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

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

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

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

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

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

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

Sec. 3. As used in this act:

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

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

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

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

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

(f) "Unserved area" means one or more contiguous census blocks within the legal boundaries of a municipality seeking to provide the
unserved area with video, telecommunications or broadband service, where at least nine out of 10 households lack access to facilities-based, terrestrial broadband service, either fixed or mobile, or satellite broadband service, at the minimum broadband transmission speed as defined by the federal communications commission.

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

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

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

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

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

(A) Acting on behalf of the municipality; or

(B) for the benefit of the municipality;

(2) by itself;

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

(4) by contract, resale or otherwise.

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

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

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

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

(b) Except with regard to providing video, telecommunications or broadband service to unserved areas, a municipality may not exercise its power of eminent domain to condemn any real property, whether in whole
or in part, to obtain an easement for the purpose of offering or providing to
one or more subscribers video, telecommunications or broadband service,
or to facilitate the construction of a facility for the purpose of enabling a
private business or entity to offer, provide, carry or deliver video,
telecommunications or broadband service to one or more subscribers.

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

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

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

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