

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Senator Karin Brownlee at 8:30 a.m. on January 23, 2002 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: April Holman, Legislative Research Department  
Sherman Parks, Revisor of Statues  
Norman Furse, Revisor of Statues  
Lea Gerard, Secretary

Conferees appearing before the committee: Rob Hodges, Kansas Telecommunications Industry Assoc.  
Rachel Lipman Reiber, Vice President Regulator  
& Govt. Affairs, Everest  
John Federico representing Kansas Cable  
& Television Assoc.

Others attending: See attached list.

Rob Hodges, President of the Kansas Telecommunications Industry Association, testified in support of **SB 397** (Attachment 1). Mr. Hodges stated **SB 397** contains many provisions that are important to the telecommunications industry. The bill would codify many of the provisions of existing franchises between providers of local telecommunications services and municipalities, while incorporating changes to reflect the competitive telecommunications marketplace and provisions of the federal telecom act of 1996.

The Committee questioned if it was new policy to pass on the franchise fees to customers. Mr. Hodges stated it would be new policy in the law but not new policy as pertains to the existing tariffs. The franchise fees that are being paid now are passed through to the customer in that locality.

Rachel Lipman Reiber, Vice President of Regulatory and Government Affairs for Everest Midwest, testified in support of **SB 397** (Attachment 2). Rachel Lipman stated the telecommunications industry deals with numerous municipalities throughout the state and **SB 397** brings uniformity to the franchising process and ensures that fees collected for right-of-way use are cost based.

John Federico representing the Kansas Cable Telecommunications Association presented an amendment to **SB 397** offered by the Kansas Cable Telecommunications Association (Attachment 3). Mr. Federico stated there are concerns regarding current franchise agreements that cable companies have with local municipalities to pay as part of their gross receipts for Internet service. Under the terms of this bill it appears the telecommunication industry that is offering the same service will be exempt from paying this. Mr. Federico requested a companion bill to run along side **SB 397** that would provide the cable industry with that same exemption. Other concerns Mr. Federico had was to change the word Communications to Telecommunications on Page 6 Line 32 and Page 7, Line 10 which clearly defines what requires a franchise and what does not. Another amendment offered was on Page 5, Line 41 to insert after the word received, "excluding there from the provision of cable TV service".

Mark Schreiber, Senior Manager, Government Affairs for Westar Energy submitted written testimony regarding **SB 397** (Attachment 4).

William P. Herdegen, Vice President Distribution Operations Kansas City Power & Light, submitted written testimony regarding **SB 397** (Attachment 5).

There being no further conferees to appear before the Committee, Chairperson Brownlee closed the public hearing on **SB 397**.

Committee questions and discussion followed regarding definitions in the bill, franchise agreements and the Federal Telecommunications Act.

The Chairperson asked Don Moler, Executive Director, League of Kansas Municipalities for his views

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regarding the changes offered to **SB 397**. Mr. Moler stated the definitions that are in the bill came directly from the Federal Telecommunications Act. The cities and the telecommunications industry specifically used the Telecommunications Act so there would be no conflicts and would not conflict with federal law in anyway. Part of the complexity is the fact there are different Federal acts controlling the telecommunications industry and the cable industry; they chose the one dealing with telecommunications.

Rob Hodges, President of the Kansas Telecommunications Industry Association, stated the definitions in **SB 397** were not subject to negotiation in so far as the wording of those definitions. The cities and the telecommunications industry decided to adopt existing definitions from the Federal Act as the best way to have something everyone could depend on for both sides. He also stated along with Kim Gulley that it was not the intent of the bill to impact the cable industry with **SB 397**.

The municipalities, the telecommunications industry and the cable industry were instructed by Chairperson Brownlee to work out their differences during the day so the Committee can work the bill tomorrow.

Senator Emler moved, seconded by Senator Jordan, that the Minutes of January 16, 2002 be approved. The vote was unanimous in favor of the motion.

Meeting adjourned at 9:30 a.m.

The next meeting is scheduled for January 24, 2002.