

**SENATE BILL No. 304**

By Committee on Commerce

1-27

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1 AN ACT enacting the municipal communications network and private  
2 telecommunications investment safeguards act.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. Sections 1 through 8, and amendments thereto shall be  
6 known as the municipal communications network and private  
7 telecommunications investment safeguards act.

8 Sec. 2. The legislature finds that it is the policy of this state to:

9 (a) Ensure that video, telecommunications and broadband services are  
10 provided through fair competition consistent with the federal  
11 telecommunications act of 1996, Pub. L. 104-104, in order to provide the  
12 widest possible diversity of sources of information, news and  
13 entertainment to the general public;

14 (b) encourage the development and widespread use of technological  
15 advances in providing video, telecommunications and broadband services  
16 at competitive rates; and

17 (c) ensure that video, telecommunications and broadband services are  
18 each provided within a consistent, comprehensive and nondiscriminatory  
19 federal, state and local government framework.

20 Sec. 3. As used in this act:

21 (a) "Broadband service" means high-speed internet access capability  
22 as defined by the federal communications commission.

23 (b) "Video service" means video programming services provided  
24 through wireline facilities located at least in part in the public rights-of-  
25 way without regard to delivery technology.

26 (c) "Municipality" means any city, county, township or other political  
27 or taxing subdivision of the state.

28 (d) "Telecommunications service" means the two-way transmission of  
29 signs, signals, writing, images, sounds, messages, data or other  
30 information of any nature by wire, radio, light waves or other  
31 electromagnetic means, offered to the public generally.

32 (e) "Subscriber" means a person or business that lawfully receives or  
33 purchases, as an end user, video, telecommunications or broadband  
34 services.

35 (f) "Unserved area" means one or more contiguous census blocks  
36 within the legal boundaries of a municipality seeking to provide the

1 unserved area with video, telecommunications or broadband service,  
2 where at least nine out of 10 households lack access to facilities-based,  
3 terrestrial broadband service, either fixed or mobile, or satellite broadband  
4 service, at the minimum broadband transmission speed as defined by the  
5 federal communications commission.

6 Sec. 4. (a) Except with regard to unserved areas, a municipality may  
7 not, directly or indirectly:

8 (1) Offer or provide to one or more subscribers, video,  
9 telecommunications or broadband service; or

10 (2) purchase, lease, construct, maintain or operate any facility for the  
11 purpose of enabling a private business or entity to offer, provide, carry, or  
12 deliver video, telecommunications or broadband service to one or more  
13 subscribers.

14 (b) For purposes of this act, a municipality offers or provides video,  
15 telecommunications or broadband service if the municipality offers or  
16 provides the service:

17 (1) Directly or indirectly, including through an authority or  
18 instrumentality:

19 (A) Acting on behalf of the municipality; or

20 (B) for the benefit of the municipality;

21 (2) by itself;

22 (3) through a partnership, joint venture or other entity in which the  
23 municipality participates; or

24 (4) by contract, resale or otherwise.

25 (c) Nothing in this act shall prohibit a municipality from purchasing,  
26 leasing, constructing or equipping facilities:

27 (1) That are designed to provide video, telecommunications or  
28 broadband services within the municipality that the municipality uses  
29 exclusively for internal government purposes, including communications  
30 between and among government buildings and other public buildings, such  
31 as public schools, public safety and public library facilities; or

32 (2) that are designed to provide video, telecommunications or  
33 broadband services to an unserved area.

34 Sec. 5. (a) A municipality may not exercise its power of eminent  
35 domain to condemn a plant and equipment of a private provider for the  
36 purpose of offering or providing to one or more subscribers video,  
37 telecommunications or broadband service, or to utilize such plant and  
38 equipment for the purpose of enabling a private business or entity to offer,  
39 provide, carry or deliver video, telecommunications or broadband service  
40 to one or more subscribers.

41 (b) Except with regard to providing video, telecommunications or  
42 broadband service to unserved areas, a municipality may not exercise its  
43 power of eminent domain to condemn any real property, whether in whole

1 or in part, to obtain an easement for the purpose of offering or providing to  
2 one or more subscribers video, telecommunications or broadband service,  
3 or to facilitate the construction of a facility for the purpose of enabling a  
4 private business or entity to offer, provide, carry or deliver video,  
5 telecommunications or broadband service to one or more subscribers.

6 Sec. 6. When a municipality is offering or providing a video,  
7 telecommunications or broadband service to one or more subscribers, the  
8 immunity from antitrust liability afforded to political subdivisions of the  
9 state under K.S.A. 12-205, and amendments thereto, shall not apply to the  
10 municipality with respect to the offering or provision of those services.

11 Sec. 7. This act shall not affect a municipality that is providing video,  
12 telecommunications or broadband services to subscribers via a  
13 municipally-owned video, telecommunications or broadband system  
14 existing on the effective date of this act.

15 Sec. 8. If any provision of this act or the application of any provision  
16 of this act is found invalid, the remainder of this act shall be given effect  
17 without the invalid provision or application.

18 Sec. 9. This act shall take effect and be in force from and after its  
19 publication in the Kansas register.