

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 A.M. on February 21, 2006 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Helen Pedigo, Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

David Kerr, AT&T
John Federico, Kansas Cable Telecommunications Association
Kim Winn, Kansas League of Municipalities

Others attending:

See attached list.

Chairperson Brownlee called the Committee's attention to three sets of minutes waiting for the Committee's approval. Senator Wysong made a motion to approve the minutes for February 10th, February 13th, and February 17th. Senator Jordan seconded. Motion carried.

Chairperson Brownlee introduced Senator Kelly to give an update on the subcommittee on **SB 382--Developing responsible youth act**. Senator Kelly stated the bill is an after school program that would be administered through the Department of Commerce with the intent of focusing on middle school kids developing pre-vocational skills with all the things they need to get through high school and enter into higher education or the work force ready to go. She was very pleased with the interest and willingness of all parties involved to work on making a better bill in the subcommittee. She stated Kansas has after school money all over the state and the intent of the subcommittee was to figure out how to capture, at least a picture of where those dollars are and what they are doing and how we might expand the programs in a way that is complementary. The Juvenile Justice Authority was in attendance at the subcommittee meeting, along with SRS, Education, Department of Commerce and also, the Kansas Enrichment Network which is a group funded by the MOK foundation and has been in existence in the state of Kansas about four years. KEN is an umbrella group working with about 50 other groups around the state. Senator Kelly stated they are looking at how to use the KEN structure to help administer the Commerce grants, and how to check all the programs in the state to see where there are gaps and overlaps. Chairperson Brownlee announced the Revisor was still working on the language of the bill and would ask for it to be blessed, but it should be a very quick turnaround. Chairperson Brownlee stated she was very pleased with the work of the subcommittee because she wants to see similar programs collaborate and make sure we have standards and accountability and thinks we are heading in that direction.

Chairperson Brownlee turned the Committee's attention to **SB 449--Video competition act**. She stated she was pleased with the work of the subcommittee on this bill. Chairperson Brownlee introduced David Kerr with AT&T to explain the balloon offered as a result of the subcommittee. (Attachment 1) Mr. Kerr also referred the Committee to "Position Statements Regarding **SB 449** With Amendments" (Attachment 2) stating it was a matrix which was the work product of the subcommittee. Mr. Kerr reviewed the balloon.

Upon completion of the review of the balloon, Chairperson Brownlee introduced Kim Winn with the Kansas League of Municipalities to give her opinion on the balloon offered by the subcommittee. Ms. Winn stated even though she was not in favor of a state wide video franchise she felt the cities were protected with the wording of the balloon from the subcommittee regarding existing franchises and is comfortable with the mandated negotiation process that is spelled out in the bill. Upon the completion of Ms. Winn's statement there was discussion between Senator Wysong and Ms. Winn regarding the language of the balloon regarding the mandated negotiations.

Chairperson Brownlee introduced John Federico representing the Kansas Cable Telecommunication Association. Mr. Federico presented an amendment to the balloon submitted by the subcommittee. (Attachment 3) Mr. Federico introduced Scott Sneider with Cox Communications to explain the amendment.

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Mr. Snyder reviewed the amendment for the Committee. Mr. Snyder stated with the amendment they were trying to provide protection for the city and the industry.

Upon completion of Mr. Sneider's explanation, there was discussion with the Committee regarding the city issued franchise versus the state issue franchise. The discussion continued regarding the standard of review of a dispute outlined in the amendment offered by the Kansas Cable Telecommunication Association. Mr. Sneider stated they were trying to create an equal playing field for both companies. The discussion turned to the state changing laws which will effect the franchise contracts all ready in place with the cities. Mr. Sneider stated the amendment is to create a process which is fair for everyone. The discussion turned to the language in paragraph 3 of the amendment. Mr. Sneider stated the intent is to keep the city franchise in effect until it expires.

Senator Schodorf asked the Chair if AT&T could give their response to the amendment in terms of a level playing field. Chairperson Brownlee called on Mr. Kerr to give his response. Mr. Kerr stated that sections (1) &(2) are not much different than the balloon; on section (3) they do not have an opinion and are neutral. But the language needs to be tweaked in section 4. Senator Wysong joined the discussion with questions for Ms. Winn regarding the amendment presented by Kansas Cable Telecommunication Association. Ms. Winn stated from a legal standpoint the cities cannot take on the legal responsibilities for the rules the state is changing. She further thinks the cities will be fair and work with the cable companies. They are ok with the existing language on the mandating process but at the end of the day if the two parties have an agreement then both parties need to agree before a change occurs. She further stated this was a very difficult issue for them and they came as far as they could. Senator Barone entered the discussion regarding the impact competition has on the rates. He stated the cable companies have suggested they could not afford to compete with each other. Senator Barone suggested taking the last sentence of the Cable amendment and make it the last sentence in existing (j) in the bill. Senator Reitz entered stating he is for competition if it makes the consumer's rates go down but he is concerned about city franchise contracts made in good faith and would like for all the contracts established initially be protected. Senator Kelly joined in and had a question for Ms. Winn. If the bill was passed with all amendments before us how would they fair financially. Ms. Winn stated they would not loose any money, but it was not just the money; cities manage the right of ways and franchise agreements mean something. But they were willing to make a comprise on the bill. She stated they understand that eventually there will no longer be any city franchises when all the existing contracts expire. Senator Emler entered the discussion to clarify "favored nation" with Ms. Winn.

Senator Barone made a motion to take the last line of section (3) of the cable amendment and add to the end of section (j) on page 6 of the bill and take the subcommittee balloon and make a substitute bill and pass it out of the Committee favorably.

Senator Wysong entered the discussion regarding both the balloon and the amendment and adding them both to the bill. Chairperson Brownlee entered the discussion with concerns regarding the language in section (3) of the cable amendment and how it will effect the existing franchise agreements. Chairperson Brownlee recognized Mike Santos, City attorney for Overland Park. Mr. Santos stated he had concerns with the language of section (3). He stated it was a giant issue with the cities if they are forced to accept the language in section (3) of the cable amendment. Senator Wagle entered the discussion regarding build out. Chairperson Brownlee has concerns on section 4 with the last sentence and stated they could not go that direction. Senator Wysong entered the discussion stated he would like to hear from AT&T regarding section (4). Mr. Kerr has language to be introduced to address the issues in section 4 of the cable amendment. (Attachment 4)

Senator Wysong made a substitute motion to adopt a substitute bill including the cable amendment; striking their section (4); adopting the section (4) submitted by AT&T; and adding the Subcommittee balloon; and pass out favorably. Senator Wagle seconded. Motion carried.

Chairperson Brownlee asked the Committee to let her know if they are interested in working **SB 360-- Eminent domain; prohibition against tax incentive use.** She also stated the Committee would work **SB 461-Workers compensation; preexisting condition; permanent partial general disability; supplemental functional disability compensation** and would do **SB518-Payment of compensation; payment methods; electronic transfer, electronic deposit, payroll card,** at the end of the hour.

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Meeting adjourned at 9:30 a.m. with the next meeting scheduled for tomorrow, Wednesday, February 22, 2006 at 8:30 a.m. in room 123S.