

**REPORT OF THE**  
**JOINT SUBCOMMITTEE OF THE HOUSE FINANCE AND CORPORATIONS,**  
**INSURANCE, AND BANKING COMMITTEES AND THE SENATE FINANCE**  
**COMMITTEE ON INTERSTATE TOLL SERVICE REVENUE OF**  
**TELEPHONE COMPANIES**  
**TO**  
**THE GOVERNOR**  
**AND**  
**THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 4**

**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF PURCHASES AND SUPPLY**  
**RICHMOND**  
**1979**

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**Report of the**  
**Joint Subcommittee of the House Finance and Corporations,**  
**Insurance, and Banking Committees and the Senate Finance**  
**Committee on Interstate Toll Service Revenue of**  
**Telephone Companies**

**October, 1978**

To: Honorable John N. Dalton, Governor of Virginia

and

The General Assembly of Virginia

**I. INTRODUCTION**

The study of whether Virginia's franchise tax on public service corporations should be extended to the interstate toll service reserve of Virginia's telephone companies was the result of the following resolution passed at the 1978 Session of the General Assembly:

**HOUSE JOINT RESOLUTION NO. 93**

WHEREAS, the Commonwealth imposes a franchise or license tax on public service corporations in lieu of a corporate income tax and a sales tax because of the regulated nature of such corporations; and

WHEREAS, the franchise or license tax is levied on the gross receipts of such public service corporation derived from business done within Virginia; and

WHEREAS, the telephone companies receive a substantial and increasing portion of their revenues from their respective shares of long distance revenues which involve interstate calls and which presently are not taxable in Virginia; and

WHEREAS, private corporations pay income taxes on the profit that is apportioned to Virginia rather than the profit that is derived only from sales within Virginia; and

WHEREAS, a number of other states tax telephone companies not only on their gross receipts derived from business done within the state but also the state's portion of interstate toll service revenues; and

WHEREAS, the General Assembly believes that all individuals, private corporations, and public service corporations should contribute equitably to the financing of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study whether the interstate toll service revenue of telephone companies should be subject to the franchise or license tax and to formulate recommendations in this area.

The joint subcommittee shall be composed of nine members who shall be appointed in the

following manner: four members appointed by the chairman of the House Finance Committee from the membership of that committee, two members appointed by the Chairman of the House Committee on Corporations, Insurance and Banking from the membership of that committee, and three members appointed by the chairman of the Senate Finance Committee from the membership of that committee.

The members of the joint subcommittee shall receive such compensation as is authorized by law for members of the General Assembly and be reimbursed for their expenses incurred for the work of the joint subcommittee. The Division of Legislative Services shall serve as staff to the joint subcommittee. The officials and employees of all State agencies shall cooperate fully with the joint subcommittee.

The joint subcommittee shall report its findings and recommendations to the Governor and the General Assembly not later than November one, nineteen hundred seventy-eight.

Pursuant to this directive, the following were appointed to serve on the Joint Subcommittee: Delegate Bernard G. Barrow, Chairman; Senator Howard P. Anderson, Vice Chairman; Senator Herbert H. Bateman; Delegate George P. Beard, Jr.; Senator Clive L. DuVal, 2nd; Delegate Alexander B. McMurtrie, Jr.; Delegate Thomas W. Moss, Jr.; Delegate Lewis W. Parker, Jr.; and Delegate S. Wallace Stieffen.

The Joint Subcommittee was assisted in its study by the Division of Legislative Services. Specific staff assigned were: E. M. Miller, Jr., Staff Attorney; John A. Garka, Economist; and Jill M. Pope, Legislative Research Associate. Also assisting the Joint Subcommittee were representatives from Virginia's telephone companies as well as the State Corporation Commission, especially Bernard L. Henderson, Jr., Assistant to the Commissioner.

## II. THE VIRGINIA FRANCHISE TAX

Unlike private corporations whose profit, prices and service are determined by competitive free market forces, the publicly regulated utilities operate under a completely different framework. The Commonwealth, as well as a number of other states, have recognized these differences by imposing a franchise or license tax on all public service corporations based on all gross receipts derived from the Commonwealth for the privilege of operating in the Commonwealth. This tax is in lieu of a corporate income tax based on the profit resulting for operations within the State.

In the case of telephone companies, the gross receipts tax is, in general, equal to one and nine-sixteenths percent (1 9/16%) of all gross receipts up to \$65,000 and three percent (3%) of all gross receipts in excess of \$65,000. Gross receipts for purpose of this tax is defined as all revenue derived from business done within this state. It should be noted that legislation passed in the 1976 Session of the General Assembly has gradually reduced this rate of tax for the majority of the public service corporations. This legislation provides that the rate of tax on telephone companies will decrease by two-tenths percent (0.2%) annually on gross receipts exceeding \$65,000, beginning with tax year 1979 until tax year 1983 and thereafter, when the tax rate will stabilize at two percent (2%).

In Virginia the gross receipts tax is applied to "the gross receipts from business done within this State". The State Corporation Commission (SCC) has ruled administratively since 1903 that the term "gross receipts from business done within the State" includes only the revenue that telephone companies derive from local service charges, the toll service revenue resulting from intrastate calls, (calls originating and terminating in the Commonwealth), and charges for equipment and installation, etc. Therefore, the base excludes the revenue derived from calls that are interstate in nature, that is, calls that either originate or terminate in Virginia or simply pass through the Commonwealth. This is the case even though the Virginia telephone companies are apportioned a part of the interstate revenue for the use of Virginia equipment, lines and facilities as payment and profit for the Virginia portion of an interstate call. The revenue that Virginia is apportioned for interstate calls is defined as interstate toll service revenue.

The exclusion of interstate toll service revenue from the gross receipts tax base stems from administrative practices and rulings that have existed since the enactment of the tax. This practice can probably be attributed in large part to two major factors. First, states have been careful

historically not to tax interstate commerce for fear of violating the commerce clause of the Federal Constitution. This was particularly true when the original gross receipts statute was enacted. Second, at the time of its original enactment, the volume of interstate calls was substantially less than it is at present. Moreover, in the past, long distance calls were more limited because of their relatively high price. However, the increasing use of long distance calls which are associated with a modern society, as well as the increasing attractiveness of long distance rates, have caused long distance revenues to increase substantially faster than local service revenues. As a result, the Commonwealth is not taxing a growing and significant source of revenue of the telephone companies.

However, even though the United States Supreme Court has delineated the areas the states can tax and also eliminated the problem of semantics in the taxation by the states of a portion of interstate commerce, the SCC has not felt it appropriate to modify its interpretation of the statute after such a long period of time without statutory authority. To be sure, the states' ability to tax interstate commerce was limited in the past; however, the United States Supreme Court has, in a long series of cases, upheld the states' right to tax a portion of interstate commerce. The United States Supreme Court has affirmed that the states may apply a state tax on "the privileges of doing business" within a state without violating commerce clause of the Federal Constitution, if the following three conditions are met; first, the activity must have a sufficient "nexus" in the State. Second, the tax may not unduly burden interstate commerce. Third, the portion of the interstate activity which would be subject to the tax must be reasonably apportioned to the State.

At the present time, seven states and the District of Columbia include interstate toll service revenue in the telephone companies' tax base. In addition to the District of Columbia the seven states are: Connecticut, Maine, Maryland, Minnesota, Rhode Island, Vermont, and Wisconsin

A number of states have included interstate toll service revenue in the tax base since near the turn of the century. Wisconsin has taxed interstate receipts since 1883 and Minnesota has done so since the early 1900's. Maine imposed this tax on interstate revenues in 1901 and Connecticut has imposed the tax for at least fifty years. Interstate receipts were subject to the gross receipts tax in Vermont in the early 1940's, Rhode Island in 1942, the District of Columbia in 1943, and Maryland in 1944.

### **III. DERIVATION OF INTERSTATE TOLL SERVICE REVENUE**

As previously noted, telephone company revenues are derived from three areas; local service revenues which are the revenues received from subscribers for local service, toll service revenues which are the charges for all long distance calls, and miscellaneous revenues which involve equipment and installation charges. The toll service revenue is composed of an interstate component and an intrastate component. Interstate toll service revenue results from an interstate long distance call that either originates, terminates or passes through the Commonwealth. In addition, there are some other components such as long distance calls made outside the Commonwealth that are charged to a Virginia phone number or a Virginia credit card number. Whenever the above occurs, the Virginia telephone companies are compensated for switching the call and/or for the use of its lines and equipment (within this state only). In calendar year 1977, 44.6 percent of all gross receipts of Virginia telephone companies was toll service revenue. The interstate portion comprised 26.0 percent of total revenues while intrastate was 18.6 percent.

The telephone communications network connects the United States by connecting hundreds of telephone companies. As a practical matter, the Bell System Companies are the backbone of the system. However, whenever a telephone call is made which originates, terminates and passes through an area outside its franchise area, a payment is made between companies for the use of that facility. These payments involve calls that are both interstate and intrastate (toll service revenue).

The following example may help to illustrate the concept of payments to telephone companies. If a subscriber in Amelia, Virginia, placed a call to New York City, the following would occur: Amelia Telephone Company would originate the call and connect with C&P Telephone Company of Virginia which would, in turn, switch the message to AT&T at Richmond, Virginia. AT&T would carry the message to New York City where it would be switched to the local telephone company for termination. In this example, four telephone companies are involved - two of which are Virginia - only companies. The toll service revenue would be split four ways: Amelia Telephone Company

would be paid for originating the call and for the use of its lines and equipment (within the State); C&P Telephone Company of Virginia would be paid for switching the call and for the use of its lines and equipment (within the State); AT&T would be paid for switching the call and for the use of its interstate lines; and finally, the New York company would be paid for terminating the call and for the use of its lines and equipment in that State. At the present time, neither the Amelia Telephone Company or the C&P Telephone Company of Virginia would include the portion of its revenue attributable to this interstate call for Virginia gross receipts tax purposes.

In theory, the revenue resulting from every individual interstate call would be broken down into specific components, as in the above example, so that each telephone company would receive its appropriate share of the revenue. The magnitude and complexity of calculating the payment for each call precludes this from occurring.

As a substitute for these individual calculations and in an effort to equitably apportion revenues to AT&T and the companies in the Bell System, monthly studies are performed to estimate the volume and distribution of long distance calls. The studies are used to compensate AT&T and the Associated Bell System for expenditures associated with the interstate enterprise. The basic studies are performed monthly by the Long Lines Department of the AT&T and its twenty-three (23) associated Bell System Companies, the companies with the largest stake in long distance calls. The predominance of the Bell System in interstate telephone communication is clear. (In Virginia, the C&P Telephone Company of Virginia collected over eighty percent (82.3%) of the interstate toll service revenue in 1977). The following briefly describes the process by which the revenues and expenditures of the Bell Companies are allocated.

Each of the telephone companies collects the amount of interstate revenue billed to its customers (interstate tariffs are set by the Federal Communications Commission and not the SCC). At the same time, each partner in the Bell System furnishes certain facilities, equipment and operations for the provision of interstate communication; that is, each partner provides certain net plant investment and expenditures that it devoted to the provision of interstate services. Almost every item of a telephone company's plant, reserves, and expenses relates partly to interstate service and partly to other services. To determine the percentage of each specific type of item that is devoted to interstate service, each associated company makes "separation" studies every month for most items (some are studied less periodically) to derive relationships to determine the amount of plant and investment devoted to interstate services. (The studies are performed under procedures detailed by federal agencies and A.T.&T. Amounts are paid to connecting carriers not included in the Bell partnership and each partner is reimbursed for its expenses incurred in the partnership enterprise, including taxes . Since Long Lines provides only interstate support, all of its plant, reserves, and expenses are subtracted. The remaining money (i.e., the amount available to the partnership for return) is divided among the Bell partners on the basis of the number of shares each has in the enterprise. (One share is defined as each dollar of net plant furnished.) Thus, each partner receives the same amount per share and the interstate toll service revenue reflects the amount each company receives through the division of revenues as compensation for the use of its facilities.

The other companies utilize the studies done by the Bell System and also supplement those studies with their own. They utilize an "average schedule" plan. Under this plan, exchanges of independent companies are selected at random from companies throughout the U.S. and the costs, plus return on investment for handling toll, are developed for these exchanges about every three to five years in a similar manner to the development of costs for the larger companies, but not in as much detail. These costs are related to the average revenue per toll message and expressed in terms of a schedule which is used for settlement by applying the settlement (cost plus return) in the schedule to the appropriate average revenue per message for the company each month.<sup>1</sup>

#### IV. STATISTICAL DATA

Table I presents the total gross receipts, total toll service revenue, interstate toll service revenue, and its percentage of total revenue for calendar year 1977 for all telephone companies chartered by the SCC as Virginia public service corporations. In 1977, approximately \$240 million of interstate revenue was untaxed. The C&P Telephone Company of Virginia was the largest with \$196.7 million, or 82.3% of the total, while the next two largest were Continental Telephone Company of Virginia, \$18.4 million or 7.7% of the total, and Central Telephone of Virginia with \$13.3 million or 5.6% of

the total. Although these companies are the largest in terms of total dollar magnitudes, some of the smaller companies are more heavily impacted in terms of interstate revenues as a percentage of total revenues. For example, the interstate toll service revenue of Virginia Hot Springs Telephone Company comprises 43.3% of that company's total gross receipts. In the case of the Scott County Telephone Cooperative, this percentage is equal to 29.0%. In contrast, the C&P Telephone Company of Virginia percentage was 26.8%. Table 2 presents the same data for calendar year 1976.

If this component of revenue were subject to the gross receipts tax in 1977, Virginia would have received approximately \$6.9 million in additional revenue for that year, assuming no change in the rate was made. This would have been in addition to the approximately \$20.4 million collected for calendar year 1977 gross receipts.

Additional statistical information is provided in appendix tables A and B. Table A presents total gross receipts on which the gross receipts tax was paid for calendar years 1976 and 1977. Table B calculates the percentage of toll service revenue which was interstate for calendar year 1977.

To better understand the revenue impact of any extension of the gross receipts tax to interstate toll service revenue, Table 3 presents the revenue impacts of alternative gross receipts tax structures on Virginia's telephone companies. The table assumes that all gross receipts will increase annually at the rate of ten percent (10%). Although actual growth will undoubtedly vary, both for individual companies as well as for different components of revenue, the table will demonstrate the revenue impacts of the four different alternatives. Under the revenue estimates section of the table, the first alternative (col. 5) presents the estimated total tax collected under the old three percent rates; the second (col. 6) under the present law which gradually decreases the tax rates for five years beginning in January, 1979; the third (col. 7) computes the estimated tax using the present tax rates but includes interstate toll service revenue in the tax base. The final alternative (col. 8) shows what tax rate would be necessary to yield the same tax revenue as under the present structure (col. 6), if the tax were extended to interstate toll service revenue.

An examination of these alternatives shows that if the base were extended with no adjustment in the tax rates (col. 7) the telephone companies would pay significantly more than under the present structure (col. 6). In terms of dollar magnitudes, since the C&P Telephone Co. of Virginia has over eighty percent of the state's interstate toll service revenue, this particular company would be the most heavily impacted. If one compares the extension of the base with no change in rates to the old law (i.e., 3.0 percent rate as in col. 5), the telephone companies would pay more in gross receipts taxes than under the old law during the rate transition period; however, the telephone companies will actually pay less after 1982. It should be noted that this may not necessarily be true of some individual telephone companies because of their particular composition and growth rates of revenues.

## V. TAX TREATMENT IN OTHER STATES

Different states have different taxation structures on public service corporations. However, most states impose a gross receipts tax in lieu of a corporate income tax. A survey has shown that at least seven states and the District of Columbia include interstate toll service revenue in the gross receipts tax base. Although each of the states' statutes reads somewhat differently, each taxes the amount of interstate toll service revenue attributable to the State. Table 4 presents the states which include interstate revenue in the gross receipts tax base as well as their corresponding gross receipts tax rate.

As a practical matter in the administration of the tax, states rely on the information provided by the companies. In Virginia, the Public Service Taxation Division of the SCC administers the gross receipts tax. Mr. Samuel C. Burruss, Director of the Division, has stated that the data furnished by the telephone companies can be audited to assure its accuracy.

## VI. DISCUSSION OF A CHANGE IN TREATMENT

Before turning to a discussion of reasons for extending or not extending the base, one obvious question should be addressed. If the tax were extended, who would pay the tax? Interstate long distance rates are set by the Federal Communications Commission and subject to its regulation. In addition, interstate long distance charges are set with the presumption that calls of approximately

equal distances are subject to similar charges. Since each telephone company is allowed to deduct all expenses, including taxes, before determining the entire system's return, it appears that, should Virginia's tax be extended, the additional tax will be paid by all telephone consumers in the system rather than customers in Virginia.<sup>2</sup> Of course, if enough states extend this tax, or if the system's rate of return falls too low, a system-wide increase may be necessary.

To carry this logic one step further, one could argue that, since seven states and the District of Columbia already tax interstate revenues, Virginians already pay this tax. This results because for those states the tax in these states lowers the profit of the entire system and, thus, each company shares less in profit than it otherwise would.

There are a number of convincing arguments for including interstate revenues in the gross receipts tax base, as well as for continuing its present treatment. Reasons for supporting a change include the fact that interstate toll service revenue is actually a charge for the Virginia portion of an interstate call; that is, it is revenue derived from an interstate call that uses Virginia facilities and which is fairly allocated to the Commonwealth. Proponents of this reasoning believe that interstate toll service revenue of Virginia telephone companies should be taxed because it is gross receipts from business done within the state which were not taxed in the past.

Another argument is based on more philosophical grounds, that is, telephone companies are chartered by the State Corporation Commission as Virginia public service corporations and should pay a tax on all receipts that they derive. To accord preferential treatment because the call is of an interstate nature overlooks the inter-relationship of the commerce of the States as well as the taxation structure that presently exists in other areas. For example, consider the motor carrier industry where a carrier travels up and down the East Coast stopping in Virginia as well as other cities outside of the Commonwealth. If the present treatment accorded interstate calls were applied to motor carriers, they would not be liable for a corporate income tax since their activity was of an interstate nature. This treatment would place an intrastate firm at a competitive disadvantage with an interstate firm, since one would escape taxation entirely while the other would not. Clearly, Virginia can tax the interstate toll service revenue component of an interstate call. The only question is whether the General Assembly deems this change to be beneficial to the citizens of the Commonwealth.

Finally, it could be argued that Virginia should extend the tax because the tax will be paid by the telephone users throughout the country, rather than just the Virginia telephone users.

The arguments of the opponents of a change also have considerable merit. First, and perhaps the most obvious, is that the present gross receipts tax, even at the 2% tax rate, imposes a greater tax burden on telephone companies than a corporate net income tax. This present disadvantage for Virginia's telephone companies, who are increasingly competing with private communications firms, would clearly be significantly widened if the gross receipts tax base were expanded. As competition expands in the telecommunications market, the disadvantage to Virginia telephone companies could cause lost revenues which would go to private firms not under the gross receipts tax; and consequently would lead to lost tax revenues for the Commonwealth.

Opponents also argue that telephone companies and their customers already bear more than their share of taxation. They argue that the taxes they pay include real and personal property taxes, State and local gross receipts taxes, and local consumer utility taxes which have come under considerable criticism for their high rates. They also note that the General Assembly recognized the high gross receipts tax rates levied on utilities with the passage of Chapter 778 of the 1976 Acts of Assembly, which provided for a gradual decrease in the gross receipts tax rates.

Another argument is that any taxes imposed on the telephone companies will eventually be paid by telephone consumers. In the case of interstate toll service revenue, the tax will be paid by telephone consumers throughout the states since long distance rates are regulated by the FCC and the rates for calls would not increase. However, if a number of states adopted this tax, the phone companies would have to file for a rate increase because of declining levels of profitability.

Finally, opponents rebut the proponents argument regarding the fact that telephone companies are regulated by the State Corporation Commission and therefore should pay taxes on all receipts. The SCC regulates only the intrastate business. Interstate business is regulated by the Federal Communications Commission.



## VII. RECOMMENDATIONS

THE JOINT SUBCOMMITTEE RECOMMENDS THAT THE VIRGINIA FRANCHISE TAX ON TELEPHONE COMPANIES BE EXTENDED TO INCLUDE THE INTERSTATE TOLL SERVICE REVENUE OF VIRGINIA TELEPHONE COMPANIES WHILE AT THE SAME TIME DECREASING THE PRESENT TAX RATE STRUCTURE SO THAT VIRGINIA COLLECTS APPROXIMATELY THE SAME AMOUNT OF TAX FROM TELEPHONE COMPANIES AS UNDER THE PRESENT FRANCHISE TAX STRUCTURE. This reduction in tax rates would be equal to approximately 25 percent. The present franchise tax is 3 percent on gross receipts above \$65,000 per annum derived from business done solely within the State. Chapter 778 of the 1976 Acts of Assembly provides that beginning tax year 1979 this rate will decrease .2 percent annually until tax year 1983 when the tax rate will stabilize at 2 percent of gross receipts. The Joint Subcommittee's proposal would reduce this rate to 1.5 percent.

THE SUBCOMMITTEE ALSO RECOMMENDS THE RESULTING SAVINGS THAT ACCRUE TO THE INTRASTATE OPERATIONS OF THE TELEPHONE COMPANIES MUST BE PASSED ON BY THE TELEPHONE COMPANIES TO THE CONSUMER EITHER THROUGH A REDUCTION IN RATES OR BY REDUCING THE NEED FOR A FUTURE RATE INCREASE. While the Joint Subcommittee's recommendations will not affect the Commonwealth's General Fund, it will increase the rate of return on intrastate operations for Virginia's telephone companies since each company will have a decreased tax rate applicable to intrastate operations. (This is applicable to all telephone companies which separate intrastate and interstate expenses. Some small Virginia telephone companies choose not to separate these expenses.) The tax imposed on interstate toll service revenue that would result from the recommendation would not be paid solely by Virginia telephone users but would be passed on to all telephone consumers in the United States.

It would not result in higher long distance rates in Virginia since long distance rates are regulated by the FCC and are based on costs and revenues of the entire system. These rates as well as the rates of return on these operations are outside the purview of the SCC.

The Joint Subcommittee notes that some small telephone companies in Virginia choose not to separate interstate and intrastate expenses. Because this is not done, this proposal would actually result in a decreased rate of return for the combined operations of these companies, although it would result in an increase on intrastate operations. To remedy this situation, the Virginia Independent Telephone Association recommends the gross receipts tax extension to interstate toll service revenue not include companies with "25,000 or less main stations". Since this proposal was made after testimony was concluded, it could not be considered by the entire subcommittee. THE JOINT SUBCOMMITTEE RECOMMENDS THAT THIS ALTERNATIVE BE CONSIDERED AND STUDIED WHEN THE LEGISLATION IS HEARD BEFORE THE PROPER COMMITTEES OF THE GENERAL ASSEMBLY.

In the course of its study, the subcommittee has received considerable testimony regarding increasing competition to the publicly regulated telephone companies from companies which operate with little public regulation. The subcommittee notes that these companies appear to receive preferential tax treatment as well. The Joint Subcommittee viewed this as a serious problem which was beyond its scope. THE JOINT SUBCOMMITTEE RECOMMENDS THAT THE TAXATION OF PUBLICLY REGULATED TELEPHONE COMPANIES VIS-A-VIS PRIVATE COMMUNICATIONS FIRMS BE EXAMINED BY AN APPROPRIATE JOINT SUBCOMMITTEE NEXT YEAR TO ENSURE THAT THE TAXATION STRUCTURES APPLICABLE TO THESE FIRMS ARE EQUITABLE.

## VIII. RATIONALE FOR RECOMMENDATIONS

### EQUITY

The Joint Subcommittee believes that the Virginia Franchise Tax on telephone companies should be extended to interstate toll service revenue because this revenue results from a charge for the Virginia portion of an interstate call. It is revenue allocated to a telephone company as compensation for the use of its plant and facilities used for conducting an interstate call. Moreover, since telephone companies are chartered by the State Corporation Commission in Virginia as Virginia public service corporations, the Joint Subcommittee believes they should pay a tax on all receipts that they receive from Virginia operations, whether the revenue results from interstate or intrastate

service.

The Joint Subcommittee notes that the Code of Virginia states the franchise tax is applied to "the gross receipts from business done within this State". The SCC has ruled administratively since 1903 that this term excludes interstate toll service revenue. With changing technology and the rapidly changing telephone/communications industry, as well as recent Supreme Court decisions on the states' ability to tax interstate commerce, the SCC has sought the guidance of the Virginia General Assembly (HJR No. 93) as to whether interstate toll service revenue should properly be included in the tax base.

#### TREATMENT IN OTHER STATES

The Joint Subcommittee has examined the practices of other states in this area. Seven states and the District of Columbia extend their gross receipts tax to interstate toll service revenue attributable to those states. Another state, West Virginia, holds that interstate toll service revenue is included in the tax base. However, this extension is in litigation due to the interpretation of the statute.

Because interstate long distance rates are set by the FCC and subject to its regulation and interstate long distance charges are set with the presumption that calls of approximately equal distances are subject to similar charges, any tax on interstate charges will be paid by all telephone consumers in the system rather than customers in Virginia. In fact, since a number of other states already tax interstate revenues, thus lowering the profit of the entire telephone system, each company, including Virginia companies, shares less in profit than it otherwise would.

#### REVENUE CONSIDERATIONS AND RATE OF RETURN

The subcommittee's recommendations will not affect the Commonwealth's revenues since the tax rates would decrease in proportion to the increase in the base. The recommendation, however, would cause the intrastate rate of return to increase for those utilities which separate intrastate and interstate revenues. This would result from the decreased tax rate which would cause intrastate tax liability to decrease.

This proposal would have the result of increasing the rate of return of Virginia telephone companies without any direct additional costs to Virginians or Virginia's telephone companies. The Joint Subcommittee's proposed legislation would require that any increased rate of return must be used to benefit Virginians, either through a reduction in telephone rates or negating the need for, or reducing the amount of, a future rate increase. The legislation requires the SCC to ensure that this in fact occurs.

The Joint Subcommittee believes this is particularly important, because if this increased rate of return is simply granted to the companies, they will in effect lose one-half of the increased rate of return to the federal government under the 48 percent corporate income tax. The Joint Subcommittee firmly believes that the entire amount of additional profit resulting from a decreased tax rate under this Joint Subcommittee's recommendation or past recommendations decreasing the tax rate, should be used to benefit Virginia consumers.

The Joint Subcommittee suggests that the attached legislation (see Appendix C and D) be introduced in the 1979 Session of the General Assembly to implement these recommendations.

Respectively submitted,

Bernard G. Barrow, Chairman

Howard P. Anderson, Vice Chairman

Herbert H. Bateman<sup>3</sup>

George P. Beard, Jr.

Clive L. DuVal, 2nd

Alexander B. McMurtrie, Jr.

Thomas W. Moss, Jr.

Lewis W. Parker, Jr.<sup>4</sup>

S. Wallace Stieffen

## **FOOTNOTES**

- <sup>1</sup> This information was furnished through a statement from Mr. Aldridge Dudley, Executive Director, Virginia Independent Telephone Association.
- <sup>2</sup> Some argue that if a telephone company selects the “average schedule” plan for compensation, it would not be able to deduct the entire portion of the tax on interstate toll service revenue.
- <sup>3</sup> Please note attached separate concurring statement.
- <sup>4</sup> Please note attached dissenting statement.

Table 1--Total Gross Receipts, Total Toll Service Revenue, Total Interstate Toll Service Revenue And Its Percentage Of Total Gross Receipts, For All Telephone Companies Chartered By The State Corporation Commission, Calendar 1977.

COMPANY	Total Gross Receipts (Including Interstate Toll Service Revenue) (1)	Non-Toll Service Revenue (Primarily Local Service) (2)	Total Toll Service Revenue (3)	Interstate Toll Service Revenue (4)	Interstate As Percent Of Total (5)
Amelia Telephone Corporation	\$ 429,567	\$ 186,064	\$ 243,503	\$ 62,851	14.6%
A.T. & T. Co. of Va.	923,483		?	?	
Buggs Island Telephone Cooperative	359,810	185,756	174,054	89,200	24.8
Burke's Garden Telephone Co., Inc.	18,779	3,912	14,867	-0-	0.0
Central Telephone Company of Virginia	57,784,452	31,171,166	26,613,286	13,350,993	23.1
C. & P. Telephone Co. of Va.	734,444,356	414,193,275	320,251,081	196,717,083 *	26.8
Citizens Telephone Cooperative	684,220	321,413	362,807	132,659	19.4
Clifton Forge-Waynesboro Telephone Co.	6,599,081	3,367,485	3,231,596	1,467,046	22.2
Continental Telephone Co. of Va.	76,296,897	35,393,058	40,903,839	18,371,137	24.1
Deerfield Telephone Company, Inc.	41,522	17,812	23,710	6,077	14.6
General Telephone Co. of The Southeast	8,501,441	4,950,349	3,551,092	1,924,438	22.6
Merchants and Farmers Telephone Co.	488,491	205,575	282,916	97,859	20.0
Mountain Grove-Williamsville Telephone Co.	311,801	87,204	224,597	72,483	23.3
Mutual Telephone of Highland, Inc.	106,652	52,603	54,049	25,598	24.0
Norfolk Carolina Telephone Company	2,908,866	2,406,920	501,946	347,896	12.0
North River Telephone Cooperative	94,369	41,274	53,095	20,410	21.6
Pembroke Telephone Cooperative	212,753	118,363	94,390	54,557	25.6
Peoples Mutual Telephone Company	906,283	517,227	389,056	118,857	13.1
Prince George Telephone Company	65,828	22,575	43,253	6,304	9.6
Roanoke and Botetourt Telephone Company	1,304,722	787,458	517,264	249,063	19.1
Scott County Telephone Cooperative, Inc.	730,211	406,991	323,220	211,461	29.0
Shenandoah Telephone Company	2,927,149	1,425,533	1,501,616	721,677	24.7
Southern Telephone Company	1,775,666	922,797	852,869	315,178	17.8
United Inter-Mountain Telephone Company	19,916,888	11,189,863	8,727,025	4,593,164	23.1
Virginia Hot Springs Telephone Company	328,639	159,836	168,803	142,292	43.3
TOTAL	\$918,161,926	\$509,057,992	\$409,103,934	\$239,098,283	26.0%

\* Includes \$8.1 Million as Interstate Local Service Revenue (Alexandria - Arlington Area)

SOURCE: Calculated by the Division of Legislative Services from Data Provided By The State Corporation Commission, Public Service Taxation Division

Table 2--Total Gross Receipts, Total Toll Service Revenue, Total Interstate Toll Service Revenue And Its Percentage Of Total Gross Receipts,  
For All Telephone Companies Chartered By The State Corporation Commission, Calendar 1976.

COMPANY	Total Gross Receipts (Including Interstate Toll Service Revenue) (1)	Non-Toll Service Revenue (Primarily Local Service) (2)	Total Toll Service Revenue (3)	Interstate Toll Service Revenue (4)	Interstate As Percent Of Total (5)
Amelia Telephone Corporation	\$ 370,249	\$ 166,531	\$ 203,718	\$ 58,284	15.7%
A.T. & T. Company of Virginia	0	0	0	0	0.0
Buggs Island Telephone Cooperative	292,536	137,809	154,727	86,373	29.5
Burke's Garden Telephone Co., Inc.	16,533	3,891	12,642	0	0.0
Central Telephone Company of Virginia	46,350,627	26,899,368	19,451,259	8,654,298	18.7
C. & P. Telephone Company of Va.	638,724,192	362,320,956	276,403,236	177,967,065 *	27.9
Citizens Telephone Cooperative	606,880	295,120	311,760	112,839	18.6
Clifton Forge-Waynesboro Telephone Co.	6,048,602	3,161,702	2,886,900	1,353,675	22.4
Continental Telephone Co. of Va.	68,357,449	30,996,638	37,360,811	17,083,067	25.0
Deerfield Telephone Company, Inc.	39,282	17,453	21,829	5,419	13.8
General Telephone Co. of The Southeast	7,420,992	4,438,387	2,982,605	1,685,247	22.7
Merchants and Farmers Telephone Co.	428,708	189,628	239,080	86,755	20.2
Mountain Grove-Williamsville Telephone Co.	249,227	78,088	171,139	23,943	9.6
Mutual Telephone of Highland, Inc.	86,326	43,856	42,470	28,558	33.1
Norfolk Carolina Telephone Company	2,882,044	2,389,090	492,954	359,955	12.5
North River Telephone Cooperative	83,619	36,053	47,566	18,532	22.2
Pembroke Telephone Cooperative	198,872	109,558	89,314	46,306	23.3
Peoples Mutual Telephone Company	831,257	470,277	360,980	119,160	14.3
Prince George Telephone Company	55,689	19,479	36,210	7,907	14.2
Roanoke and Botetourt Telephone Company	1,141,958	691,158	450,800	220,215	19.3
Scott County Telephone Cooperative, Inc.	679,920	383,155	296,765	202,191	29.7
Shenandoah Telephone Company	2,671,230	1,342,537	1,328,693	670,458	25.1
Southern Telephone Company	1,554,670	751,981	802,689	232,400	15.0
United Inter-Mountain Telephone Company	17,898,077	10,328,255	7,569,822	4,149,221	23.2
Virginia Hot Springs Telephone Company	280,461	130,215	150,246	100,833	36.0
<b>TOTAL</b>	<b>\$797,269,400</b>	<b>\$445,401,185</b>	<b>\$351,868,215</b>	<b>\$213,272,701</b>	<b>26.8%</b>

\* Includes \$7.7 Million as Interstate Local Service Revenue (Alexandria - Arlington Area)

SOURCE: Calculated by the Division of Legislative Services from Data Provided By The State Corporation Commission, Public Service Taxation Division

Table 3--Revenue Impacts Of Alternative Gross Receipts Tax Structures On Virginia's Telephone Companies, All Companies Total.

REVENUE ESTIMATES, VARIOUS ALTERNATIVES (millions of dollars)							
CALENDAR YEAR (1)	GROSS RECEIPTS (Present Base) (millions of \$) (2)	INTERSTATE TOLL SERVICE REVENUE (millions of \$) (3)	FISCAL YEAR (4)	Present Base 3% Tax (Old Law) (5)	Present Base Present Rates (6)	Present Base Plus Interstate Toll Revenue, Present Rates (7)	Present Base Plus Toll, Tax Rate Neces- sary to Equal Revenue in Col 6 (8)
1976	\$ 584.0 (act.)	\$ 213.3 (act.)	1976-77	\$17.5	\$17.5	\$23.9	2.2%
1977	679.1 (act.)	239.1 (act.)	1977-78	20.4	20.4	27.5	2.2%
1978	747.0 (est.)	263.0 (est.)	1978-79	22.4	22.4	30.3	2.2%
1979	821.7 (est.)	289.3 (est.)	1979-80	24.7	23.0	31.1	2.1%
1980	903.9 (est.)	318.2 (est.)	1980-81	27.1	23.5	31.8	1.9%
1981	994.3 (est.)	350.1 (est.)	1981-82	29.8	23.9	32.3	1.8%
1982	1,093.7 (est.)	385.1 (est.)	1982-83	32.8	24.1	32.5	1.6%
1983	1,203.1 (est.)	423.6 (est.)	1983-84	36.1	24.1	32.5	1.5%
1984	\$1,323.4 (est.)	\$465.9 (est.)	1984-85	\$39.7	\$26.5	\$35.8	1.5%

NOTE: Assumes revenues grow at 10% per annum.

SOURCE: Prepared by the Division of Legislative Services.

Table 4--Gross Receipts Tax Rates In States Extending Tax To Interstate Toll Service Revenue,  
As Of June 1, 1978.

STATE	<u>RATE</u>
Connecticut	8%
District of Columbia	6%
Maine	1.25% - 7%
Maryland	2%
Minnesota	4% & 7%
Rhode Island	8%
Vermont	5.25%
Wisconsin	2.813% - 9%

NOTE: The state of West Virginia holds that interstate toll service revenue is included in the base while at least one utility has taken this to court. It should be noted that the litigation involves the interpretation of the statute rather than the constitutionality of the tax.

SOURCE: Commerce Clearing House and Individual States.

Prepared by the Division of Legislative Services.



SEPARATE CONCURRING STATEMENT  
OF  
SENATOR HERBERT H. BATEMAN

While joining in the recommendations of the Joint Subcommittee, I wish to express some reservations and conditions to my support of the legislation suggested for introduction and passage.

The notion that imposition of a gross receipts tax on interstate revenues of telephone companies will not lead to increased costs to Virginia telephone users, must be the subject of some skepticism. There is no "free lunch." Ultimately I am concerned that, notwithstanding our hope to avoid it, interstate rates for Virginians will reflect the imposition of gross receipts taxes on interstate revenues. This will likely occur if other states do as we are proposing to do. Certainly the very nature of a gross receipts tax dictates that it will be fully passed on to users. It is in part for this reason that the General Assembly has sought to reduce gross receipts taxes, and this policy should be expanded as the very nature of the tax is unfair to the companies paying it and is regressive in its impact upon telephone users when it is passed on to them.

My concurrence is therefore based on the expectation that the General Assembly will be alert to repeal or amend the gross receipts tax in the future to accommodate what may result from this presently proposed amendment.

In mandating a pass through of reductions in gross receipts taxes by legislative action, we may be setting an unfortunate precedent for legislative rate-making. Constitutionally and in sound legislative policy, that is the function of the State Corporation Commission pursuant to general law. If general legislative standards imposed on the State Corporation Commission for discharging its rate-making responsibilities are not adequate, they should be addressed by amendment to these statutes, not by a direct statutory mandate which could introduce confusion or unduly weight one factor in the rate-making process as related to all other factors to be considered in the setting of rates in a manner which best serves the public interest.

Finally my concurrence is conditioned upon the proposed legislation being amended to effectively exempt small, independent public telephone companies whose method of billing and charges for interstate revenues is such that there would be an inequity for them under the recommended legislation as presently drafted.

Respectfully submitted,



Herbert H. Bateman



COMMONWEALTH OF VIRGINIA  
House of Delegates  
RICHMOND

LEWIS W. PARKER, JR.  
P. O. BOX 366  
SOUTH HILL, VIRGINIA 23970

November 16, 1978

TWENTY-NINTH DISTRICT  
MECKLENBURG  
BRUNSWICK

COMMITTEE ASSIGNMENTS:  
FINANCE  
CORPORATIONS, INSURANCE AND BANKING  
AGRICULTURE  
CLAIMS

JOINT SUBCOMMITTEE OF THE HOUSE FINANCE AND CORPORATIONS  
INSURANCE, AND BANKING COMMITTEES AND THE SENATE FINANCE  
COMMITTEE ON INTERSTATE TOLL SERVICE REVENUE OF TELEPHONE  
COMPANIES

I dissent on the first two recommendations of the joint subcommittee. My disapproval of the first recommendation revolves around the philosophy that while the very nature of the recommendation would yield approximately the same revenue to the Commonwealth, there is the probability that other states would enact similar legislation, which could then cause an increase in interstate toll call - which would have to be borne by the consumer. We, then, have a situation where the State is receiving the same amount of revenue but the tax payer is paying additional sums.

The second recommendation mandates a pass-through by the telephone companies to the consumer. The General Assembly has historically left this responsibility to the SCC. I believe the SCC to be the proper authority and, where I do believe that this should be a prime consideration, I do not believe it should be mandated.

Additionally, if this legislation is to be considered, I would strongly recommend that an effective date for this legislation be included which, in my opinion, should be January 1, 1980.

  
\_\_\_\_\_  
Lewis W. Parker, Jr.

LWP, JR:stt

May 31, 1977

APPENDIX A

TELEPHONE COMPANIES

STATEMENT SHOWING TOTAL GROSS EARNINGS AND RECEIPTS  
IN VIRGINIA, INCLUDING THE SUM DEDUCTED AS  
"INTERSTATE TOLL REVENUE", FOR THE YEARS 1976 AND 1977

<u>Company</u>	1976	1977
Amelia Telephone Corporation	\$ 370,249	\$ 429,567
A.T. & T. Co. of Va.	-0-	923,483
Buggs Island Telephone Cooperative	292,536	359,810
Burke's Garden Telephone Co., Inc.	16,533	18,779
Central Telephone Company of Virginia	46,350,627	57,784,452
C. & P. Telephone Co. of Va.	638,724,192	734,444,356
Citizens Telephone Cooperative	606,880	684,220
Clifton Forge-Waynesboro Telephone Co.	6,048,602	6,599,081
Continental Telephone Co. of Va.	68,357,449	76,296,897
Deerfield Telephone Company, Inc.	39,282	41,522
General Telephone Co. of The Southeast	7,420,992	8,501,441
Merchants and Farmers Telephone Co.	428,708	488,491
Mountain Grove-Williamsville Telephone Co.	249,227	311,801
Mutual Telephone of Highland, Inc.	86,326	106,652
Norfolk Carolina Telephone Company	2,882,044	2,908,866
North River Telephone Cooperative	83,619	94,369
Pembroke Telephone Cooperative	198,872	212,753
Peoples Mutual Telephone Company	831,257	906,283
Prince George Telephone Company	55,689	65,828
Roanoke and Botetourt Telephone Company	1,141,958	1,304,722
Scott County Telephone Cooperative, Inc.	679,920	730,211
Shenandoah Telephone Company	2,671,230	2,927,149
Southern Telephone Company	1,554,670	1,775,666
United Inter-Mountain Telephone Company	17,898,077	19,916,888
Virginia Hot Springs Telephone Company	280,461	328,639
Total	\$797,269,400	\$918,161,926

May 3, 1978

APPENDIX B

TELEPHONE COMPANIES

STATEMENT SHOWING "TOTAL TOLL SERVICE REVENUE" AND  
CLAIM FOR "INTERSTATE TOLL SERVICE REVENUE" FOR  
EACH COMPANY FOR THE YEAR 1977

<u>Company</u>	<u>Total Toll Service Revenue</u>	<u>Interstate Toll Service Revenue</u>	<u>Percent</u>
Amelia Telephone Corporation	\$ 243,503	\$ 62,851	25.81
*A.T.&T. Co. of Va.	?	?	
Buggs Island Telephone Cooperative	174,054	89,200	51.25
Burke's Garden Telephone Co., Inc.	14,867	-0-	-0-
Central Telephone Company of Virginia	26,613,286	13,350,993	50.17
C&P Telephone Co. of Va. *(*) See below	320,251,081	188,555,379	58.88
Citizens Telephone Cooperative	362,807	132,659	36.56
Clifton Forge-Waynesboro Telephone Co.	3,231,596	1,467,046	45.40
*Continental Telephone Co. of Va.	40,903,839	18,371,137	44.91
Deerfield Telephone Company, Inc.	23,710	6,077	25.63
*General Telephone Co. of The Southeast	3,551,092	1,924,438	54.19
Merchants and Farmers Telephone Co.	282,916	97,859	34.59
Mountain Grove-Williamsville Telephone Co.	224,597	72,483	32.32
Mutual Telephone of Highland, Inc.	54,049	25,598	47.36
*Norfolk Carolina Telephone Company	501,946	347,896	69.31
North River Telephone Cooperative	53,095	20,410	38.44
Pembroke Telephone Cooperative	94,390	54,557	57.80
Peoples Mutual Telephone Company	389,056	118,857	30.55
Prince George Telephone Company	43,253	6,304	14.57
Roanoke and Botetourt Telephone Company	517,264	249,063	48.15
*Scott County Telephone Cooperative, Inc.	323,220	211,461	65.42
Shenandoah Telephone Company	1,501,616	721,677	48.06
Southern Telephone Company	852,869	315,178	36.96
*United Inter-Mountain Telephone Company	8,727,025	4,593,164	52.63
Virginia Hot Springs Telephone Company	168,803	142,292	84.29
 Total	 \$409,103,934	 \$230,936,579	 56.45
 Plus:			
*(*) C&P Telephone Co. of Va. - Interstate Local Service Revenue (Alex.- Arlington Area)		<u>8,161,704</u>	61.42
 Grand Total - "Interstate" Revenue Not Taxed	 <u>\$409,103,934</u>	 <u>\$239,098,283</u>	 <u>58.44</u>

Approximate Tax Loss for 1978 Tax Year:

230,936,579 at 3.% = \$6,928,097.03

\* Denotes Interstate Telephone Companies

## APPENDIX C

A BILL to amend and reenact §§ 58-514.2:1, 58-580 and 58-581 of the Code of Virginia, relating to the franchise tax on certain public service corporations.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58-514.2:1, 58-580 and 58-581 of the Code of Virginia are amended and reenacted as follows:

§ 58-514.2:1. Commission to determine franchise and recordation tax savings and adjust rates accordingly ; The Commission , in the conduct of its annual review procedures and in all requests for rate increases by public utilities during the years nineteen hundred seventy nine through nineteen hundred eighty three, shall ~~consider~~ *annually determine* the resultant savings in franchise taxes realized by all telephone, water, heat, light and power companies as a result of amendments to §§ 58-580 and 58-603 of the Code of Virginia enacted during the nineteen hundred seventy-six session of the General Assembly and , the savings in recordation taxes realized by such companies as the result of the amendments to § 58-55 of the Code of Virginia enacted during the nineteen hundred seventy-seven session of the General Assembly *and the resultant savings in franchise taxes realized by all telephone companies as a result of amendments to § 58-580 of the Code of Virginia enacted during the nineteen hundred seventy-nine session of the General Assembly .*

~~The Commission's consideration of the savings so realized shall have as its objective the goal of reducing the amount of rate increase requests by an amount similar to that of the franchise and recordation tax savings realized by the telephone, water, heat, light and power companies petitioning for such rate increases.~~

*The Commission shall adjust the rates of charge to be observed by any public service corporation in connection with the services performed by it annually, either during the conduct of its annual review of rates or if there is no review on or before July one of such year, to reflect all savings so realized by telephone, water, heat, light and power companies, this section having as its objective the goal of reducing public utility rates of charge so that the consumer will ultimately receive the direct benefit of the franchise and recording tax reductions.*

§ 58-580. License tax on telephone companies.—The specific license tax to be paid by every corporation, person or association, for the privilege of operating the apparatus necessary to communicate by telephone, shall be:

(1) When the gross receipts do not exceed sixty-five thousand dollars and when the number of miles of pole line did not exceed seven hundred miles and a majority of the stock or other property of such company is not owned or controlled by any other telephone or telegraph company whose receipts exceed sixty-five thousand dollars, a sum equal to one and nine-sixteenths per centum of the gross receipts of such corporation, person or association from business done within this State during the year ending the thirty-first day of December preceding;

(2) When the gross receipts from business done within this State , *including the proportionate part of interstate revenue attributable to this State*, during any such year are in excess of sixty-five thousand dollars or the number of miles of pole line exceed seven hundred or a majority of the stock or other property of such company is owned or controlled by any other telephone or telegraph company whose receipts exceed sixty-five thousand dollars, the license tax shall be a sum equal to one and nine-sixteenths per centum of such receipts up to sixty-five thousand dollars and an additional sum equal to three per centum of such receipts exceeding sixty-five thousand dollars; provided, however, that the license tax on receipts exceeding sixty-five thousand dollars for the tax year nineteen hundred seventy-nine shall be an amount equal to two and eight-tenths per centum; for the tax year nineteen hundred eighty shall be an amount equal to ~~two and six tenths~~ *one and nine-tenths* per centum; for the tax year nineteen hundred eighty-one shall be an amount equal to ~~two and four tenths~~ *one and eight-tenths* per centum; and for the tax year nineteen hundred eighty-two shall be an amount equal to ~~two and two tenths~~ *one and six-tenths* per centum; and for the tax year nineteen hundred eighty-three and for each tax year thereafter ~~two~~ *one and five-tenths* per centum; and, in addition, a sum equal to two dollars and twenty-five cents per mile of pole line or conduit, including the number of miles of other property used in lieu of pole lines or conduits, such as buried cable, submarine cable or buried wire, owned, operated or used by such corporation,

person or association in this State, provided that, when the gross receipts do not exceed an average of two hundred dollars per mile of pole line or conduits, including the number of miles of other property used in lieu of pole lines or conduits, such as buried cable, submarine cable or buried wire, the license tax on gross receipts shall be as herein provided and the additional sum equal to one dollar per mile of pole line or conduits including the number of miles of other property used in lieu of pole lines or conduits, such as buried cable, submarine cable or buried wire, owned, operated or used by such corporation, person or association in this State, instead of two dollars and twenty-five cents per mile as hereinabove provided;

(3) When the number of miles of pole line exceeds seven hundred and no license tax is paid upon gross receipts, the license tax shall be a sum equal to ten dollars per mile of pole line or conduits including the number of miles of other property used in lieu of pole lines or conduits, such as buried cable submarine cable or buried wire, owned, operated, or used by such corporation, person or association in this State.

(4) Any telephone company which pays no tax on its gross receipts shall pay, in addition to the pole line tax, the tax on its income imposed in § 58-151.03.

But no license tax shall be charged against any telephone company chartered in this State for the privilege of prosecuting its business when such company is purely a local mutual association and does not charge others for transmitting messages over its line, or lines, and is not designed to accumulate profits for the benefit of, or to pay dividends to, the stockholders or members thereof.

§ 58-581. Annual report.—Each incorporated telegraph and telephone company doing business in this State, owning and operating a telegraph or telephone line in this State, shall report annually, on the fifteenth day of April, to the Commission all real and personal property of every description (other than intangible personal property and money) in this State, owned, operated or used by it as of the beginning of the first day of January preceding, showing particularly, as to property owned by it, in what corporation, county and school district such property is located. Such corporation shall classify in its report all property under the following heads:

(1) Number of miles of pole line or conduits, including number of miles of other property used in lieu of pole lines or conduits such as buried cable, submarine cable or buried wire, owned by it within this State on the first day of January preceding, in each county, city, town and school district;

(2) Number of miles of pole lines or conduits, including number of miles of other property used in lieu of pole lines or conduits such as buried cable, submarine cable or buried wire, operated or used but not owned by it within this State on the first day of January preceding;

(3) Number of miles of wire in each city, county, town and school district;

(4) Real and personal property, including the value of the telephone instruments, switchboards, etc., and the value of telegraph instruments, apparatus, etc., in each city, county, town or school district;

(5) The gross earnings and receipts in this State for the twelve months ending December thirty-first next preceding ; ;

*(6) The interstate revenue attributable to this State which shall include all interstate revenue from business originating and terminating within this State and a proportion of interstate revenue from all interstate business passing through, into or out of this State and any other information relating to interstate revenue which in the judgment of the Commission is necessary to produce a substantially just and correct determination of the amount of such interstate revenue attributable to this State.*

The report herein required shall be certified by the oath of the president or other proper officer of the company making the same.

2. That the provisions of this act shall be effective on and after January one, nineteen hundred eighty.

## **APPENDIX D**

### **HOUSE JOINT RESOLUTION NO.....**

Requesting a joint subcommittee of the House and Senate Finance Committees and House Committee on Corporations, Insurance and Banking to study the taxation of publicly regulated telephone companies and private companies providing telephone services and equipment to the general public.

WHEREAS, House Joint Resolution No. 93 of the 1978 Session of the General Assembly established a Joint Subcommittee to study whether interstate toll service revenue of telephone companies should be included in the franchise or license tax base; and

WHEREAS, the Joint Subcommittee during their study received much testimony from public service telephone companies regarding the unfair differences in taxation between public and private telephone companies; and

WHEREAS, the Joint Subcommittee felt that it was desirable to study the taxation of all telephone companies to ensure that the tax structure applicable to these competitors is equitable but that such a study could not and should not be conducted under the purview of House Joint Resolution No. 93; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study the taxation of publicly regulated telephone companies and private companies providing telephone services and equipment to the general public and determine whether the total tax structure applicable to these companies is equitable.

The joint subcommittee shall be composed of nine members who shall be appointed in the following manner: four members appointed by the chairman of the House Finance Committee from the membership of that committee, two members appointed by the chairman of the House Committee on Corporations, Insurance and Banking from the membership of that committee, and three members appointed by the chairman of the Senate Finance Committee from the membership of that committee.

The members of the joint subcommittee shall receive such compensation as is authorized by law for members of the General Assembly and be reimbursed for their expenses incurred for the work of the joint subcommittee. The Division of Legislative Services shall serve as staff to the joint subcommittee. The officials and employees of all State agencies shall cooperate fully with the joint subcommittee.

The joint subcommittee shall report its findings and recommendations to the Governor and the General Assembly not later than November one, nineteen hundred seventy-nine.

