

## HOUSE BILL No. 2050

By Committee on Utilities

1-12

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9 AN ACT concerning telecommunications; enacting the VoIP enhanced  
10 911 act; imposing certain fees and providing for disposition thereof;  
11 providing for participation of VoIP providers in the Kansas universal  
12 service fund; amending K.S.A. 66-2008, 66-2009 and 66-2010 and  
13 K.S.A. 2004 Supp. 12-5323, 12-5328, 12-5330, 12-5334 and 19-101a  
14 and repealing the existing sections; also repealing K.S.A. 2004 Supp.  
15 19-101k.

16  
17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. (a) Sections 1 through 10, and amendments thereto,  
19 may be cited as the VoIP enhanced 911 act.

20 (b) If any provisions of this act or its application to any person or  
21 circumstances is held invalid, the invalidity does not affect other provi-  
22 sions or applications of the act that can be given effect without the invalid  
23 provisions or application. To this end the provisions of this act are  
24 severable.

25 New Sec. 2. As used in this act, unless the context otherwise  
26 requires:

27 (a) Terms have the meanings provided by the wireless enhanced 911  
28 act.

29 (b) "VoIP" means voice over internet protocol.

30 (c) "VoIP enhanced 911 grant fee" means the fee imposed under  
31 section 4, and amendments thereto.

32 (d) "VoIP enhanced 911 local fee" means the fee imposed under  
33 section 5, and amendments thereto.

34 (e) "VoIP enhanced 911 service" means a communication service by  
35 which VoIP providers can provide automatic number identification,  
36 pseudo-automatic number identification and VoIP automatic location  
37 identification information to a requesting PSAP.

38 (f) "VoIP project" means the development and acquisition of the nec-  
39 essary improvements in order to facilitate the establishment of VoIP  
40 service.

41 (g) "VoIP project costs" means all costs or expenses which are nec-  
42 essary or incident to a VoIP project and which are directly attributable  
43 thereto.

- 1 (h) "VoIP provider" means a provider of VoIP service.
- 2 (i) "VoIP service user" means any person who is provided VoIP  
3 service.
- 4 (j) "VoIP subscriber account" means the 10-digit access number as-  
5 signed to a VoIP service user regardless of whether more than one such  
6 number is aggregated for the purpose of billing a service user.
- 7 New Sec. 3. The secretary shall administer the provisions of the VoIP  
8 enhanced 911 act. The secretary is hereby authorized to adopt rules and  
9 regulations necessary for effectuation of the provisions of this act.
- 10 New Sec. 4. (a) Subject to the provisions of section 10, and amend-  
11 ments thereto, effective July 1, 2005, there is hereby established a VoIP  
12 enhanced 911 grant fee in the amount of \$.25 per month per VoIP sub-  
13 scriber account with primary place of use in the state of Kansas. It shall  
14 be the duty of each VoIP provider to collect such fee from the VoIP  
15 service user and remit such fee to the secretary as provided by section 6,  
16 and amendments thereto.
- 17 (b) The secretary shall remit to the state treasurer, in accordance with  
18 the provisions of K.S.A. 75-4215, and amendments thereto, any fees re-  
19 ceived pursuant to this section. Upon receipt of the remittance, the state  
20 treasurer shall deposit the entire amount in the state treasury and credit  
21 it to the wireless enhanced 911 grant fund.
- 22 New Sec. 5. (a) Effective July 1, 2005, there is hereby imposed a  
23 VoIP enhanced 911 local fee. Subject to the provisions of section 10, and  
24 amendments thereto, the amount of such fee shall be \$.25 per month per  
25 VoIP subscriber account with primary place of use in the state of Kansas.
- 26 (b) The proceeds of the VoIP enhanced 911 local fee, and any interest  
27 earned on revenue derived from such fee, shall be used only for the  
28 purposes provided in K.S.A. 2004 Supp. 12-5330, and amendments  
29 thereto.
- 30 (c) Each PSAP shall submit to the secretary an annual report ac-  
31 counting for the money received by the PSAP from the VoIP enhanced  
32 911 local fee. Such report shall be submitted on a form provided by the  
33 secretary, which shall be consolidated with the report accounting for mon-  
34 eys received from the wireless enhanced 911 local fee required pursuant  
35 to K.S.A. 2004 Supp. 12-5330, and amendments thereto.
- 36 (d) If pursuant to K.S.A. 2004 Supp. 12-5330, and amendments  
37 thereto, a PSAP is required to pay to the secretary all moneys from the  
38 wireless enhanced 911 local fee which have been or are received by such  
39 PSAP, such PSAP shall also pay to the secretary all moneys from the VoIP  
40 enhanced 911 local fee which have been or are received by such PSAP  
41 and the secretary shall notify the local collection point administrator that  
42 distributions of moneys from the VoIP enhanced 911 local fee to the  
43 PSAP shall be stopped and that such moneys shall be instead remitted to

1 the secretary until the PSAP is again eligible to receive moneys from the  
2 wireless enhanced 911 local fee. The PSAP thereafter shall not be eligible  
3 to receive moneys from distributions by the local collection point admin-  
4 istrator until the PSAP is again eligible to receive moneys from the wire-  
5 less enhanced 911 local fee. The secretary shall remit any moneys re-  
6 ceived from the repayment by the PSAP or from distributions by the local  
7 collection point administrator to the state treasurer in accordance with  
8 K.S.A. 75-4215, and amendments thereto. Upon receipt of the remit-  
9 tance, the state treasurer shall deposit the entire amount in the state  
10 treasury and credit it to the wireless enhanced 911 grant fund.

11 New Sec. 6. (a) Every billed VoIP service user shall be liable for the  
12 VoIP enhanced 911 grant fee and the VoIP enhanced 911 local fee until  
13 such fees have been paid to the VoIP provider.

14 (b) The duty to collect any such fees imposed pursuant to this act  
15 shall commence July 1, 2005. Such fees shall be added to and may be  
16 stated separately in billings for the VoIP subscriber account. If stated  
17 separately in billings, the fees shall be labeled "KS E-911 fees."

18 (c) The VoIP provider shall have no obligation to take any legal action  
19 to enforce the collection of the fees imposed by this act. The VoIP pro-  
20 vider shall provide annually to the secretary a list of amounts of uncol-  
21 lected VoIP enhanced 911 grant fees along with the names and addresses  
22 of those VoIP service users which carry a balance that can be determined  
23 by the VoIP provider to be nonpayment of such fees. The VoIP provider  
24 shall provide annually to the local collection point administrator a list of  
25 amounts of uncollected VoIP enhanced 911 local fees along with the  
26 names and addresses of those VoIP service users which carry a balance  
27 that can be determined by the VoIP provider to be nonpayment of such  
28 fees.

29 (d) The fees imposed by this act shall be collected insofar as practi-  
30 cable at the same time as, and along with, the charges for VoIP service  
31 in accordance with regular billing practice of the VoIP provider.

32 (e) The VoIP enhanced 911 grant fee and the amounts required to  
33 be collected therefor are due monthly. The amount of any such fees  
34 collected in one month by the VoIP provider shall be remitted to the  
35 secretary not more than 15 days after the close of the calendar month.  
36 On or before the 15th day of each calendar month following, a return for  
37 the preceding month shall be filed with the secretary in such form as the  
38 secretary and the VoIP provider shall agree. The VoIP provider required  
39 to file the return shall deliver the return together with a remittance of  
40 the amount of the fees payable to the secretary. The VoIP provider shall  
41 maintain records of the amount of any such fees collected pursuant to  
42 action in accord with this act. Such records shall be maintained for a  
43 period of three years from the time the fees are collected.

1 (f) The VoIP enhanced 911 local fee and the amounts required to be  
2 collected therefor are due monthly. The amount of any such fees collected  
3 in one month by the VoIP provider shall be remitted to the local collection  
4 point administrator not more than 15 days after the close of the calendar  
5 month. On or before the 15th day of each calendar month following, a  
6 return for the preceding month shall be filed with the local collection  
7 point administrator. Such return shall be in such form and shall contain  
8 such information as required by the administrator. The VoIP provider  
9 required to file the return shall deliver the return together with a remit-  
10 tance of the amount of the fees payable to the local collection point ad-  
11 ministrator. The VoIP provider shall maintain records of the amount of  
12 any such fees collected pursuant to action in accord with this act. Such  
13 records shall be maintained for a period of three years from the time the  
14 fees are collected.

15 (g) Except as provided by subsection (d) of section 5, and amend-  
16 ments thereto, not later than 30 days after receipt of moneys from VoIP  
17 providers pursuant to this section, the local collection point administrator  
18 shall distribute such moneys collected from the VoIP enhanced 911 local  
19 fee to PSAP's based upon primary place of use information provided by  
20 VoIP providers. The local collection point administrator may retain an  
21 administrative fee of not more than 2% of moneys collected from such  
22 fee.

23 (h) The local collection point administrator shall keep accurate ac-  
24 counts of all receipts and disbursements of moneys from the VoIP en-  
25 hanced 911 local fee. The receipts and disbursements shall be audited  
26 yearly by a licensed municipal accountant or certified public accountant  
27 and the audit report shall be submitted to the secretary.

28 New Sec. 7. In 2007, the secretary shall require, and thereafter may  
29 require, an audit of any VoIP provider's books and records concerning  
30 the collection and remittance of fees pursuant to this act. Any such audit  
31 shall be conducted at the expense of the secretary. Information provided  
32 by VoIP providers to the secretary or the advisory board pursuant to this  
33 act or the wireless enhanced 911 act will be treated as proprietary records  
34 which will be withheld from the public upon request of the party sub-  
35 mitting such records.

36 New Sec. 8. The VoIP enhanced 911 service described in this act is  
37 within the governmental power and authority of the secretary, local col-  
38 lection point administrator, governing bodies and public agencies. Except  
39 as provided by the Kansas tort claims act, in contracting for such service  
40 and in providing such service, and except for failure to use ordinary care,  
41 or for intentional acts, the secretary, local collection point administrator,  
42 each governing body, each public agency, each VoIP provider, and their  
43 employees and agents, shall not be liable for the payment of damages

1 resulting from the performance of installing, maintaining or providing  
2 VoIP enhanced 911 service.

3 New Sec. 9. Nothing in the VoIP enhanced 911 act shall be con-  
4 strued to limit the ability of a VoIP provider from recovering directly  
5 from the provider's customers its costs associated with designing, devel-  
6 oping, deploying and maintaining VoIP enhanced 911 service and its costs  
7 of collection and administration of the fees imposed by this act, whether  
8 such costs are itemized on the customer's bill as a surcharge or by any  
9 other lawful method.

10 New Sec. 10. (a) On July 1, 2010:

11 (1) The VoIP enhanced 911 grant fee shall be discontinued.

12 (2) Within any county which has a population of 125,000 or more,  
13 the amount of the tax per access line or its equivalent imposed pursuant  
14 to K.S.A. 12-5302, and amendments thereto, and the amount of the VoIP  
15 enhanced 911 local fee per VoIP subscriber account within such jurisdic-  
16 tion shall be an equal amount per month.

17 (3) Within any county which has a population of less than 125,000  
18 the amount of the tax per access line or its equivalent imposed to K.S.A.  
19 12-5302, and amendments thereto, and the amount of the VoIP enhanced  
20 911 local fee per VoIP subscriber account shall be an equal amount per  
21 month.

22 (4) The provisions of sections 3 and 4, and amendments thereto, shall  
23 expire.

24 (b) On and after July 1, 2010, the proceeds of the VoIP local fee shall  
25 be used only to pay for costs of emergency telephone service described  
26 in K.S.A. 12-5304, and amendments thereto, and expenditures authorized  
27 by K.S.A. 2004 Supp. 12-5330, and amendments thereto.

28 Sec. 11. K.S.A. 2004 Supp. 12-5323 is hereby amended to read as  
29 follows: 12-5323. (a) There is hereby established in the state treasury the  
30 wireless enhanced 911 grant fund.

31 (b) Moneys from the following sources shall be credited to the fund:

32 (1) Amounts received by the state from the federal government for  
33 the purposes of the fund;

34 (2) amounts appropriated or otherwise made available by the legis-  
35 lature for the purposes of the fund;

36 (3) amounts received from fees under K.S.A. 2004 Supp. 12-5324 *or*  
37 *section 4*, and amendments thereto, or from repayments or fees remitted  
38 under K.S.A. 2004 Supp. 12-5328 ~~or~~, 12-5330 *or section 4*, and amend-  
39 ments thereto;

40 (4) interest attributable to investment of moneys in the fund; and

41 (5) amounts received from any public or private entity for the pur-  
42 poses of the fund.

43 (c) Subject to the conditions and in accordance with requirements of

1 this act, moneys credited to the fund shall be used only:

2 (1) To pay costs of administering the fund, including actual and nec-  
3 essary expenses incurred by members of the advisory board while per-  
4 forming duties required by the wireless enhanced 911 act and costs of  
5 any audit performed under K.S.A. 2004 Supp. 12-5331, and amendments  
6 thereto, but the aggregate amount of all such costs shall not exceed 5%  
7 of the moneys credited to the fund; and

8 (2) to provide grants to eligible municipalities only for necessary and  
9 reasonable costs incurred or to be incurred by PSAP's for: (1) Imple-  
10 mentation of wireless enhanced 911 service *and VoIP 911 service, as*  
11 *defined in section 2, and amendments thereto*; (2) purchase of equipment  
12 and upgrades and modification to equipment used solely to process the  
13 data elements of wireless enhanced 911 service *and VoIP 911 service, as*  
14 *defined in section 2, and amendments thereto*; and (3) maintenance and  
15 license fees for such equipment and training of personnel to operate such  
16 equipment, including costs of training PSAP personnel to provide effec-  
17 tive service to all users of the emergency telephone system who have  
18 communications disabilities. Such costs shall not include expenditures to  
19 lease, construct, expand, acquire, remodel, renovate, repair, furnish or  
20 make improvements to buildings or similar facilities or for other capital  
21 outlay or equipment not expressly authorized by this act.

22 (d) On or before the 10th of each month, the director of accounts  
23 and reports shall transfer from the state general fund to the fund interest  
24 earnings based on:

25 (1) The average daily balance of moneys in the wireless enhanced  
26 911 grant fund for the preceding month; and

27 (2) the net earnings rate of the pooled money investment portfolio  
28 for the preceding month.

29 (e) All payments and disbursements from the fund shall be made in  
30 accordance with appropriation acts upon warrants of the director of ac-  
31 counts and reports issued pursuant to vouchers approved by the secretary  
32 or by a person or persons designated by the secretary.

33 Sec. 12. K.S.A. 2004 Supp. 12-5328 is hereby amended to read as  
34 follows: 12-5328. (a) Eligible municipalities wishing to receive a grant  
35 under the wireless enhanced 911 act shall submit an application therefor  
36 to the secretary. Applications shall be in such form and shall include such  
37 information as the secretary shall require including, but not limited to,  
38 the request for proposals submitted to initiate the deployment process,  
39 and shall be submitted in a manner and at a time to be determined by  
40 the secretary.

41 (b) The secretary may enter into agreements with any eligible mu-  
42 nicipality for the provision of a grant thereto for payment of all or a part  
43 of project costs ~~and~~ *including VoIP project costs, as defined in section 2,*

1 *and amendments thereto, if recommended by the advisory board.* Any  
2 eligible municipality may enter into such an agreement and may accept  
3 such grant when so authorized by the municipal governing body. The  
4 purposes of the grant to be provided, a time frame for implementation,  
5 and the amount thereof, which may vary among municipalities, shall be  
6 included in the agreements. All such agreements shall include provisions  
7 for repayment of the grant if implementation is not completed in accord-  
8 ance with the terms of the agreement.

9 (c) If a municipality to which a grant is made available under the  
10 wireless enhanced 911 act fails to enter into an agreement with the sec-  
11 retary for the provision of such grant in accordance with the requirements  
12 of this act, the secretary may make the amount of the grant available for  
13 one or more other projects on the priority list *or VoIP projects, as defined*  
14 *in section 2, and amendments thereto, if recommended by the advisory*  
15 *board.*

16 (d) The secretary shall provide any eligible municipality, upon re-  
17 quest, with technical advice and assistance regarding a project, *including*  
18 *VoIP projects*, or an application for a grant for the payment of all or part  
19 of project costs *or VoIP project costs.*

20 (e) (1) Subject to the provisions of subsection (e)(3), each PSAP shall  
21 submit to wireless carriers a valid request for wireless enhanced 911 serv-  
22 ice by July 1, 2006.

23 (2) Subject to the provisions of subsection (e)(3), if a PSAP has not  
24 submitted to wireless carriers a valid request for wireless enhanced 911  
25 service by July 1, 2006, such PSAP shall pay to the secretary all moneys  
26 paid from the fund to such PSAP. The secretary shall remit such moneys  
27 to the state treasurer in accordance with K.S.A. 75-4215, and amend-  
28 ments thereto. Upon receipt of the remittance, the state treasurer shall  
29 deposit the entire amount in the state treasury and credit it to the wireless  
30 enhanced 911 grant fund. Thereafter, such PSAP shall not be eligible to  
31 receive moneys from the fund until the PSAP has submitted to the sec-  
32 retary evidence satisfactory to the secretary that the PSAP has submitted  
33 to wireless carriers a valid request for wireless enhanced 911 service.

34 (3) If a PSAP is unable to make a valid request by July 1, 2006, the  
35 advisory board may approve not to exceed two one-year extensions of  
36 such date to not later than July 1, 2008, if the advisory board determines  
37 that: (A) Equipment necessary to receive and utilize the data elements  
38 associated with the wireless enhanced 911 service has been ordered by  
39 the PSAP but is unavailable; or (B) there is other just cause to extend the  
40 date.

41 Sec. 13. K.S.A. 2004 Supp. 12-5330 is hereby amended to read as  
42 follows: 12-5330. (a) Effective July 1, 2004, there is hereby imposed a  
43 wireless enhanced 911 local fee. Subject to the provisions of K.S.A. 2004

1 Supp. 12-5338, and amendments thereto, the amount of such fee shall  
2 be \$.25 per month per wireless subscriber account with primary place of  
3 use in the state of Kansas. Such fee shall not be imposed on prepaid  
4 wireless service.

5 (b) Subject to the provisions of K.S.A. 2004 Supp. 12-5338, and  
6 amendments thereto, the proceeds of the wireless enhanced 911 local  
7 fee, and any interest earned on revenue derived from such fee, shall be  
8 used only for necessary and reasonable costs incurred or to be incurred  
9 by PSAP's for: (1) Implementation of wireless enhanced 911 service *and*  
10 *VoIP enhanced 911 service*; (2) purchase of equipment and upgrades and  
11 modification to equipment used solely to process the data elements of  
12 wireless enhanced 911 service *and VoIP enhanced 911 service*; and (3)  
13 maintenance and license fees for such equipment and training of person-  
14 nel to operate such equipment, including costs of training PSAP person-  
15 nel to provide effective service to all users of the emergency telephone  
16 system who have communications disabilities. Such costs shall not include  
17 expenditures to lease, construct, expand, acquire, remodel, renovate, re-  
18 pair, furnish or make improvements to buildings or similar facilities or  
19 for other capital outlay or equipment not expressly authorized by this act.

20 (c) Each PSAP shall submit to the secretary an annual report ac-  
21 counting for the money received by the PSAP from the wireless enhanced  
22 911 local fee. Such report shall be submitted on a form provided by the  
23 secretary.

24 (d) (1) Subject to the provisions of subsection (d)(3), each PSAP shall  
25 submit to wireless carriers a valid request for wireless enhanced 911 serv-  
26 ice by July 1, 2006.

27 (2) Subject to the provisions of subsection (d)(3), if a PSAP has not  
28 submitted to wireless carriers a valid request for wireless enhanced 911  
29 service by July 1, 2006: (A) Such PSAP shall pay to the secretary all  
30 moneys from the wireless enhanced 911 local fee which have been or are  
31 received by such PSAP; (B) the secretary shall notify the local collection  
32 point administrator that the PSAP has not made a valid request when  
33 required and that distributions of moneys from the wireless enhanced  
34 911 local fee to the PSAP shall be stopped and that such moneys shall be  
35 instead remitted to the secretary until the secretary notifies the local  
36 collection point administrator that the PSAP has made a valid request;  
37 (C) the PSAP thereafter shall not be eligible to receive moneys from the  
38 fund or from distributions by the local collection point administrator until  
39 the PSAP has submitted to the secretary evidence satisfactory to the sec-  
40 retary that the PSAP has submitted to wireless carriers a valid request for  
41 wireless enhanced 911 service. The secretary shall remit any moneys re-  
42 ceived from the repayment by the PSAP or from distributions by the local  
43 collection point administrator to the state treasurer in accordance with



1 K.S.A. 75-4215, and amendments thereto. Upon receipt of the remit-  
2 tance, the state treasurer shall deposit the entire amount in the state  
3 treasury and credit it to the wireless enhanced 911 grant fund.

4 (3) If a PSAP is unable to make a valid request by July 1, 2006, the  
5 advisory board may approve not to exceed two one-year extensions of  
6 such date to not later than July 1, 2008, if the advisory board determines  
7 that: (A) Equipment necessary to receive and utilize the data elements  
8 associated with wireless enhanced 911 service has been ordered by the  
9 PSAP but is unavailable; or (B) there is other just cause to extend the  
10 date.

11 Sec. 14. K.S.A. 2004 Supp. 12-5334 is hereby amended to read as  
12 follows: 12-5334. (a) During calendar year 2006, the division of post audit  
13 shall conduct an audit of the wireless enhanced 911 service system to  
14 determine: (1) Whether moneys received by municipalities pursuant to  
15 the wireless enhanced 911 act are being used appropriately; (2) the  
16 amount of moneys collected pursuant to this act is adequate; (3) the status  
17 of wireless enhanced 911 implementation; and (4) the need and level of  
18 continued funding of the wireless enhanced 911 service system. The audit  
19 shall be in accordance with a scope statement authorized and approved  
20 by the legislative post audit committee and shall be conducted in accord-  
21 ance with article 11 of chapter 46 of the Kansas Statutes Annotated, and  
22 amendments thereto.

23 (b) During the calendar year 2008, the division of post audit shall  
24 conduct an audit of the wireless enhanced 911 service system, *the VoIP*  
25 *enhanced 911 service system, as defined in section 2, and amendments*  
26 *thereto*, and the landline emergency telephone service system to deter-  
27 mine: (1) Whether moneys received by municipalities pursuant to the  
28 wireless enhanced 911 act *and the VoIP enhanced 911 act* are being used  
29 appropriately; (2) the amount of moneys collected pursuant to this act  
30 *and the VoIP enhanced 911 act* is adequate; (3) the status of wireless  
31 enhanced 911 *and VoIP enhanced 911* implementation; and (4) the need  
32 and level of continued funding of the wireless enhanced 911 service sys-  
33 tem, *the VoIP enhanced 911 service system* and the landline emergency  
34 telephone service system. The audit shall be in accordance with a scope  
35 statement authorized and approved by the legislative post audit commit-  
36 tee and shall be conducted in accordance with article 11 of chapter 46 of  
37 the Kansas Statutes Annotated, and amendments thereto. The audit re-  
38 port shall be submitted to the legislature at the commencement of the  
39 regular session of the legislature in 2009.

40 Sec. 15. K.S.A. 2004 Supp. 19-101a is hereby amended to read as  
41 follows: 19-101a. (a) The board of county commissioners may transact all  
42 county business and perform all powers of local legislation and adminis-  
43 tration it deems appropriate, subject only to the following limitations,

1 restrictions or prohibitions:

2 (1) Counties shall be subject to all acts of the legislature which apply  
3 uniformly to all counties.

4 (2) Counties may not consolidate or alter county boundaries.

5 (3) Counties may not affect the courts located therein.

6 (4) Counties shall be subject to acts of the legislature prescribing  
7 limits of indebtedness.

8 (5) In the exercise of powers of local legislation and administration  
9 authorized under provisions of this section, the home rule power con-  
10 ferred on cities to determine their local affairs and government shall not  
11 be superseded or impaired without the consent of the governing body of  
12 each city within a county which may be affected.

13 (6) Counties may not legislate on social welfare administered under  
14 state law enacted pursuant to or in conformity with public law No. 271—  
15 74th congress, or amendments thereof.

16 (7) Counties shall be subject to all acts of the legislature concerning  
17 elections, election commissioners and officers and their duties as such  
18 officers and the election of county officers.

19 (8) Counties shall be subject to the limitations and prohibitions im-  
20 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,  
21 prescribing limitations upon the levy of retailers' sales taxes by counties.

22 (9) Counties may not exempt from or effect changes in statutes made  
23 nonuniform in application solely by reason of authorizing exceptions for  
24 counties having adopted a charter for county government.

25 (10) No county may levy ad valorem taxes under the authority of this  
26 section upon real property located within any redevelopment project area  
27 established under the authority of K.S.A. 12-1772, and amendments  
28 thereto, unless the resolution authorizing the same specifically authorized  
29 a portion of the proceeds of such levy to be used to pay the principal of  
30 and interest upon bonds issued by a city under the authority of K.S.A.  
31 12-1774, and amendments thereto.

32 (11) Counties shall have no power under this section to exempt from  
33 any statute authorizing or requiring the levy of taxes and providing sub-  
34 stitute and additional provisions on the same subject, unless the resolution  
35 authorizing the same specifically provides for a portion of the proceeds  
36 of such levy to be used to pay a portion of the principal and interest on  
37 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-  
38 ments thereto.

39 (12) Counties may not exempt from or effect changes in the provi-  
40 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

41 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101  
42 through 12-1,109, and amendments thereto, counties may not levy and  
43 collect taxes on incomes from whatever source derived.

- 1 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
2 430, and amendments thereto.
- 3 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
4 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.
- 5 (16) (A) Counties may not exempt from or effect changes in K.S.A.  
6 13-13a26, and amendments thereto.
- 7 (B) This provision shall expire on June 30, ~~2005~~ 2006.
- 8 (17) (A) Counties may not exempt from or effect changes in K.S.A.  
9 71-301a, and amendments thereto.
- 10 (B) This provision shall expire on June 30, ~~2005~~ 2006.
- 11 (18) Counties may not exempt from or effect changes in K.S.A. 19-  
12 15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 13 (19) Counties may not exempt from or effect changes in the provi-  
14 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-  
15 1226, and amendments thereto, or the provisions of K.S.A. 12-1260  
16 through 12-1270 and 12-1276, and amendments thereto.
- 17 (20) Counties may not exempt from or effect changes in the provi-  
18 sions of K.S.A. 19-211, and amendments thereto.
- 19 (21) Counties may not exempt from or effect changes in the provi-  
20 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 21 (22) Counties may not regulate the production or drilling of any oil  
22 or gas well in any manner which would result in the duplication of reg-  
23 ulation by the state corporation commission and the Kansas department  
24 of health and environment pursuant to chapter 55 and chapter 65 of the  
25 Kansas Statutes Annotated and any rules and regulations adopted pur-  
26 suant thereto. Counties may not require any license or permit for the  
27 drilling or production of oil and gas wells. Counties may not impose any  
28 fee or charge for the drilling or production of any oil or gas well.
- 29 (23) Counties may not exempt from or effect changes in K.S.A. 79-  
30 41a04, and amendments thereto.
- 31 (24) Counties may not exempt from or effect changes in K.S.A. 79-  
32 1611, and amendments thereto.
- 33 (25) Counties may not exempt from or effect changes in K.S.A. 79-  
34 1494, and amendments thereto.
- 35 (26) Counties may not exempt from or effect changes in subsection  
36 (b) of K.S.A. 19-202, and amendments thereto.
- 37 (27) Counties may not exempt from or effect changes in subsection  
38 (b) of K.S.A. 19-204, and amendments thereto.
- 39 (28) Counties may not levy or impose an excise, severance or any  
40 other tax in the nature of an excise tax upon the physical severance and  
41 production of any mineral or other material from the earth or water.
- 42 (29) Counties may not exempt from or effect changes in K.S.A. 79-  
43 2017 or 79-2101, and amendments thereto.

1 (30) Counties may not exempt from or effect changes in K.S.A. 2-  
2 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d; *or*  
3 65-1,178 through 65-1,199 ~~or K.S.A. 1998 Supp. 17-5909~~, and amend-  
4 ments thereto.

5 (31) Counties may not exempt from or effect changes in K.S.A. 2004  
6 Supp. 80-121, and amendments thereto.

7 (32) Counties may not exempt from or effect changes in K.S.A. 19-  
8 228, and amendments thereto.

9 (33) Counties may not exempt from or effect changes in the wireless  
10 enhanced 911 act, *in the VoIP enhanced 911 act* or in the provisions of  
11 K.S.A. 12-5301 through 12-5308, and amendments thereto.

12 (34) Counties may not exempt from or effect changes in K.S.A. 2004  
13 Supp. 26-601, and amendments thereto.

14 (b) Counties shall apply the powers of local legislation granted in  
15 subsection (a) by resolution of the board of county commissioners. If no  
16 statutory authority exists for such local legislation other than that set forth  
17 in subsection (a) and the local legislation proposed under the authority  
18 of such subsection is not contrary to any act of the legislature, such local  
19 legislation shall become effective upon passage of a resolution of the  
20 board and publication in the official county newspaper. If the legislation  
21 proposed by the board under authority of subsection (a) is contrary to an  
22 act of the legislature which is applicable to the particular county but not  
23 uniformly applicable to all counties, such legislation shall become effec-  
24 tive by passage of a charter resolution in the manner provided in K.S.A.  
25 19-101b, and amendments thereto.

26 (c) Any resolution adopted by a county which conflicts with the re-  
27 strictions in subsection (a) is null and void.

28 Sec. 16. K.S.A. 66-2008 is hereby amended to read as follows: 66-  
29 2008. On or before January 1, 1997, the commission shall establish the  
30 Kansas universal service fund, hereinafter referred to as the KUSF.

31 (a) The commission shall require every telecommunications carrier,  
32 telecommunications public utility ~~and~~, wireless telecommunications serv-  
33 ice provider *and voice over internet protocol (VoIP) service provider* that  
34 provides intrastate telecommunications services to contribute to the  
35 KUSF on an equitable and nondiscriminatory basis. Any telecommuni-  
36 cations carrier, telecommunications public utility ~~or~~, wireless telecom-  
37 munications service provider *or VoIP service providers* which contributes  
38 to the KUSF may collect from customers an amount equal to such car-  
39 rier's, utility's or provider's contribution, but such carrier, provider or  
40 utility may collect a lesser amount from its customer.

41 Any contributions in excess of distributions collected in any reporting  
42 year shall be applied to reduce the estimated contribution that would  
43 otherwise be necessary for the following year.

1 (b) Pursuant to the federal act, distributions from the KUSF shall be  
2 made in a competitively neutral manner to qualified telecommunications  
3 public utilities, telecommunications carriers ~~and~~, wireless telecommuni-  
4 cations providers *and VoIP service providers*, that are deemed eligible  
5 both under subsection (e)(1) of section 214 of the federal act and by the  
6 commission.

7 (c) The commission shall periodically review the KUSF to determine  
8 if the costs of qualified telecommunications public utilities, telecommu-  
9 nications carriers ~~and~~, wireless telecommunications service providers *and*  
10 *VoIP service providers* to provide local service justify modification of the  
11 KUSF. If the commission determines that any changes are needed, the  
12 commission shall modify the KUSF accordingly.

13 (d) Any qualified telecommunications carrier, telecommunications  
14 public utility ~~or~~, wireless telecommunications service provider *or VoIP*  
15 *service provider* may request supplemental funding from the KUSF based  
16 upon a percentage increase in access lines over the 12-month period prior  
17 to the request. The supplemental funding shall be incurred for the pur-  
18 pose of providing services to and within the service area of the qualified  
19 telecommunications carrier, telecommunications public utility ~~or~~, wire-  
20 less telecommunications service provider *or VoIP service provider*. Sup-  
21 plemental funding from the KUSF shall be used for infrastructure ex-  
22 penditures necessary to serve additional customers within the service area  
23 of such qualifying utility, provider or carrier. All affected parties shall be  
24 allowed to review and verify a request of such a qualified utility, carrier  
25 or provider for supplemental funding from the KUSF, and to intervene  
26 in any commission proceeding regarding such request. The commission  
27 shall issue an order on the request within 120 days of filing. Additional  
28 funding also may be requested for: The recovery of shortfalls due to  
29 additional rebalancing of rates to continue maintenance of parity with  
30 interstate access rates; shortfalls due to changes to access revenue  
31 requirements resulting from changes in federal rules; additional invest-  
32 ment required to provide universal service and enhanced universal serv-  
33 ice, deployed subject to subsection (a) of K.S.A. 66-2005, and amend-  
34 ments thereto; and for infrastructure expenditures in response to facility  
35 or service requirements established by any legislative, regulatory or ju-  
36 dicial authority. Such requests shall be subject to simplified filing pro-  
37 cedures and the expedited review procedures, as outlined in the stipu-  
38 lation attached to the order of November 19, 1990 in docket no.  
39 127,140-U (Phase IV).

40 (e) Prior to June 30, 2006, for each local exchange carrier electing  
41 pursuant to subsection (b) of K.S.A. 66-2005, and amendments thereto,  
42 to operate under traditional rate of return regulation, all KUSF support,  
43 including any adjustment thereto pursuant to this section shall be based

1 on such carrier's embedded costs, revenue requirements, investments and  
2 expenses.

3 (f) Additional supplemental funding from the KUSF, other than as  
4 provided in subsection (d), may be authorized at the discretion of the  
5 commission. However, the commission may require approval of such  
6 funding to be based upon a general rate case filing. With respect to any  
7 request for additional supplemental funding from the KUSF, the com-  
8 mission shall act expeditiously, but shall not be subject to the 120 day  
9 deadline set forth in subsection (d).

10 Sec. 17. K.S.A. 66-2009 is hereby amended to read as follows: 66-  
11 2009. (a) Local exchange carriers that provided switched local exchange  
12 services in the state prior to January 1, 1996, or their successors, shall  
13 serve as the carrier of last resort in their exchanges and shall be eligible  
14 to receive KUSF funding. However, with respect to the Hill City  
15 exchange area in which multiple carriers were certified prior to January  
16 1, 1996, the commission's determination, subject to court appeals, shall  
17 determine which authorized carrier shall serve as carrier of last resort.  
18 The local exchange carrier serving as the carrier of last resort shall remain  
19 the carrier of last resort and shall be entitled to recover the costs of serving  
20 as carrier of last resort.

21 (b) Beginning March 1, 1997, the amount of KUSF funds owed to  
22 each qualifying telecommunications carrier, telecommunications public  
23 utility ~~or~~, wireless telecommunications service provider *or VoIP provider*  
24 in the state, based upon the revenue requirements assigned to the funds  
25 for such qualifying utility, carrier or provider, shall be allocated by the  
26 fund administrator in equal monthly installments.

27 Sec. 18. K.S.A. 66-2010 is hereby amended to read as follows: 66-  
28 2010. (a) The commission shall utilize a competitive bidding process to  
29 select a neutral, competent and bonded third party to administer the  
30 KUSF.

31 (b) The administrator shall be responsible for: (1) Collecting and au-  
32 diting all relevant information from all qualifying telecommunications  
33 public utilities, telecommunications carriers ~~or~~, wireless telecommuni-  
34 cations service providers *or VoIP service providers* receiving funds from  
35 or providing funds to the KUSF; (2) verifying, based on the calculations  
36 of each qualifying telecommunications carrier, telecommunications pub-  
37 lic utility ~~or~~, wireless telecommunications service provider *or VoIP service*  
38 *provider*, the obligation of each such qualifying carrier, utility or provider  
39 to generate the funds required by the KUSF; (3) collecting all moneys  
40 due to the KUSF from all telecommunications public utilities, telecom-  
41 munications carriers ~~and~~, wireless telecommunications service providers  
42 *and VoIP service providers* in the state; and (4) distributing amounts on  
43 a monthly basis due to qualifying telecommunications public utilities,

1 wireless telecommunications service providers ~~and~~, telecommunications  
2 carriers *and VoIP service providers* receiving KUSF funding.

3 (c) Any information made available or received by the administrator  
4 from carriers, utilities or providers receiving funds from or providing  
5 funds to the KUSF shall not be subject to any provisions of the Kansas  
6 open records act and shall be considered confidential and proprietary.

7 (d) The administrator shall be authorized to maintain an action to  
8 collect any funds owed by any telecommunications carrier, public utility  
9 ~~or~~, wireless telecommunications provider *or VoIP service provider* in the  
10 district court in the county of the registered office of such carrier, utility  
11 or provider or, if such carrier, utility or provider does not have a registered  
12 office in the state, such an action may be maintained in the county where  
13 such carrier's, utility's or provider's principal office is located. If such  
14 carrier, utility or provider has no principal office in the state, such an  
15 action may be maintained in the district court of any county in which such  
16 carrier, utility or provider provides service.

17 (e) The KUSF administrator shall be responsible to ensure that funds  
18 do not fall below the level necessary to pay all amounts collectively owed  
19 to all qualifying telecommunications public utilities, wireless telecom-  
20 munications service providers ~~and~~, telecommunications carriers *and VoIP*  
21 *service providers*. The administrator shall have the authority to retain and  
22 invest in a prudent and reasonable manner any excess funds collected in  
23 any period to help ensure that adequate funds are available to cover  
24 amounts payable in other periods.

25 (f) ~~(1) Before October 1, 2002, the chief executive officer of the state~~  
26 ~~board of regents shall certify to the administrator of the KUSF the~~  
27 ~~amount provided by appropriation acts to be expended from the KAN-~~  
28 ~~ED fund created by K.S.A. 2002 Supp. 75-7225, and amendments~~  
29 ~~thereto, for the fiscal year ending June 30, 2003. Before October 1, 2003,~~  
30 ~~the chief executive officer of the state board of regents shall certify to the~~  
31 ~~administrator of the KUSF the amount equal to twice the amount pro-~~  
32 ~~vided by appropriation acts to be expended from the KAN-ED fund for~~  
33 ~~the fiscal year ending June 30, 2003. Before July 1, 2004, and before July~~  
34 ~~1 of each year thereafter, the chief executive officer of the state board of~~  
35 ~~regents shall certify to the administrator of the KUSF the amount pro-~~  
36 ~~vided by appropriation acts to be expended from the KAN-ED fund for~~  
37 ~~the fiscal year commencing the preceding July 1. Upon receipt of the~~  
38 ~~certification of the chief executive officer of the state board of regents,~~  
39 ~~the KUSF administrator shall add the amount certified to the amount~~  
40 ~~annually required to fund the KUSF as determined pursuant to subsec-~~  
41 ~~tion (b).~~

42 ~~—(2) Commencing January 1, 2003, and until June 30, 2004, on or~~  
43 ~~before the 10th day of each month the administrator of the KUSF shall~~

1 pay from the KUSF to the state treasurer an amount equal to  $\frac{1}{6}$  of the  
2 amount certified by the chief executive officer of the state board of re-  
3 gents pursuant to subsection (f)(1) for the fiscal year ending June 30,  
4 2003. Commencing July 1, 2004, on or before the 10th day of each month,  
5 the administrator of the KUSF shall pay from the KUSF to the state  
6 treasurer  $\frac{1}{12}$  of the amount certified by the chief executive officer of the  
7 state board of regents pursuant to subsection (a) for the fiscal year pre-  
8 ceeding the fiscal year in which the payment is made. Upon the receipt of  
9 the payment, the state treasurer shall deposit the entire amount in the  
10 state treasury and credit it to the KAN-ED fund. Any such payments shall  
11 be made after all payments required by K.S.A. 66-2008, and amendments  
12 thereto, for the month are made from the KUSF.

13 ~~—(3)—~~ Amounts appropriated to be expended from the KAN-ED fund  
14 for the fiscal year ending June 30, 2003, shall be based on a budget for  
15 only six months' operations. Amounts appropriated thereafter shall be  
16 based on a budget for 12 months' operations.

17 ~~—(4)—~~ Not more than \$10,000,000 shall be paid from the KUSF to the  
18 state treasurer pursuant to this subsection (f) in any one fiscal year.

19 ~~—(5)—~~ The provisions of this subsection (f) shall expire on June 30, 2005.  
20 Thereafter, *On and after July 1, 2005*, state general fund moneys shall be  
21 used to fund the KAN-ED network.

22 Sec. 19. K.S.A. 66-2008, 66-2009 and 66-2010 and K.S.A. 2004 Supp.  
23 12-5323, 12-5328, 12-5330, 12-5334, 19-101a and 19-101k are hereby  
24 repealed.

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