

## HOUSE BILL No. 2586

By Committee on Energy, Utilities and Telecommunications

Requested by Megan Bottenberg on behalf of Cox Communications Inc.

1-28

1 AN ACT concerning municipalities; relating to franchises with  
2 telecommunications service providers; requiring revenues received by  
3 telecommunications service providers for the provision of broadband  
4 services to be calculated when determining gross receipts; amending  
5 K.S.A. 12-2001 and repealing the existing section.  
6

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

8 Section 1. K.S.A. 12-2001 is hereby amended to read as follows: 12-  
9 2001. (a) The governing body of any city may permit any person, firm or  
10 corporation to:

11 (1) Manufacture, sell and furnish artificial or natural gas light and  
12 heat; electric light, water, power or heat; or steam heat to the inhabitants;

13 (2) build street railways, to be operated over and along or under the  
14 streets and public grounds of such city;

15 (3) lay pipes, conduits, cables and all appliances necessary for the  
16 construction, operation of gas and electric-light or steam-heat plants;

17 (4) lay pipes, conduits, cables and all appliances necessary for the  
18 construction and operation of electric railways or bus companies;

19 (5) lay pipes for the operation of a water plant for the distribution or  
20 furnishing of water over, under and along the streets and alleys of such  
21 city; or

22 (6) use the streets in the carrying on of any business~~which~~ *that* is not  
23 prohibited by law.

24 (b) If the governing body of a city permits any activity specified in  
25 subsection (a), the granting of permission to engage in the activity shall be  
26 subject to the following:

27 (1) All contracts granting or giving any such original franchise, right  
28 or privilege, or extending or renewing or amending any existing grant,  
29 right, privilege or franchise, to engage in such an activity shall be made by  
30 ordinance, and not otherwise.

31 (2) No contract, grant, right, privilege or franchise to engage in such  
32 an activity, now existing or hereafter granted, shall be extended for any  
33 longer period of time than 20 years from the date of such grant or  
34 extension.

35 (3) No person, firm or corporation shall be granted any exclusive

1 franchise, right or privilege ~~whatever~~ *whatsoever*.

2 (4) The governing body of any city, at all times during the existence  
3 of any contract, grant, privilege or franchise to engage in such an activity,  
4 shall have the right by ordinance to fix a reasonable schedule of maximum  
5 rates to be charged such city and the inhabitants thereof for gas, light and  
6 heat, electric light, power or heat, steam heat or water; the rates of fare on  
7 any street railway or bus company; or the rates charged any such city, or  
8 the inhabitants thereof, by any person, firm or corporation operating under  
9 any other franchise under this act. The governing body at no time shall fix  
10 a rate ~~which~~ *that* prohibits such person, firm or corporation from earning a  
11 reasonable rate upon the fair value of the property used and useful in such  
12 public service. In fixing and establishing such fair value, the value of such  
13 franchise, contract and privilege given and granted by the city to such  
14 person, firm or corporation shall not be taken into consideration in  
15 ascertaining the reasonableness of the rates to be charged to the inhabitants  
16 of such city.

17 (5) No such grant, right, privilege or franchise shall be made to any  
18 person, firm, corporation or association unless it provides for adequate  
19 compensation or consideration therefor to be paid to such city, and  
20 regardless of whether or not other or additional compensation is provided  
21 for such grantee shall pay such fixed charge as may be prescribed in the  
22 franchise ordinance. Such fixed charge may consist of a percentage of the  
23 gross receipts derived from the service permitted by the grant, right,  
24 privilege or franchise from consumers or recipients of such service located  
25 within the corporate boundaries of such city, and, in case of public utilities  
26 or common carriers situated and operated wholly or principally within  
27 such city, or principally operated for the benefit of such city or its people,  
28 from consumers or recipients located in territory immediately adjoining  
29 such city and not within the boundaries of any other incorporated city; and  
30 in such case such city shall make and report to the governing body all such  
31 gross receipts once each month, or at such other intervals as stipulated in  
32 the franchise ordinance and pay into the treasury the amount due such city  
33 at the time the report is made. The governing body shall also have access  
34 to and the right to examine, at all reasonable times, all books, receipts,  
35 files, records and documents of any such grantee necessary to verify the  
36 correctness of such statement and to correct the same, if found to be  
37 erroneous. If such statement of gross receipts is incorrect, then such  
38 payment shall be made upon such corrected statement.

39 On and after the effective date of the act, any provision for  
40 compensation or consideration, included in a franchise granted pursuant to  
41 this section ~~which~~ *that* is established on the basis of compensation or  
42 consideration paid by the utility under another franchise, is hereby  
43 declared to be contrary to the public policy of this state and shall be void

1 and unenforceable. Any such provision, included in a franchise granted  
2 pursuant to this section and in force on the effective date of this act ~~which~~  
3 *that* requires payments to the city by a utility to increase by virtue of the  
4 compensation or consideration required to be paid under a franchise  
5 granted by another city to the utility's predecessor in interest, is hereby  
6 declared to be contrary to the public policy of this state and shall be void  
7 and unenforceable.

8 (6) No such right, privilege or franchise shall be effective until the  
9 ordinance granting the same has been adopted as provided by law.

10 All expense of publishing any ordinance adopted pursuant to this  
11 section shall be paid by the proposed grantee.

12 (7) All contracts, grants, rights, privileges or franchises for the use of  
13 the streets and alleys of such city, not herein mentioned, shall be governed  
14 by all the provisions of this act, and all amendments, extensions or  
15 enlargements of any contract, right, privilege or franchise previously  
16 granted to any person, firm or corporation for the use of the streets and  
17 alleys of such city shall be subject to all the conditions provided for in this  
18 act for the making of original grants and franchises. The provisions of this  
19 section shall not apply to railway companies for the purpose of reaching  
20 and affording railway connections and switch privileges to the owners or  
21 users of any industrial plants, or for the purpose of reaching and affording  
22 railway connections and switch privileges to any agency or institution of  
23 the state of Kansas.

24 (c) As used in this act:

25 (1) "Access line" ~~shall mean~~ *means* and ~~be~~ *is* limited to retail billed  
26 and collected residential lines; business lines; ISDN lines; PBX trunks  
27 and simulated exchange access lines provided by a central office based  
28 switching arrangement where all stations served by such simulated  
29 exchange access lines are used by a single customer of the provider of  
30 such arrangement. "Access line" ~~may~~ *shall* not be construed to include  
31 interoffice transport or other transmission media that do not terminate at an  
32 end user customer's premises, or ~~to~~ permit duplicate or multiple  
33 assessment of access line rates on the provision of a single service or on  
34 the multiple communications paths derived from a billed and collected  
35 access line. "Access line" ~~shall~~ *does* not include the following: (A)  
36 Wireless telecommunications services; (B) the sale or lease of unbundled  
37 loop facilities; (C) special access services; or (D) lines providing only  
38 data services without voice services processed by a telecommunications  
39 local exchange service provider or private line service arrangements.

40 (2) "Access line count" means the number of access lines serving  
41 consumers within the corporate boundaries of the city on the last day of  
42 each month.

43 (3) "Access line fee" means a fee determined by a city, up to a

1 maximum as set out in this act, and amendments thereto, to be used by a  
2 telecommunications local exchange service provider in calculating the  
3 amount of access line remittance.

4 (4) "Access line remittance" means the amount to be paid by a  
5 telecommunications local exchange service provider to a city, the total of  
6 which is calculated by multiplying the access line fee, as determined in the  
7 city, by the number of access lines served by that telecommunications local  
8 exchange service provider within ~~that~~ *such* city for each month in that  
9 calendar quarter.

10 (5) *"Broadband internet access services" means a mass-market retail*  
11 *service by wire or radio that provides the capability to transmit data to*  
12 *and receive data from all or substantially all internet endpoints, including*  
13 *any capabilities that are incidental to and enable the operation of the*  
14 *communications service or any service determined by the federal*  
15 *communications commission that provides the functional equivalent*  
16 *thereof or is used to evade the protections established pursuant to 47*  
17 *C.F.R. § 8.1. "Broadband internet access services" does not include dial-*  
18 *up internet access services.*

19 (6) "Commission" means the state corporation commission.

20 ~~(6)(7)~~ (7) "Gross receipts" means only those receipts collected from  
21 within the corporate boundaries of the city enacting the franchise ~~and~~  
22 ~~which that~~ are derived from the following: (A) Recurring local exchange  
23 service for business and residence ~~which that~~ includes basic exchange  
24 service, touch tone, optional calling features and measured local calls; (B)  
25 recurring local exchange access line services for pay phone lines provided  
26 by a telecommunications local exchange service provider to all pay phone  
27 service providers; (C) local directory assistance revenue; (D) line status  
28 verification/busy interrupt revenue; (E) local operator assistance revenue;  
29 ~~and~~ (F) nonrecurring local exchange service revenue ~~which shall include~~  
30 ~~that includes~~ customer service for installation of lines, reconnection of  
31 service and charge for duplicate bills; *and (G) broadband internet access*  
32 *services that are offered by an entity other than a holder, or affiliate of a*  
33 *holder, of a state-issued video service authorization pursuant to K.S.A. 12-*  
34 *2023, and amendments thereto.* All other revenues, including, but not  
35 limited to, revenues from extended area service, the sale or lease of  
36 unbundled network elements, nonregulated services, carrier and end user  
37 access, long distance, wireless telecommunications services, lines  
38 providing only data service without voice services processed by a  
39 telecommunications local exchange service provider, private line service  
40 arrangements, ~~internet~~, *broadband internet access services of a holder, or*  
41 *affiliate of a holder, of a state-issued video service authorization pursuant*  
42 *to K.S.A. 12-2023, and amendments thereto,* and all other services not  
43 wholly local in nature are excluded from gross receipts. Gross receipts

1 shall be reduced by bad debt expenses. Uncollectible and late charges shall  
2 not be included within gross receipts. If a telecommunications local  
3 exchange service provider offers additional services of a wholly local  
4 nature ~~which~~ *that* if in existence on or before July 1, 2002, would have  
5 been included with the definition of gross receipts, such services shall be  
6 included from the date of the offering of such services in the city.

7 (7)(8) "Local exchange service" means local switched  
8 telecommunications service within any local exchange service area  
9 approved by the state corporation commission, regardless of the medium  
10 by which the local telecommunications service is provided. ~~The term~~  
11 "Local exchange service" ~~shall~~ *does* not include wireless communication  
12 services.

13 (8)(9) "Telecommunications local exchange service provider" means  
14 a local exchange carrier and a telecommunications carrier as ~~those such~~  
15 terms are defined in K.S.A. 66-1,187, and amendments thereto, ~~which that~~  
16 does, or in good faith intends to, provide local exchange service. ~~The term~~  
17 "Telecommunications local exchange service provider" does not include an  
18 interexchange carrier that does not provide local exchange service,  
19 competitive access provider that does not provide local exchange service  
20 or any wireless telecommunications local exchange service provider.

21 (9)(10) "Telecommunications services" means providing the means of  
22 transmission, between or among points specified by the user, of  
23 information of the user's choosing, without change in the form or content  
24 of the information as sent and received.

25 (d) A city may require a telecommunications local exchange service  
26 provider that intends to provide local exchange service in that city, to enter  
27 into a valid contract franchise ordinance enacted pursuant to this act.  
28 Compensation for the contract franchise ordinance shall be established  
29 pursuant to subsection (j). A contract franchise complying with the  
30 provisions of this act shall be deemed reasonable and shall be adopted by  
31 the governing body of a city absent a compelling public interest  
32 necessitated by public health, safety and welfare. A contract franchise ~~must~~  
33 *shall* be competitively neutral and ~~may~~ not be unreasonable or  
34 discriminatory. No telecommunications contract franchise ordinance shall  
35 be denied or revoked without reasonable notice and an opportunity for a  
36 public hearing before the city governing body. A city governing body's  
37 denial or revocation of a contract franchise ordinance may be appealed to a  
38 district court.

39 (e) If the governing body of a city requires a contract franchise as  
40 specified in subsection (d), the contract franchise shall be subject to the  
41 following:

42 (1) All contracts granting or giving any such original contract  
43 franchise, right or privilege or extending, renewing or amending any

1 existing grant, right, privilege or franchise, to engage in such an activity  
2 shall be made by ordinance and not otherwise;

3 (2) no contract, grant, right, privilege or contract franchise to engage  
4 in such an activity, now existing or hereafter granted, shall be extended for  
5 any longer period of time than 20 years from the date of such grant or  
6 extension;

7 (3) no telecommunications local exchange service provider shall be  
8 granted any exclusive contract franchise, right or privilege ~~whatever~~  
9 ~~whatsoever~~;

10 (4) no such right, privilege or contract franchise shall be effective  
11 until the ordinance granting the same has been adopted as provided by law.  
12 All expense of publishing any ordinance adopted pursuant to this section  
13 shall be paid by the proposed grantee; and

14 (5) no city shall have the authority or jurisdiction to regulate  
15 telecommunications local exchange service providers based upon the  
16 content, nature or type of telecommunications service or signal to be  
17 provided or the quality of service provided to customers.

18 (f) A franchisee shall make and report to the governing body once  
19 each quarter, or at such other intervals as stipulated in the contract  
20 franchise ordinance, the compensation collected and pay into the treasury  
21 the amount due such city at the time the report is made.

22 (g) A city may assess a one-time application fee to recover its costs  
23 associated with the review and approval of a contract franchise provided  
24 that such application fee reimburses the city for its reasonable, actual and  
25 verifiable costs of reviewing and approving the contract franchise. An  
26 application fee ~~must~~ shall be competitively neutral and ~~may~~ not be  
27 unreasonable or discriminatory.

28 (h) Within 90 days of the receipt of a completed application for a  
29 telecommunications contract franchise, a city shall process and submit the  
30 application and contract franchise to the city's governing body, and the  
31 governing body shall take a final vote concerning such contract franchise  
32 unless the telecommunications local exchange service provider and city  
33 agree otherwise.

34 (i) In considering the adoption and passage of a telecommunications  
35 contract franchise ordinance, no city shall have the authority or jurisdiction  
36 to regulate telecommunications local exchange service providers based  
37 upon the content, nature or type of telecommunications service or signal to  
38 be provided, or the quality of service provided to customers.

39 (j) The governing body of a city may require telecommunications  
40 local exchange service providers to collect and remit to each such city an  
41 access line fee of up to a maximum of ~~\$2.00~~ \$2.75 per month per access  
42 line or a fee on gross receipts as described in subsection (j)(2). ~~The access~~  
43 ~~line fee shall be a maximum of \$2.25 per month per access line in 2006; a~~

1 ~~maximum of \$2.50 in 2009; a maximum of \$2.75 in 2012 and thereafter.~~

2 (1) To determine an access line remittance fee, the  
3 telecommunications local exchange service provider shall calculate and  
4 remit an amount equal to the access line fee established by a city  
5 multiplied by the access line count. Such amount shall be due not later  
6 than 45 days after the end of the remittal period. The city shall have the  
7 right to examine, upon written notice to the telecommunications local  
8 exchange service provider, no more than once per calendar year, those  
9 access line count records necessary to verify the correctness of the access  
10 line count. If the access line count is determined to be erroneous, then the  
11 telecommunications local exchange service provider shall revise the access  
12 line fees accordingly and payment shall be made upon such corrected  
13 access line count. If the city and the telecommunications local exchange  
14 service provider cannot agree on the access line count, or are in dispute  
15 concerning the amounts due under this section for the payment of access  
16 line fees, either party may seek appropriate relief in a court of competent  
17 jurisdiction, and that court may impose all appropriate remedies, including  
18 monetary and injunctive relief and reasonable costs and attorney fees. All  
19 claims authorized in this section ~~must~~ shall be brought within three years  
20 of the date on which the disputed payment was due. The access line fee  
21 imposed under this section ~~must~~ shall be assessed in a competitively  
22 neutral manner, ~~may~~ not unduly impair competition, ~~must~~ be  
23 nondiscriminatory and ~~must~~ comply with state and federal law.

24 (2) As an alternative to the access line fee specified in subsection (j)  
25 (1), the governing body of a city may require telecommunications local  
26 exchange service providers to collect and remit to each such city a fee of  
27 up to a maximum of 5% of gross receipts as defined in this act. The  
28 telecommunications local exchange service provider shall calculate the  
29 gross receipts and multiply such receipts by the fee, up to a maximum of  
30 5%, established by the city. The telecommunications local exchange  
31 service provider shall remit such fee to the city no more frequently than  
32 each quarter unless the telecommunications local exchange service  
33 provider agrees otherwise, and not later than 45 days after the end of the  
34 remittal period. The city shall have the right to examine, upon written  
35 notice to the telecommunications local exchange service provider, no more  
36 than once per calendar year, those records necessary to verify the  
37 correctness of the gross receipts fee. If the gross receipts fee is determined  
38 to be erroneous, then the telecommunications local exchange service  
39 provider shall revise the gross receipts fee accordingly and payment shall  
40 be made upon such corrected gross receipts fee. If the city and the  
41 telecommunications local exchange service provider cannot agree on the  
42 gross receipts fee, or are in dispute concerning the amounts due under this  
43 section for the payment of gross receipts fees, either party may seek

1 appropriate relief in a court of competent jurisdiction, and that court may  
2 impose all appropriate remedies, including monetary and injunctive relief,  
3 reasonable costs and attorney fees. All claims authorized in this section  
4 ~~must~~ shall be brought within three years of the date on which the disputed  
5 payment was due. The gross receipts fee imposed under this section ~~must~~  
6 shall be assessed in a competitively neutral manner, ~~may~~ not unduly  
7 impair competition, ~~must~~ be nondiscriminatory and ~~must~~ comply with  
8 state and federal law.

9 (k) Notwithstanding any other provision of this act, payment by a  
10 telecommunications local exchange service provider that complies with  
11 the terms of an unexpired franchise ordinance that applies to the provider  
12 satisfies the payment attributable to the provider required by this act.

13 (l) Beginning on January 1, 2004, and every 36 months thereafter, a  
14 city, subject to the public notification procedures set forth in subsection  
15 (m), may elect to adopt an increased access line fee or gross receipts fee  
16 subject to the provisions and maximum fee limitations contained in this act  
17 or may choose to decline all or any portion of any increase in the access  
18 line fee.

19 (m) Adoption of an increased access line fee or gross receipts fee by a  
20 city shall not become effective until the following public notification  
21 procedures occur: (1) Notice of the new fee has been provided at a regular  
22 meeting of the governing body; (2) immediately thereafter, notification of  
23 the new fee shall be published in the official city paper once a week for  
24 two consecutive weeks; and (3) ~~sixty~~ 60 days have passed from the date of  
25 the regular meeting of the governing body at which the new fee was  
26 proposed. If, during the period of public notification of the new fee or  
27 prior to the expiration of 60 days from the date of the regular meeting of  
28 the governing body at which the new fee was proposed, 20% of the  
29 qualified voters of such city voting for mayor, or in case no mayor is  
30 elected then the commissioner or council member receiving the highest  
31 number of votes at the last preceding city election, present a petition to the  
32 governing body asking that the new fee be submitted to popular vote, the  
33 mayor of the city shall issue a proclamation calling for an election for that  
34 purpose. Such election shall be held in conjunction with the next available  
35 general election. The proclamation calling such election shall specifically  
36 state that such election is called for the adoption of the new fee, and the  
37 new fee shall be set out in full in the proclamation. The proclamation shall  
38 be published once each week for two consecutive weeks in the official city  
39 newspaper, and the last publication shall not be less than 30 days before  
40 the day upon which the election is held. If, at the election the majority of  
41 votes cast shall be for the new fee, the new fee shall thereupon become  
42 effective. If a majority of the votes cast at the election are against the new  
43 fee, the new fee shall not become effective and shall be void.



1 (n) A city may require a telecommunications local exchange service  
2 provider to collect or remit an access line fee or a gross receipts fee to such  
3 city on those access lines that have been resold to another  
4 telecommunications local exchange service provider, but in such case the  
5 city shall not collect an access line fee or gross receipts fee from the  
6 reseller telecommunications local exchange service provider and shall not  
7 require the reseller to enter into a contract franchise ordinance pursuant to  
8 subsection (d).

9 (o) A city ~~may~~ *shall* not impose *any of* the following regulations on  
10 telecommunications local exchange service providers:

11 (1) Requirement that particular business offices or other  
12 telecommunications facilities be located in the city;

13 (2) requirement for filing reports and documents that are not  
14 reasonably related to the collection of compensation pursuant to this act;

15 (3) requirement for inspection of the business records of a  
16 telecommunications local exchange service provider except to the extent  
17 necessary to conduct the review of the records related to the access line  
18 count or gross receipts fee as provided for in this act;

19 (4) requirement for city approval of transfers of ownership or control  
20 of the business or assets of a telecommunications local exchange service  
21 provider except that a city may require that such provider maintain current  
22 point of contact information and provide notice of a transfer within a  
23 reasonable time; and

24 (5) requirement concerning the provisioning or quality of services,  
25 facilities, equipment or goods ~~in-kind~~ *in kind* for use by the city, political  
26 subdivision or any other telecommunications local exchange service  
27 provider or public utility.

28 (p) Information provided to municipalities and political subdivisions  
29 under this act shall be governed by confidentiality procedures in  
30 compliance with K.S.A. 45-215 and 66-1220a et seq., and amendments  
31 thereto.

32 (q) Except as otherwise provided, this act does not affect the validity  
33 of a franchise agreement or contract ordinance with a telecommunications  
34 local exchange service provider ~~so long as if~~ the franchise agreement or  
35 contract ordinance does not include a linear foot charge ~~and/or~~ *or* a  
36 minimum fee, was enacted prior to the effective date of this act; and was  
37 agreed to by the telecommunications local exchange service provider.  
38 Under such circumstances, a city may continue to enforce a previously  
39 enacted franchise agreement or contract ordinance ~~and to~~ collect franchise  
40 fees and other charges under that franchise agreement or contract  
41 ordinance until the date on which the agreement or ordinance expires by  
42 its own terms or is terminated in accordance with the terms of this act.  
43 Notwithstanding any other provision hereof, ~~where~~ *if* such a franchise

1 agreement or contract ordinance exists between a city and a  
2 telecommunications local exchange service provider prior to the effective  
3 date of this act, during the term of such existing franchise agreement or  
4 contract ordinance, the city ~~must~~ shall offer to new applicants franchise  
5 agreements or contract franchises whose terms and conditions are as a  
6 whole competitively neutral and nondiscriminatory, as compared to such  
7 existing agreement.

8 (r) Without prejudice to a telecommunications local exchange service  
9 provider's other rights and authorities, a telecommunications local  
10 exchange service provider ~~which~~ that is assessed, collects and remits an  
11 application fee, access line fee or gross receipts fee assessed by a city shall  
12 add to its end-user customer's bill, statement or invoice a surcharge equal  
13 to the pro rata share of any such fees.

14 (s) Subsections (c) through (r) apply only to telecommunications  
15 local exchange service providers *that are subject to a local*  
16 *telecommunications franchise. Nothing in this section shall be construed*  
17 *to empower a city to require a holder, or affiliate of a holder, of a state-*  
18 *issued video service authorization pursuant to K.S.A. 12-2023, and*  
19 *amendments thereto, to enter into or be subject to any franchise, franchise*  
20 *agreement, franchise ordinance, contract franchise or contract franchise*  
21 *ordinance pursuant to the provisions of this section.*

22 (t) (1) Except as further provided in paragraph (2), a city:

23 (A) Shall not require a wireless services provider or a wireless  
24 infrastructure provider to enter into a franchise, franchise agreement,  
25 franchise ordinance, contract franchise or contract franchise ordinance for  
26 the provision of wireless services;

27 (B) may govern the use of the public right-of-way by a wireless  
28 services provider or a wireless infrastructure provider by requiring a small  
29 cell facility deployment agreement or a master license agreement, through  
30 permitting requirements or municipal ordinances or codes, or any  
31 combination thereof, in a manner consistent with federal and state law; and

32 (C) may assess a wireless services provider or a wireless  
33 infrastructure provider a fixed right-of-way access fee for each small cell  
34 facility that the provider deploys that requires use of the city's public right-  
35 of-way, but such fee shall not be based on such provider's gross receipts  
36 derived from services provided within the city's corporate limits.

37 (2) The provisions of paragraph (1) shall only apply to a wireless  
38 infrastructure provider to the extent of such provider's operations and  
39 services as a provider for the deployment of small cell facilities in the  
40 city's public right-of-way that are used for the provision of wireless  
41 services. Nothing in this subsection shall be construed to apply to such  
42 provider's other operations and services as a utility or otherwise or have  
43 any effect on any franchise that is related to such other operations and

1 services.

2 (3) Nothing in this subsection shall be construed as prohibiting a city  
3 from requiring a telecommunications local exchange service provider to  
4 enter into a valid contract franchise ordinance pursuant to this section.

5 (4) ~~For the purposes of~~ *As used in* this subsection:

6 (A) ~~The terms~~ "Authority," "public right-of-way," "small cell  
7 facility," "utility pole," "wireless infrastructure provider," "wireless  
8 services" and "wireless services provider" ~~shall have mean~~ the same  
9 meaning as ~~provided~~ *defined* in K.S.A. 66-2019, and amendments thereto;  
10 and

11 (B) "small cell facility deployment agreement" means an agreement  
12 between a wireless services provider or wireless infrastructure provider  
13 and an authority for the deployment of small cell facilities on or adjacent  
14 to existing, modified, replacement or new utility poles within the public  
15 right-of-way pursuant to K.S.A. 66-2019, and amendments thereto, and  
16 federal law. A "small cell facility deployment agreement" is not a  
17 franchise, franchise agreement, franchise ordinance, contract franchise or  
18 contract franchise ordinance.

19 Sec. 2. K.S.A. 12-2001 is hereby repealed.

20 Sec. 3. This act shall take effect and be in force from and after its  
21 publication in the statute book.