

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Senator Karin Brownlee at 8:30 a.m. on February 21, 2001 in Room 123-S of the Capitol.

All members were present except: Senator Jenkins (Excused)

Committee staff present: April Holman, Legislative Research Department
Bob Nugent, Revisor of Statutes
Lea Gerard, Secretary

Conferees appearing before the committee: Janet Buchanan, Chief of Telecommunications, KCC
Don Mohler, Executive Director, League of Kansas
Municipalities

Others attending: See attached list.

George McAtee, Director Workforce Training Services, submitted a report regarding the status and progress of the Neighborhood Improvement and Youth Employment Act (NIYEA). Legislation requires that a report be filed annually with the Senate Commerce Committee and House Economic Development Committee (Attachment 1).

Janet Buchanan, Chief of Telecommunications for the Kansas Corporation Commission, briefed the committee on telecommunications and right-of-way. Currently, neither the KCC nor the FCC regulate the franchising authority of municipal bodies. Once a telecommunications public utility has received a certificate of convenience and authority to operate in the State of Kansas, the telecommunications provider must apply to the city and receive a franchise to construct and maintain its lines across public right-of-way within its certificated territory. The city collects franchise fees from telecommunications service providers based on its franchising ordinances (Attachment 2).

Don Mohler, Executive Director, League of Kansas Municipalities, testified in opposition to **SB 306** (Attachment 3). Cities must maintain control over city property and everyone who uses public property for a private purpose should be subject to the same rules for obtaining use of the property. The use and regulation of city rights of way should be negotiated locally between the user and the city.

Rob Hodges, Kansas Telecommunications Industry Association, presented written testimony of principles of proponents for **SB 306** (Attachment 4).

Mike Santos, Senior Assistant City Attorney, Overland Park, in response to a question stated it is one of the major issues between industry and local government as to whether or not the franchise fee for the use of public property right-of-way should be payment for the cost of disrupting that property or should be payment to the community for the value of using the resources of that community. The city's position is that the state statute is not in conflict with federal law and the city has a right to recover under the state statute gross receipts related to the use or the value of that property as it was rent paid.

The Committee questioned if it was possible to have a residential line fee and a commercial line fee. Mr Santos responded there are multiple issues within that. For example, why should a person who simply wants basic telephone service pay a greater portion of the fee percentage wise than someone who wants all the extras on a phone line. Within the residential and commercial groups you would have a disparity impact on those users.

Meeting was adjourned at 9:30 a.m.

Next meeting scheduled for February 27, 2001 at 8:30 a.m.