



General Assembly

February Session, 2002

**Raised Bill No. 5589**

LCO No. 1609

Referred to Committee on Planning and Development

Introduced by:  
(PD)

**AN ACT CONCERNING TAXATION OF CERTAIN  
TELECOMMUNICATIONS SERVICES COMPANIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-80a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2002, and*  
3 *applicable to assessment years commencing on or after October 1, 2002*):

4 (a) Any (1) taxpayer which, prior to January 1, 1990, was subject to  
5 tax under chapter 211 with respect to the rendering of  
6 telecommunications service and which, on or after January 1, 1990, is  
7 subject to tax under chapter 219 for rendering telecommunications  
8 service and (2) other taxpayer that is subject to tax under chapter 219  
9 for rendering telecommunications service and which has elected in the  
10 manner specified in this section to have personal property, except  
11 motor vehicles, taxed as provided in this section, shall be required to  
12 submit to the Commissioner of Revenue Services and the Secretary of  
13 the Office of Policy and Management, not later than the thirtieth day of  
14 November of each year during which it is subject to tax under chapter  
15 219, a [list] report of all personal property that is owned by such  
16 taxpayer in this state on the first day of October of such year and that

17 is used solely and exclusively for rendering telecommunications  
18 service, as defined in said chapter 219, including the location of [each  
19 item of] such property and the fair market value thereof, recognizing  
20 depreciation of such property to the maximum extent allowed  
21 annually as of the assessment date for purposes of the corporation  
22 business tax in this state, as certified by the Commissioner of Revenue  
23 Services, provided such depreciation does not exceed eighty percent of  
24 the cost of acquisition of such property. If the records of a taxpayer  
25 subject to the requirements of this subsection do not contain the data  
26 necessary to develop the [list] report as required without undue cost,  
27 the taxpayer may, for purposes of requirements under this subsection,  
28 petition the Commissioner of Revenue Services for approval of an  
29 alternate method of determining the value of the plant used solely and  
30 exclusively to render telecommunications services, but not including  
31 central office or switching equipment of that taxpayer, located in each  
32 town in the state. If the commissioner finds that the alternative method  
33 proposed results in a reasonable approximation of the value of the  
34 property of the taxpayer located in each town and used solely and  
35 exclusively for rendering telecommunications service, the  
36 commissioner shall notify the taxpayer that the proposed alternate  
37 method is acceptable and the taxpayer shall be permitted to use the  
38 alternate method in developing the [list] report required under this  
39 subsection.

40 (b) Not later than the first day of February immediately following  
41 the end of such tax year, the Secretary of the Office of Policy and  
42 Management shall determine, with respect to such company, a value  
43 for personal property equivalent to seventy per cent of the value of  
44 personal property included in the [list] report of such property  
45 prepared and certified in accordance with subsection (a) of this section.  
46 The amount of tax applicable with respect to such personal property of  
47 any taxpayer subject to the tax imposed under this section shall be  
48 determined by multiplying the value of personal property of such  
49 company, as determined under this subsection, by a mill rate of forty-  
50 seven mills. Said secretary shall, not later than the first day of March

51 immediately following the end of such tax year, submit a tax bill to  
52 each company stating the amount of tax payable to each town in  
53 relation to the personal property of such taxpayer located in such  
54 town. Such tax shall be due and payable to the town in which such  
55 personal property is located not later than the first day of April  
56 immediately following. Any city or borough not consolidated with the  
57 town in which it is located and any town containing such a city or  
58 borough shall receive a portion of the tax due and payable to such  
59 town on the basis of the following ratio: The total taxes levied in the  
60 previous fiscal year by such town, city or borough shall be the  
61 numerator of the fraction. The total taxes levied by the town and all  
62 cities or boroughs located within such town shall be added together,  
63 and the sum shall be the denominator of the fraction. Any such city or  
64 borough may, by vote of its legislative body, direct the Secretary of the  
65 Office of Policy and Management to reallocate all or a portion of the  
66 share of such city or borough to the town in which it is located.

67 (c) With respect to tangible personal property included in the [list]  
68 report of such property submitted to the Secretary of the Office of  
69 Policy and Management as provided in subsection (a) of this section,  
70 any taxpayer subject to the tax imposed under this section for any tax  
71 year shall not be subject to property tax in any town applicable to such  
72 personal property for the assessment year in such town commencing  
73 on the first day of October immediately preceding the date on which  
74 the tax determined with respect to such property in accordance with  
75 this section becomes due and payable.

76 (d) Any taxpayer that, on or after January 1, 1990, is subject to tax  
77 under chapter 219 for rendering telecommunications service but that,  
78 prior to January 1, 1990, was not subject to tax under chapter 211 for  
79 rendering telecommunications service may elect to have personal  
80 property taxed in the manner specified in this section. Such election  
81 shall be made in writing and filed with the Secretary of the Office of  
82 Policy and Management and a copy thereof shall be filed with the  
83 assessor of each town in which personal property affected by such

84 election is located. Such election, once filed with the secretary, shall be  
85 irrevocable and shall, if filed on or before the date that is two months  
86 prior to the start of the assessment year, be effective for such  
87 assessment year and for all succeeding assessment years, otherwise to  
88 be effective for the next succeeding assessment year and all succeeding  
89 assessment years. Notwithstanding the provisions of this subsection,  
90 on or after January 1, 2002, any such taxpayer may elect to have  
91 personal property taxed by each town or city in which such taxpayer's  
92 property is located, provided such election is made in writing and filed  
93 with said secretary. A copy of such election shall be filed with the  
94 assessor of each town or city in which personal property that is  
95 affected by such election for local taxation is located. An election for  
96 local taxation shall be made on or before the date that is two months  
97 prior to the start of the assessment year as of which the taxpayer elects  
98 to have property taxed by each town or city in which such property is  
99 located and shall, if filed on or before such date, be effective for such  
100 assessment year and for all succeeding assessment years.

101 (e) For assessment years commencing on or after October 1, 1997,  
102 the provisions of this section, including informational reporting  
103 requirements imposed on owners, shall also apply, to the extent  
104 provided in section 12-80b, to property that is used both to render  
105 telecommunications service subject to tax under chapter 219 and to  
106 render community antenna television service subject to tax under  
107 chapter 219 and that is required, under subsection (a) of section 12-80b,  
108 to be taxed as provided in this section.

109 Sec. 2. (NEW) (*Effective October 1, 2002, and applicable to assessment*  
110 *years commencing on or after October 1, 2002*) (a) The assessor of any  
111 town or city may perform an audit or require a designee of the  
112 assessor to perform an audit of any personal property required to be  
113 reported pursuant to section 12-80a of the general statutes, as amended  
114 by this act, for any assessment year. The assessor shall give notice in  
115 writing to the owner, custodian or other person having knowledge of  
116 any such property or the valuation of such property, of the time and

117 place of such audit with respect to such property. Such notice shall be  
118 placed in the hands of such person or left at such person's usual place  
119 of business or shall be sent to such person by registered or certified  
120 mail at the last-known place of business. Such notice shall direct the  
121 person named therein to appear before the assessor, or before a  
122 designee of said assessor, with books of account, papers, documents  
123 and other records for examination under oath relative to any such  
124 property or the valuation of such property. The methodology used to  
125 determine the assessment of such property to which such audit or  
126 audits relate shall be the methodology set forth in section 12-80a of the  
127 general statutes, as amended by this act.

128 (b) Upon completing an audit of property assessed in accordance  
129 with this section, the assessor shall send written notification to the  
130 property owner. Such notice shall identify any property the assessor  
131 believes (1) was erroneously included in the report the owner  
132 submitted under section 12-80a of the general statutes, as amended by  
133 this act, (2) was not included in said report, or (3) was included in said  
134 report but was not valued in the manner required by said section 12-  
135 80a, of the general statutes, as amended by this act. Such notice shall be  
136 sent not later than thirty business days after such audit is completed. A  
137 copy of the notice shall be sent to the Secretary of the Office of Policy  
138 and Management.

139 (c) With respect to property discovered to have been included on a  
140 report in error, the Secretary of the Office of Policy and Management  
141 shall determine the amount of the tax represented by such property  
142 and shall deduct such amount from the tax next certified by said  
143 secretary, under section 12-80a of the general statutes, as amended by  
144 this act, as payable to the municipality to which such amount was paid  
145 in error. With respect to any other property, the owner shall submit to  
146 the secretary, not later than thirty business days after the date of the  
147 assessor's notice, an amended report regarding such property or a  
148 written notice refuting the findings of the assessor. If the owner  
149 submits a written notice refuting such findings, the provisions of this

150 subsection regarding the filing of an amended report shall not become  
151 effective until the conclusion of a hearing held pursuant to subsection  
152 (d) of this section.

153 (d) (1) An amended report required to be submitted under this  
154 section shall reflect the value of any personal property that was not  
155 included in the report on which the company's tax, under section 12-  
156 80a of the general statutes, as amended by this act, was based. If the  
157 value of any property included in said report was inaccurate, the  
158 amended report shall reflect the correct value of such property. Upon  
159 receipt of an amended report, the Secretary of the Office of Policy and  
160 Management shall determine the assessment of property included in  
161 such amended report, which shall equal seventy per cent of the value  
162 of such property plus a penalty equal to twenty-five per cent of said  
163 assessment. The secretary shall determine the tax due for such  
164 assessment plus penalty, pursuant to section 12-80a of the general  
165 statutes, as amended by this act, and shall notify the owner to pay the  
166 amount due to the municipality not later than thirty days after such  
167 notice.

168 (2) If a property owner elects to refute the findings of the assessor  
169 with respect to an audit of property that was assessed and taxed under  
170 section 12-80a of the general statutes, as amended by this act, the  
171 owner shall submit a written notice to such election to the assessor,  
172 and a copy of the notice shall be sent to the Secretary of the Office of  
173 Policy and Management. The notice shall state the reasons why the  
174 owner believes the assessor's audit findings are incorrect. Not later  
175 than sixty business days after receiving the notice, the assessor shall  
176 notify the property owner in writing, of the time and place of a  
177 hearing. The purpose of such hearing shall be to review the assessor's  
178 findings and the property owner's response to such findings. The  
179 assessor's decision with respect to such findings, including a decision  
180 whether or not the property owner is required to file an amended  
181 report, shall be issued in writing not later than thirty business days  
182 after the conclusion of the hearing. Any property owner aggrieved by

183 the assessor's decision, may, not later than sixty business days from  
184 the date of the mailing of notice of the outcome of such hearing, make  
185 application for relief to the Superior Court for the judicial district in  
186 which said owner's property is or was purported to be located, and  
187 shall notify the Secretary of the Office of Policy and Management of  
188 the filing of such application for relief. Such application shall be  
189 accompanied by a citation to the town or city to appear before said  
190 court and such appeal shall be returnable at the same time and served  
191 and returned in the same manner as is required in case of a summons  
192 in a civil action. The authority issuing the citation shall take from the  
193 applicant a bond or recognizance to such town or city, with surety, to  
194 prosecute the application to effect and to comply with and conform to  
195 the orders and decrees of the court in the premises. Any such  
196 application shall be a preferred case, to be heard, unless good cause  
197 appears to the contrary, at the first session, by the Superior Court or by  
198 a committee appointed by the court. The pendency of such application  
199 shall not suspend an action by such town or city to collect not more  
200 than seventy-five per cent of the tax assessed by the Secretary of the  
201 Office of Policy and Management with respect to property upon which  
202 such appeal is taken. If, during the pendency of such appeal, a new  
203 assessment year begins, the applicant may amend the application as to  
204 any matter therein, including an appeal for such new assessment year,  
205 which is affected by its inception. The court shall have power to grant  
206 such relief as to justice and equity appertains, upon such terms and in  
207 such manner and form as appear equitable, and, if the application  
208 appears to have been made without probable cause, may tax double or  
209 triple costs, as the case appears to demand; and, upon all such  
210 applications, costs may be taxed at the discretion of the court. If the  
211 assessment originally determined by the Secretary of the Office of  
212 Policy and Management is reduced by said court, the applicant shall be  
213 reimbursed by the town or city for any overpayment of taxes, together  
214 with interest and any costs awarded by the court, or, at the applicant's  
215 option, shall be granted a tax credit for such overpayment, interest and  
216 any costs awarded by the court. Upon motion, said court shall, in

217 event of such overpayment, enter judgment in favor of such applicant  
218 and against such city or town for the whole amount of such  
219 overpayment, together with interest and any costs awarded by the  
220 court.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002, and applicable to assessment years commencing on or after October 1, 2002</i>
Sec. 2	<i>October 1, 2002, and applicable to assessment years commencing on or after October 1, 2002</i>

**Statement of Purpose:**

To revise property tax laws by (1) capping the depreciation that a telecommunications services provider may claim in preparing an annual personal property tax return at eighty per cent, (2) excluding registered motor vehicles from the provisions of section 12-80a of the general statutes, thereby allowing taxation by towns, (3) making the election for taxation under section 12-80a of the general statutes revocable, and (4) authorizing municipalities to audit the personal property tax returns of telecommunications service providers that are filed with the Secretary of the Office of Policy and Management.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*