

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 22, 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  
Bob Nugent, Revisor of Statues  
Lea Gerard, Secretary

Conferees appearing before the committee: Don Moler, League of Municipalities  
Don Seifert, City of Olathe  
Eric Arner, City of Lenexa  
David Corliss, City of Lawrence

Others attending: See attached list.

Bob Nugent, Revisor of Statues, briefed the Committee on **SB 397**, stating that it is a product of the joint committee on Economic Development and was the result of several meetings between the telecommunications industry and representatives of city government. The first section of the bill is an amendment to KSA 12-2001 statute that deals with the city's ability to permit entry into its right-of-way. Primary changes appear on Page 1 and Page 3 where a sizable amount of variable language is deleted and the ability to permit access by a provider who wants to lay telegraph/telephone lines is spelled out in detail. There are a series of definitions that starts on Page 4 which defines Access Lines and Gross Receipts in Paragraph 6. On Page 7, Paragraph j, the city may enact an access line fee that is a graduated fee. As an alternative to the access line fee, the bill allows cities to charge a gross receipts fee of 5%. The gross receipts fee is subject to a protest petition reflected on Pages 8 and 9. Lines 26 thru 43, are a series of "shall nots" for the city. On Page 11, Paragraphs d and e constitutes the city's ability to exercise its police power to patrol its right-of-way. On Page 12, the Provider shall comply with all laws, rules and regulations governing the use of the public right-of-way. Line 28 through 31 is a carry-over from one of the previous bills that requires the city to act within 30 days of an administratively complete application for access to the right-of-way. In addition to the access fee and the gross receipts fee, cities may charge some additional fees as long as they are done in a nondiscriminatory and competitively neutral manner.

Don Moler, Executive Director, League of Kansas Municipalities, testified in support of **SB 397**, stating that through the action of meetings between the telecommunications industry representatives and the representatives of cities in Kansas they were able to reach an agreement on language concerning franchise agreements and the use of the public rights of way ([Attachment 1](#)).

Don Seifert, Policy Development Leader for the City of Olathe, testified in support of **SB 397** ([Attachment 2](#)).

Eric Arner, Senior Assistant City Attorney for the City of Lenexa, testified in support of **SB 397** stating it is a reasonable and effective compromise that benefits not only the telecommunications industry and local governments but also the citizens of the State of Kansas ([Attachment 3](#)).

Mike Santos, Senior Assistant City Attorney for the City of Overland Park, testified in support of **SB 397** ([Attachment 4](#)).

David Corliss, Assistant City Manager/Director of Legal Services for the City of Lawrence, testified in support of **SB 397** ([Attachment 5](#)).

Committee question and discussion followed regarding the bill applied only to incorporated cities in Kansas and did not apply to counties.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE at on January 22, 2002 in Room 123-S of the Capitol.

Senator Emler moved, seconded by Senator Jordan that the Minutes of January 15, 2002 be approved. The vote was unanimous in favor of the motion.

Meeting adjourned at 9:30 a.m. The next meeting will be held Wednesday, January 23, 2002 at 8:30 a.m.