KANSAS OFFICE of
REVISOR of STATUTES
LEGISLATURE of THE STATE of KANSAS
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# MEMORANDUM

To: Chairman Olson and Members of the Senate Committee on Utilities

From: Matt Sterling, Assistant Revisor of Statutes

Date: 02/03/2016

RE: Senate Bill 346

SB 346 would amend K.S.A. 66-1,187, 66-2001, 66-2005, 66-2008 and 66-2017 concerning rural telephone companies and the Kansas Universal Service Fund. The bill would make several changes to how a rural telephone company changes its local service rates, how KUSF support for rate of return carriers is determined, and the regulation of rural telephone companies that use VoIP or IP enabled services.

Section 1 of the bill would amend K.S.A. 66-1,187 to change the definition of "broadband" to the transmission of digital signals of at least 10 megabits download speed and 1 megabit upload speed.

Section 2 of the bill would amend K.S.A. 66-2001 to state that it was the public policy of the state to "promote local investment and the development and expansion of economic opportunities, through the statewide availability and ongoing enhancement of reliable and affordable broadband data and communications services."

Section 3 of the bill would amend K.S.A. 66-2005(d) concerning rural telephone companies and local service rates. The bill would require the KCC to approve each application by a rural telephone company to increase the company's local service rates in an amount necessary for the company to maintain eligibility for full Federal Universal Service Fund (FUSF) support. Furthermore, the bill would require that any revenue that resulted from any such increase would not be used as a basis to reduce the company's KUSF support.

Section 4 of the bill would amend K.S.A. 66-2008(e)(1) and (e)(2) concerning the KUSF and cost recovery for local exchange carriers operating under rate of return regulation[1]. Under current law, subsection (e)(1) requires that KUSF support for rate of return carriers be based on the carrier's embedded costs, revenue requirements, investments and expenses. The bill would change this requirement to instead require that rate of return carriers' KUSF support would ensure recovery

[1] Rate of return regulation fixes the rate of return that a company can earn on its assets. The commission sets the price the company can charge so as to allow it to earn a limited, specified rate of return. The regulated price can be adjusted upward if the utility's rate of return drops and will be adjusted downward if the utility makes a higher rate. Under price cap regulation, a company's prices are set and then adjusted according to parameters established by the commission.

of such carrier's intrastate embedded costs, revenue requirements, investments and expenses. Furthermore, current law requires that prior to July 1, 2017, any modification of KUSF support could only be made as a direct result of changes in the factors listed in this subsection. The bill would remove the "prior to July 1, 2017" restriction so that any modifications in KUSF support that were made in the future would have to be based on direct changes to the listed factors.

Section 4 of the bill also makes changes to subsection (e)(2) concerning limitations on KUSF support for rate of return carriers. Under current law, KUSF support is not permitted to be used to offset any loss of FUSF support, but the limitation does not preclude the carrier from recovering reductions in intrastate access revenue. The bill would change the provision to provide that no KUSF support received by a rate of return carrier could be used to offset any reduction of FUSF support for recovery of the carrier's interstate costs and investment.

Section 5 of the bill would amend K.S.A. 66-2017 concerning the regulation of VoIP or IP enabled service. The bill would amend the section to clarify that the use of VoIP or IP enabled services would not be construed to change the regulation of a rural telephone carrier from rate of return regulation.