Rep. Loyd explained his proposed balloon which added a provision that any consideration received for the granting of an easement shall be for the benefit of the state as a whole. Rep. Loyd moved the adoption of the balloon and Rep. Vining seconded the motion. Motion carried. Rep. Alldritt moved to change sec 3, line 33, to read ‘publication in the Kansas Register.’ Rep. Vining seconded the motion. Motion carried. Rep. Loyd moved to report **HB 2897** as amended, favorable for passage. Rep. Dreher seconded the motion. Motion carried. Rep. Dreher will carry the bill.

HB 2634 - Authorizing consumer to choose provider of electricity if generated from renewable resources.

Rep. Sloan distributed a balloon and detailed explanation (Attachment 6) of the balloon to the committee. The amendments were 1) requires the generated power be placed directly into the certificated company’s distribution line, 2) establish a threshold of 2 MWs before provisions of bill take effect, 3) require green power generator and certificated utility to negotiate terms and conditions, and 4) require power from green power generator be available for at least 75% of the time. Rep. Sloan reiterated that this bill and proposed amendments would not constitute retail wheeling because it effectively limited the bill’s impact to Kansas renewable generators. Rep. Sloan moved to adopt the balloon. Rep. Alldritt seconded the motion. Motion failed. Rep. Myers moved to table **HB 2634**. Rep. Vining seconded the motion. Motion carried.

HB 2849 - Certain electric public utility construction work in progress allowed in rate base

Rep. Sloan distributed a balloon and support documentation (Attachments 7 and 8) to the committee. The balloon would amend Section 1(2) definition of a public utility property, would allow the KCC to approve Construction Work in Progress (CWIP) if they decide it is in the best interest of the customers and companies, and permit merchant power plants to be constructed in Kansas and be taxed as commercial property. Rep. Sloan moved to adopt the balloon and Rep. McClure seconded the motion. Motion carried. Rep. Sloan moved to report **HB 2849**, as amended, favorable for passage. Rep. Dreher seconded the motion. Motion failed.

HB 2891 - Telemarketer no-call list

Rep. McClure distributed a balloon to the committee. Also distributed to the committee was information on the Louisiana Law on Caller ID (Attachment 9), a copy of the Oregon Law relating to telephone solicitation (Attachment 10), and a proposal modeled on the Oregon Law (Attachment 11). The balloon would remove the references to the Corporation Commission and replace them with the attorney general and would remove the required fee payment from the consumer. Rep. McClure moved the adoption of the balloon and Rep. Kuether seconded the motion. Motion carried. Rep. Loyd moved to amend by striking lines 12 through 15 on page 3 and restoring the previously deleted language on page 4, lines 5 and 6. Rep. Sloan seconded the motion. Rep. Alldritt requested the motion be divided. The chairman allowed the division. The first part of the motion to amend carried. The second part of the motion to amend carried.

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with a request by Rep. Alldritt, Rep. Klein, and Rep. Kuether to have their 'no' votes recorded in the minutes. Rep. McClure moved to amend the bill by not allowing the list to be sold or traded away. Rep. Alldritt seconded the motion. Motion failed. Rep. Sloan moved to amend the bill to allow the distribution of the list to associations' own memberships. Rep. McClure seconded the motion. Motion carried. Rep. Krehbiel moved to amend page 3, line 26 by striking 'company to inform its residential' and adding 'carrier, each telecommunications carrier and each wireless telecommunication service provider to inform its'. Rep. Kuether seconded the motion. Motion carried. Rep. Loyd moved and Rep. Alldritt seconded to delete on page 1, line 41 the words 'an existing business relationship' and replace with 'a business relationship within the preceding 36 months'. Motion carried. Rep. Krehbiel moved to strike subsection d on page 2, line 1. Rep. Myers seconded the motion. Motion carried. Rep. Sloan moved to add a section to exclude organizations within the county to which the call was made. Motion died due to lack of second. Rep. Alldritt moved to report **HB 2891**, as amended, favorable for passage. Rep. Loyd seconded the motion. Motion carried. Rep. Alldritt will carry the bill.

Rep. Dahl, having voted on the prevailing side, moved to reconsider the action on **HB 2849**. Rep. Myers seconded the motion. Motion failed.

Meeting adjourned at 3:23 p.m.

Next meeting will be Monday, February 20, 2000 at 9:00 a.m.