



PolicyPerspective

Telecommunications Taxes in Texas

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Executive Summary

The rapid Internet and technological developments of the 1990s set off a huge boom in the telecommunications industry. Federal policymakers were confronted with the dilemma of applying 1930's tax and regulatory structures to a highly competitive and booming industry. Texas led the way for major reform with legislation passed in 1995. Washington followed Texas' lead with the passage of the 1996 Federal Telecommunications Act, the first major revision to the Communications Act of 1934. Although this legislation was a step in the right direction, it still contained concepts and language that dated back to the days of monopoly telecommunication services.

Telecommunications services continue to diversify and expand due to the recent developments in wireless, satellite, and Internet technologies. Voice service consumers for example can choose between traditional wireline, cellular, or voice-over-internet protocol (VoIP) platforms. Further regulatory improvements were made in Texas with the passage of Senate Bill 5 in 2005. Again, Senate Bill 5 was a step in the right direction towards promoting regulatory reforms and competition, but mostly left untouched the monopoly-based taxes and fees levied on telecommunications providers and consumers.

Retail telecommunications service providers operate on an unlevel playing field in terms of taxes and fees. Often times, traditional providers utilize technologies that are subject to many more fees and tax rates than modern competitors. Discriminatory taxes based on technology could negatively impact consumer decision making and therefore promote unfair favoritism in the market.

Consumers in Texas face some of the highest telecommunications taxes in the U.S. While significant progress has been made recently through the repeal of the Telecommunications Infrastructure Fee (TIF tax) and a reduction in Universal Service Fund fees, much remains to be done. The largest local fee remaining on most telephone bills, the municipal franchise fee, may be the next place for policymakers to reduce consumers' tax burden, along with the sales tax, which is applied to telecommunications equipment and fees in ways that amounts to double taxation for Texas consumers.

The telecommunications industry as whole is vital for the future economic growth in Texas. High tax burdens and a litany of fees passed on to the consumer is not an efficient way to promote growth policies. Market conditions conducive to competition and innovation will help ensure consumer satisfaction and the expansion of services to rural and low-income areas.

Telecommunications Taxes Today

In today's knowledge and technology-based economy, it is more important than ever for Texas to have a vibrant, competitive, and growing telecommunications industry. Since the breakup of AT&T in the early 80s and subsequent deregulation of the telecommunications industry, tax policy has lagged behind in keeping up with the changing dynamic of the industry.

With the recent national economic turmoil, an environment that fosters innovation and growth in telecommunications is one way to keep Texas at the forefront of job creation and

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economic growth. The current tax regime based on the days of regulated, government-backed communications monopolies will not accomplish this. As telecommunications technologies continue to expand into non-traditional platforms and services, the shortcomings of the current tax structure based on traditional platforms will become more obvious.

Consumers have greatly benefitted from previous measures to reduce telecommunications tax burdens. When fully phased in, the elimination of the Telecommunications Infrastructure Fund (TIF) tax and reduction in the Universal Service Fund (USF) charge will save Texas consumers \$350 million per year. Continuing this trend will keep Texas as a leader in telecommunications reforms. Universal Service fees or subsidies should not be expanded to new services or technologies such as broadband or VoIP. And once the current reductions are fully implemented, the next round of reform and reductions should begin.¹

Although there has been some significant success in recent years, Texas consumers are still bogged down by high rates on various telecommunications services. An average consumer that subscribes to a bundle of services, including phone, cable, and cellular service, faces an average annual tax of around \$310.² Texas' tax rate on landline telephone service alone is the third highest in the nation. Even after the repeal of the TIF, Texas telecommunications tax rates are about 17.44 percent; over 9 percent more than the rate imposed on other consumer sales goods and services.³

The concept of a punitive tax rate is well known. High tax rates are levied on certain goods or services when policymakers seek to curb certain consumer behaviors. The most obvious example of punitive tax rates can be seen in the tobacco and alcohol industry in the form of "sin taxes." It makes little sense to have such high rates on telecommunications services when the telecommunications industry is important for driving future economic success. Telecommunications taxes shouldn't resemble sin taxes if the goal in Texas is to promote future investment and growth in our economy.

Because of the vital role that the telecommunications industry will continue to play in keeping the state economy competitive, extra consideration should be given to the way in which taxes and fees are levied. Currently, telecommunications taxes are not uniform and have distorting effects on consumer choices. Taxes and fees tend to differ according to the means of technology employed in providing services, driving consumers from higher-taxed

Table 1: Comparison of Telecommunications Taxes to Other Taxes

Tax	Average Rate
Hotel	6.00%
Motor Vehicle	6.25%
Satellite	6.25%
Sales	8.25%
Fireworks	10.25%
Mixed Beverage	14.00%
Cable Video	14.33%
VoIP	16.40%
Wireless Phone	18.00%
Landline Phone	21.05%
Cigarettes	35.60%

Sources: Texas Public Policy Foundation and State Comptroller's Office, and authors' calculations.

technologies to companies using a lower-tax platform of delivery.

The taxes and fees that consumers pay include state and local sales taxes, municipal franchise fees, and charges for the Texas Universal Service Fund (USF). Franchise fees, which are levied on a variety of services such as gas and electric, are levied on telecommunications services providers for the use and maintenance of the public right-of-way (ROW). Franchise fees alone are projected to have brought in more than \$500 million for FY 2008 in Texas' 10 largest cities and will far exceed the costs of maintaining the ROWs. Additionally, franchise fees have cost Texas consumers more than \$5 billion over the past 10 years.⁴

Consumer fees and taxes are not the only taxes paid by the telecommunications industry. The appraisal methods used to determine property values for ad valorem taxes are discriminatory based on outdated utilities models. While some telecoms are appraised under the old model, others have an unfair competitive advantage under the non-utility summation method. In order to promote healthy competition within the industry, telecommunications properties should be appraised using a uniform method.⁵

A competitive telecommunications industry will be a driving force of economic development for Texas. Currently, though, even different technologies that deliver the same service are being taxed at various rates. Wireline telephone services, for example, are taxed at a higher rate than wireless or VoIP services. These technologies enable consumers to enjoy the same type of voice service, yet wireline technology is singled out and burdened by higher taxes.⁶

Table 2: Communications Tax Rates in Texas Relative to the National Average

	Texas Average	U.S. Average
Wireline Voice	21.05%	17.23%
Wireless Voice	18.00%	11.90%
Cable Video	14.33%	11.69%

Source: “Telecommunications Taxes and Technology Deployment,” Texas Public Policy Foundation, and authors’ calculations.

Technology-based discrimination isn’t just specific to the telephone/voice sector of the telecommunications industry. Consumers who enjoy cable television are also paying high tax costs compared to those who subscribe to satellite. Unlike cable subscribers, satellite users are only subject to a sales tax.⁷

In today’s telecommunication environment, new technologies, competition, and regulatory changes allow for companies to compete for traditional core services. The policies of heavy taxation are a remnant from the time when one government-backed monopoly acted as the sole provider for certain telecommunications services. Thus, by today’s industry standards, it makes little sense to tax certain technologies at unfair rates. Consumers are better served when competing firms don’t have to pass down higher rates of taxes.⁸

Texas taxpayers have greatly benefitted from previous measures to reduce telecommunications tax burdens. When fully phased-in, the elimination of the TIF tax and reduction in the USF charge will save Texas consumers \$90 million annually. This trend should continue if Texas wants to be a leader in telecommunications reforms. USF fees or subsidies should not be expanded to new services or technologies such as broadband or VoIP. Legislators ought to examine new ways to further reduce the USF once the current reductions are implemented.

With the state moving towards a position of more tax transparency, attention must be paid to how certain, unnecessary built-in taxes and fees are passed down to the consumers—specifically, sales taxes on telecommunications equipment at the production good level and double-taxing consumers based on mandated fees or charges. Consumers could stand to save an average of almost \$500 million per year alone from reforming redundant taxing.

The backwards nature of the current telecommunications tax structure makes the need for reform clear. Isaac Asimov once noted that “the saddest aspect of life right now is that science gathers knowledge faster than society gathers wisdom.” With that in mind, government methods of taxing telecommunication services needs to come into the 21st century in order to keep pace with advancing technologies.

Municipal Franchise Fees

Since 1999, municipal franchise fees have cost Texas consumers over \$4.6 billion. Municipal franchise fees are levied on a variety of consumer services for the use of the public right-of-way including telephone, cable, gas, and electricity. Franchise fees in FY 2008 in the 10 largest Texas cities alone are projected to cost consumers over \$500 million.

Local governments have an obligation to maintain and protect public rights-of-way (ROWs). One way to fund this work is by levying municipal franchise fees, a form of payment from companies that use or occupy the public right-of-way. However, there is a vast disparity between the costs of maintaining public ROWs and the volume of revenues taken in from franchise fee collections. Cities divert much of this revenue into their general funds.⁹ This redirection of surplus franchise fees is an indicator that cities are imposing too high of a franchise fee for its intended purpose.

Because local governments control the ROW, they have long been able to use franchise fees to grow their general revenues. The Texas Legislature has taken notice of this situation and has repeatedly stepped in to change the way in which cities manage the ROW and collect revenue from franchise fees. While the legislature has improved the franchise process, it has unfortunately left franchise fees at high levels. The collection process has become more efficient, yet Texas consumers are still burdened by these fees.

Collection of franchise fees would be appropriate in order to adequately cover these costs. Instead however, franchise

fees are mixed into the general fund to provide additional means to spend. Unlike property taxes, which are highly visible and universal, franchise fees are hidden and go relatively unnoticed by consumers. Franchise fees function as an indirect tax on telecommunications consumers while city governments enjoy substantial discretion over these revenues.

With respect to levying franchise fees, cities are essentially able to increasingly burden consumers with higher charges every year. Chapter 283 of the Texas Local Government Code authorizes cities to raise the franchise fee each year by an inflation factor.¹⁰ Whether or not consumers know it, their city may be contributing to rising telecommunications charges. Because cities are able to divert franchise fee revenues to the general fund, any increase in these fees constitutes a hidden increase in taxes for general revenues.

The Communications Act of 1934 states that “any cable operator may be required under the terms of any franchise to pay a franchise fee.” While the Act is clear that franchise fees may be imposed, it fails to specify any limitations on how much cities can extract from telecommunication providers.

Table 3 highlights the annual total franchise fees paid by consumers in 20 Texas cities as reported by the Beacon Hill Institute. While some municipalities, like El Paso, levy franchise fees on a wide variety of services such as railroads or pipelines, other cities simply have high franchise fees per household. Plano and Dallas are two such municipalities that impose high franchise fees on conventional utilities and telecommunications companies. Other cities’ totals are a combination of both high fees and levying fees on numerous services.¹¹

As previously mentioned, the majority of franchise fee revenues are not used for the maintenance of the ROW and instead are deposited in with other general funds. On average, franchise fee revenues make up about 9.21 percent of general revenue funds in surveyed cities. Some municipalities, such as El Paso, collect franchise fees on a variety of different services while other cities, like Dallas and Plano, impose franchise fees strictly on traditional utilities and cable television providers.

Franchise fees do not make up as much of the general revenue fund as they did a decade ago in terms of their percentage of the general fund. This is due to the rapid increase in overall general revenues compared to the increase

Table 3: Annual Franchise Fees Paid per Household

Municipality	Annual Franchise Fees per Household
Brownsville	\$56.38
San Antonio	\$56.94
Abilene	\$67.75
Lubbock	\$67.77
Laredo	\$75.55
Garland	\$91.69
Austin	\$105.70
Mesquite	\$126.33
Pasadena	\$132.83
Beaumont	\$133.75
Corpus Christi	\$146.96
Irving	\$195.19
Houston	\$206.89
Arlington	\$209.38
Grand Prairie	\$221.10
Dallas	\$226.70
Plano	\$233.17
Fort Worth	\$236.24
Amarillo	\$238.08
El Paso	\$261.79
Average	\$154.51

Source: Sarah Glassman, Paul Bachman, and David Tuerck, “Franchise Fees in Texas: Out of Line,” Beacon Hill Institute at Suffolk University, December 2008.

in franchise fee collections.¹² Given the general trend of decreasing reliance on franchise fees as a percentage of the general fund, it is likely that a phased reduction of fees would allow cities to adjust their future expenditures with greater ease.¹³

Franchise fees are levied on a variety of consumer services including some major telecommunications technologies. However, recent developments in wireless technology bring to light a very serious issue in how franchise fees can impact consumer choices. The cell phone industry has boomed over the last decade, with almost five times as many cell subscribers today than in 1997. Recent Internet technology has allowed some consumers to use VoIP as an alternative to traditional landline telephones. Franchise fees, which are levied on traditional landline or cable telecommunications technologies, consequently punish consumers who, for one reason or another, are using wire- or cable-based technologies.

Table 4: Franchise Fee Revenue as a Percentage of General Funds

Municipality	Franchise Fee Revenue as a Percentage of the General Fund
Brownsville	3.41%
San Antonio	3.53%
Abilene	4.92%
Lubbock	5.20%
Laredo	5.31%
Garland	5.42%
Austin	5.43%
Mesquite	6.41%
Pasadena	7.77%
Beaumont	9.22%
Corpus Christi	9.86%
Irving	10.20%
Houston	10.68%
Arlington	10.72%
Grand Prairie	10.86%
Dallas	12.06%
Plano	12.73%
Fort Worth	14.44%
Amarillo	16.09%
El Paso	19.93%
Average	9.21%

Source: Sarah Glassman, Paul Bachman, and David Tuerck, "Franchise Fees in Texas: Out of Line," Beacon Hill Institute at Suffolk University, December 2008.

In 2005 the Texas Legislature passed SB 5, which contained various significant reforms of Texas telecommunications law, including: 1) eliminating barriers of entry in the broadband Internet market; 2) deregulation of pricing in certain local-exchange telephone markets; and 3) creation of a state-wide cable and video franchise.¹⁴ These reforms greatly facilitated innovation and entry into the market place, but left the tax burden on consumers—including the franchise fee—essentially unchanged.

Today, there are calls by local government to expand the franchise fees to cover new wireless or alternative communications providers, even though they don't occupy the public ROW. Instead, to protect Texas consumers and promote fair competition, franchise fees ought to be reduced for traditional providers rather than be expanded to new technologies.

Municipal Franchise Fees Recommendations

- To maximize the availability of cost-effective services available to consumers, franchise fees should be levied on the basis of the marginal costs of managing the public ROW.
- Franchise fees should generally be levied only on the entity that owns the poles or conduits that occupy the ROW.
- Entities that use poles or conduits owned by other entities should pay for the use of the ROW through pole connection charges and associated fees, rather than through franchise fees.
- Any reduction in franchise fees under the marginal cost model should be phased in over a period of several years in order to give cities time to adjust their budgets.
- In return for the reduction of franchise fees, entities that occupy the public ROW should bear responsibility for relocation costs associated with municipal projects.

Discriminatory Taxes

Property Tax Appraisal Methods

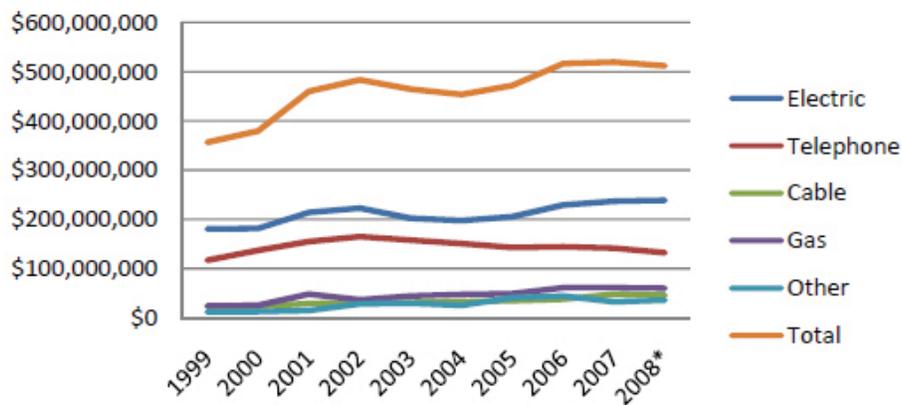
Texas' 21st century telecommunications tax structure is still based on a 20th century telecommunications regulatory model. Even after the breakup of AT&T in 1984 and the subsequent federal Telecommunications Act of 1996, certain companies are still treated as though they are "utilities" while other, newer firms are not defined by such frameworks.¹⁵

Early telecommunications policy grew out of the fact that there was only one telephone service provider, AT&T, which was a highly-regulated, government-sponsored monopoly. Government can collect high taxes on such a business without hindering competition. In a competitive market, however, the same high taxes distort prices and therefore consumer behavior and investments. Tax structures that treat the industry as though there is still only one hardwired telephone provider are harmful to competition and consumers.

One example of this is that certain telecommunications providers are appraised differently for the purposes of property taxes. In particular, wireline telephone companies are treated as "utility" companies, while other voice service companies are not. This creates a discrepancy in

Franchise Fees Collected Since 1999

Ten Largest Texas Cities



Source: Bill Peacock, *Testimony before the House Committee on Regulated Industries, "Telecommunications Taxes and Technology Deployment," Texas Public Policy Foundation, June 2008.* *Budgeted

how different telecommunications properties are appraised for property taxes. Utility property is valued using the "unit appraisal method," which has historically been used for utilities that operate in highly-regulated industries or across various taxing districts.¹⁶

Most new companies entering the telecommunications market are not taxed in the same fashion as traditional companies. Their property is typically appraised using a summation approach rather than the unit appraisal method. As a result, lower tax assessments on certain companies can give them an unfair competitive advantage over pre-existing, or older companies. Because this violates the principle of "tax neutrality" within a certain industry, the state should look at ending discriminatory assessments on telecommunications properties.

Changes in the telecommunications industry have shifted a company's value more into the realm of intangible assets. Under the unit appraisal method, a large percentage of value is weighted on traditional, tangible assets. This often leads to a disproportionate amount of income derived from hard-lines and equipment.¹⁷

The shifting nature of the telecommunications industry has led to more income being derived from intangible, and therefore non-taxable, assets. In order to accurately appraise a company's value, taxing agents should de-

emphasize the importance of physical hard-lines and cables. Using the utility or unit appraisal method is simply not consistent with today's rapidly changing industry.

Table 5 highlights the disparate treatment of wireline voice services compared to wireless technology. Tax rates in cities surveyed were consistently higher, and therefore more burdensome, for wired communications technologies. Companies that provide wireline telephone services are not only paying all the taxes and fees that apply to telecommunications services, but also municipal franchise fees and many taxes that are only applicable to a public utility. Wireless carriers, in contrast, are exempt from the Municipal Rights-of-Way fee as well as any taxes or fees that apply to public utilities.

Recommendations

- Promote healthy competition within the telecommunications industry by having a uniform method for determining property values.
- Recognize the changing nature of how telecommunications companies derive their income from intangible assets or services and adapt the tax structure accordingly.
- Refrain from raising tax rates on competing technologies and instead lower tax burdens on traditional technologies.

Table 5: Monthly Tax Rates Paid on Competing Voice Service Technologies

City	Wireline Rate	Wireless Rate	VoIP Rate
Abilene	21.62%	19.71%	16.77%
Austin	22.93%	17.96%	15.96%
Brownsville	21.18%	19.71%	16.77%
Canyon	22.10%	19.71%	16.77%
Columbus	22.42%	19.17%	16.23%
Dallas	24.55%	19.64%	16.76%
Houston	22.13%	18.63%	15.69%
Port Arthur	21.51%	19.17%	16.23%
Presidio	20.32%	19.71%	16.77%
San Antonio	21.22%	18.76%	15.82%
Weatherford	24.13%	19.17%	16.23%
Wichita Falls	22.53%	19.66%	16.77%
Average	22.30%	19.25%	16.40%

Source: Paul Bachman, Sarah Glassman, and David Tuerck, "Taxes and Fees on Telecommunications Services in Texas," *The Beacon Hill Institute at Suffolk University, Texas Public Policy Foundation, March 2007.*

Retail Taxes on Telecommunications Equipment

There are many discriminatory fees directed at the telephone and voice service sectors of the telecommunications industry. This is also true in the video sector as cable/video subscribers are penalized by higher tax rates compared to those who use satellite. The average tax rate on cable in 2007 was 14.33 percent compared to the 6.25 percent state sales tax placed on satellite service.

Another form of discriminatory taxes that are specific to the telecommunications industry is the sales tax charged on non-retail telecommunications equipment. Higher order goods, or production goods, are clearly not consumer products or even retail goods. Machinery, equipment, and software purchased by telecommunications companies are used in delivering consumer-based products and services. To tax equipment at various stages along the way is to place an additional, hidden tax on consumers.

Examples of such equipment are as follows: 1) antennas; 2) amplifiers; 3) poles; 4) wires and cables; 5) rectifiers; 6) duplexers and multiplexers; 7) receivers; 8) repeaters; 9) transmitters, modems, and routers; and 10) power equipment and storage devices.¹⁸ Telecommunications companies could not deliver retail consumer services without these

items, though they are currently being taxed as though these were themselves retail goods. All in all, consumers are fronting the bill for almost \$400 million on average per year for equipment taxes. Over a five-year period this will cost consumers almost \$2 billion.¹⁹

Recommendations

- Stop taxing production goods which are used to deliver consumer telecommunications services. This double-tax hurts Texas telecommunications consumers.
- Determine what telecommunications equipment qualifies as a production good, rather than a retail good.

Other Consumer Taxes and Fees

USF Charges

"Universal service" was a term that originally referred to the policy to provide nationwide telephone service access under the old Bell monopoly system. It has been the policy of the Federal government, beginning in the 1930s, to promote the goal of universal service by charging all telephone consumers a USF fee. Because access to voice service is essential for contacting local emergency, fire, and police services, Congress mandated that all telephone companies providing interstate service must pay the federal USF charge. Some states, including Texas, followed suit and implemented similar policies of promoting universal service goals.²⁰

After the 1996 Federal Telecommunications Act, universal service policies shifted focus to more redistributionist measures to provide various kinds of subsidized telecommunications service.²¹ Meanwhile, emerging technologies and competition within the voice service industry began to make it easier for consumers to gain access to services. In fact, telecommunications subscriber rates are now averaging well over 90 percent in U.S. households.²² Given this fact, it may be time to reconsider the goals of universal service and to readjust the USF charge accordingly.

Competition always has the tendency to promote innovation in the delivery of goods and services. VoIP, for example, works on a basic level by running data over both wireline and wireless Internet networks. As the technology improves, VoIP could gain significantly more market share in the voice service industry. Similarly, cellular subscription rates have been rapidly increasing over the past 20 years. From 2000 to 2004 alone there was an 80 percent increase in the number of wireless subscribers.²³

Table 6: Five-Year Projected Savings if Telecommunications Equipment was Exempt

FY	General Revenues	Cities	Counties	Transit	Total Savings
2008	\$280,498,000	\$53,861,000	\$6,951,000	\$18,479,000	\$359,789,000
2009	\$295,978,000	\$56,834,000	\$7,334,000	\$19,499,000	\$379,645,000
2010	\$309,954,000	\$59,517,000	\$7,681,000	\$20,420,000	\$397,572,000
2011	\$325,005,000	\$62,407,000	\$8,054,000	\$21,411,000	\$416,877,000
2012	\$343,057,000	\$65,874,000	\$8,501,000	\$22,601,000	\$440,033,000
				5-Year Savings	\$1,993,916,000

Source: Legislative Budget Board, Fiscal Note 80th Legislative Regular Session, Ways and Means Committee, "Estimated Two-Year Net Impact to General Revenue Related Funds for HB 2787, April 2007.

When Bell was the only provider in the market, it seemed as if there was no other alternative than to mandate universal service. However, the current deregulated and competitive nature of the telecommunications industry could ultimately promote universal service based on voluntary market forces. The emergence of new voice service technologies such as cellular, wireless, and VoIP will only increase the competitive nature of the market and compel companies to compete by extending their services to new consumers.²⁴

Recommendations

- Do not expand the Universal Service Fund subsidies or fees to new services or technologies, e.g., broadband, VoIP.
- Examine ways to further reduce the USF once the current reductions are phased in over the next few years.
- Promote policies that encourage competition within the voice service industry regardless of what technology platform is used.

Sales Taxes Levied on Telecommunications Equipment

Sales taxes levied on telecommunications services function in part as a "tax on a tax" since they are levied on other taxes, including the Federal USF charge, the Texas USF charge, the Utility Gross Receipts Assessment, and the Municipal Franchise Fee. This double-tax costs Texas consumers over \$90 million per year.²⁵

Just as consumers are paying a double tax on telecommunications equipment at the time of retail purchase, so too are they paying taxes on charges and fees imposed on telecommunications companies by federal, state, and local governments.²⁶ Upon payment for consumer retail services, the sales tax is being levied on charges such as utility gross receipts, the Texas USF, the Federal USF, and municipal franchise fees. Simply put, consumers are paying taxes on taxes and fees which were already built-in and passed down. Over a five-year period from FY 2008 through 2012, consumers could have saved an average of \$113 million per year, or, \$500 million.²⁷

Table 7: Five-Year Projected Savings if Double-Tax was Ended

FY	General Revenues	Cities	Counties	Transit	Total Savings
2008	\$88,651,000	\$13,853,000	\$648,000	\$2,717,000	\$105,869,000
2009	\$97,384,000	\$16,739,000	\$783,000	\$3,284,000	\$118,190,000
2010	\$98,095,000	\$16,861,000	\$789,000	\$3,308,000	\$119,053,000
2011	\$98,803,000	\$16,983,000	\$794,000	\$3,331,000	\$119,911,000
2012	\$86,214,000	\$14,819,000	\$693,000	\$2,907,000	\$104,633,000
				5-Year Savings	\$567,656,000

Source: Legislative Budget Board, 80th Legislative Regular Session, "Estimated Two-Year Net Impact to General Revenue Related Funds for HB 986," April 2007.

Recommendation

- Save taxpayers \$90 million per year by eliminating the “tax on a tax” aspect of state and local telecommunications sales taxes.

911 Fees

The FCC recently imposed emergency 911 obligations on “interconnected” VoIP service providers where “interconnected” means any VoIP service that uses public switched telephone networks, including wireless, to initiate or terminate voice calls. Under federal law, VoIP providers must 1) deliver all 911 calls to the local emergency call center, 2) deliver the caller’s call-back number and location when the call center is capable of receiving it, and 3) inform their customers of any limitations of 911 services.²⁸

The growing market penetration of cellular, wireless, and VoIP devices has prompted the USDOT to reassess the limitations of the current 911 emergency system. Their proposed goal is to implement a “next-generation” system which will enable 911 calls from any networked telecommunication device. The USDOT is currently conducting analysis relating to the implementation of such a system.²⁹

The USDOT information on next-generation 911 service states that the current financing system for 911 operations will likely be inadequate to fulfill next-generation 911 infrastructure goals. With an expected increase in federally mandated fees looming on the horizon, Texas should do what it can to decrease the in-state burden to local consumers and prevent the state from raiding surplus 911 funds.

In recent years, a \$90 million surplus of 911 fee revenues has been accumulating and has been allocated to help balance the general state budget. These 911 fees are imposed specifically for the use of supporting and maintaining emergency services, not balancing out budget shortfalls in other areas. If 911 fees are generating excess revenues that are not being used for their intended purposes, then it might be prudent to determine a new, more appropriate fee imposed on consumers.

Recommendations

- Prevent the raiding of 911 fees and restrict their use to maintaining and supporting the 911 emergency infrastructure.
- Determine the level of 911 fees that are appropriate to maintain the 911 emergency infrastructure and phase down fees for consumers.
- Don’t divert 911 surplus funds to special projects unrelated to the 911 emergency infrastructure.

Conclusion

The telecommunications industry has come a long way since the time of monopolies. The explosion of Internet and wireless-based technologies has revolutionized the way in which consumers have access to various telecommunications services. Future regulatory and tax policies should reflect these changes to promote a competitive telecommunications industry, reduce high taxes and fees, and encourage future economic growth within the state. ★

Endnotes

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- ⁴ Bill Peacock, "Franchise Fees: Legislators Guide to the Issues 2009-2010," Texas Public Policy Foundation, November 2008.
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- ²⁶ House Bill 412, Isett, 81st (R) Legislature, <http://www.legis.state.tx.us/tlodocs/81R/billtext/pdf/HB00412I.pdf>.
- ²⁷ Legislative Budget Board, Fiscal Note 80th (R) Legislative Session, House Bill 986, Isett, <http://www.legis.state.tx.us/tlodocs/80R/fiscalnotes/pdf/HB00986I.pdf>.
- ²⁸ Federal Communications Commission Website, "The Public Safety Challenges of VoIP services," <http://www.fcc.gov/pshs/services/911-services/voip/challenges.html>.
- ²⁹ Commission on State Emergency Communications Website, "Next Generation 911," http://www.911.state.tx.us/browse-php/9-1-1_faqs.html.

About the Authors

Bill Peacock is the vice president of administration and director of the Texas Public Policy Foundation's Center for Economic Freedom. He has been with the Foundation since February 2005.

Bill has extensive experience in Texas government and policy on a variety of issues, including economic and regulatory policy, natural resources, public finance, and public education. His work has focused on identifying and reducing the harmful effects of regulations on the economy, businesses, and consumers.

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The work of the Foundation is primarily conducted by staff analysts under the auspices of issue-based policy centers. Their work is supplemented by academics from across Texas and the nation.

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