

Approved: March 25, 1996  
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 22, 1996 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Burke, Downey, Feleciano, Gooch, Harris, Hensley, Ranson, Reynolds, and Steffes.

Committee staff present: Lynne Holt, Legislative Research Department  
Jerry Donaldson, Legislative Research Department  
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

**SubHB 2728: Concerning telecommunications services**

Lynn Holt, Legislative Research Department, continued briefing the Committee on the provisions of SubHB 2728 and their relationship to the Federal Telecommunications Act and the Telecommunications Strategic Planning Committee recommendations. Ms. Holt distributed a Memorandum regarding Policy Questions on Substitute for HB 2728, as amended by House Committee of the Whole, (Attachment 1), Timeline for Activities under SubHB 2728, (Attachment 2), and a Memorandum regarding Committee Questions relating to Substitute for HB 2728. (Attachment 3)

Upon motion of Senator Harris, seconded by Senator Reynolds, the Minutes of March 21, 1996 meeting were unanimously approved.

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for March 25, 1996, at 1:30 p.m. in Room 313-S.

# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: March 22, 1996

NAME	REPRESENTING
Ben Schwartz	Multimedia or Cable
JEFF ROSSZEL	SPRINT
Eva Powers	MCI
Debra Peterson	Sprint
<del>Scott</del>	SWBT
DAVID B. SCHROSEK	PETE MCGILL & ASSOC.
MIKE REECHT	AT&T
George Barbee	RTNC
Karen Frank	RGC
Bill Drexel	SWBT
Doug Smith	SITA
RICHARD VESCH	PIONEER TELEPHONE
BILL BLASE	SWBT
Debra P.	KCTA

# MEMORANDUM

## Kansas Legislative Research Department

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Room 545-N – Statehouse  
Topeka, Kansas 66612-1504  
Telephone (913) 296-3181 FAX (913) 296-3824

March 21, 1996

To: Senate Commerce Committee

From: Lynne Holt, Principal Analyst

Re: Policy Questions for Conferees on Substitute for H.B. 2728, as amended by House Committee of the Whole

1. In your view, what is the proper role of the Legislature and the Kansas Corporation Commission with respect to the regulation of intrastate telecommunications services in Kansas? Does Sub. for H.B. 2728 comport with your perspective of that role?
2. In your opinion, is Sub. for H.B. 2728 needed and, if it is, why is the bill needed at this time?
3. In your view, what is the intent of and what are the implications of defining "universal service" and "enhanced universal service" in statute? (Sec. 2 (p) and (q))
4. In your opinion, what is the purpose of and what are the implications of requiring the Commission to complete a general investigation, issue an order, and adopt statewide guidelines as a condition for issuing more than one certificate to provide local service in a rural telephone company's service area? (New Sec. 5 (c))
5. In your opinion, what is the intent of and what are the implications of:
  - a. the requirement that all certificated telecommunications carriers and local exchange carriers be eligible to receive funds allocated from the Kansas Universal Service Fund (KUSF), if the commission grants certificates for one or more telecommunications carriers and local exchange carriers; and
  - b. the proposed method of allocating such funds? (New Sec. 5 (e))
6. Related to Question No. 5, what is the intent of and what are the implications of relieving a local exchange carrier of its carrier of last resort obligations and not allowing any telecommunications carrier or local exchange carrier to receive support from the KUSF if three conditions specified in the bill are met? (New Sec. 10 (b))
7. In your view, what is the purpose of requiring local exchange carriers to file network infrastructure plans? In your opinion, what are the possible ramifications to tying the deployment of universal service

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*Attachment 1 thru 1-2*

and enhanced universal service capabilities to the deadlines specified in the bill (within two years of filing the network plan for universal services and within five years, for enhanced universal service)? (New Sec. 6 (a))

8. From your perspective, what is the intent of and what are the implications of: defining the nature of price caps (type, treatment of price floor, establishment of initial prices for price cap for the residential and single-line business basket) in statute; and specifying a price cap adjustment formula in statute for individual services within the residential and single-line business basket and miscellaneous regulated services? (New Sec. 6)
9. In your opinion, what is the intent of and what are the implications of authorizing downward adjustments in the price of services within the residential and single-line business service basket under the conditions set forth in the bill? (New Sec. 6 (d))
10. In your opinion, what is the intent of and what are the implications of financing the KUSF and the Kansas Lifeline Service Fund from a surcharge on all intrastate toll services, including 800 service? (New Sec. 11 (a))
11. (Re: access to Internet) From your perspective, what is the intent of and what are the implications of placing rates and specific transmission capacities in statute? (New Sec. 13)

## TIMELINE FOR ACTIVITIES UNDER SUB. FOR H.B. 2728

As Amended by House Committee of the Whole

SCHEDULE	ACTIVITY
On or before August 1, 1996	Kansas Corporation Commission (KCC) shall initiate a general investigation on the application of the federal act to the certification of telecommunications carriers in service areas of rural telephone companies. (New Section 5(b))
On or before September 1, 1996	KCC shall begin to authorize any requesting telecommunications carrier, if certificated, to provide local exchange or exchange access service. (New Section 4(a))
No later than October 31, 1996	KCC shall provide preliminary findings on the general investigation, to be initiated on or before August 1, 1996. (New Section 5(c))
No later than December 31, 1996	KCC shall issue a final order on the general investigation. (New Section 5(c))
On or before January 1, 1997	KCC shall establish a competitively neutral mechanism to fund dual party relay services for Kansans who are speech and hearing impaired. (New Section 3(g))
On or before January 1, 1997	KCC shall review services to be included in the definition of "enhanced universal service." (Section 2(q))
On or before January 1, 1997	KCC shall establish a Kansas Lifeline Service Fund. (New Section 3(f))
On or before January 1, 1997	KCC shall establish a Kansas Universal Service Fund. (New Section 3(h))
On or before January 1, 1997	Southwestern Bell must file with the KCC long-run incremental cost (LRIC) studies for any existing services requested by the KCC in its order of January 4, 1996. (New Section 6(j))
On or before January 1, 1997	KCC shall initiate and complete a proceeding to establish minimum quality of service standards. (New Section 3(l))
On or after January 1, 1997 and prior to January 1, 1998	Each local exchange carrier must file a network infrastructure plan with the KCC. (New Section 6(a))
On or after January 1, 1997 and prior to January 1, 1998	Each local exchange carrier must file a regulatory reform plan with the KCC. (New Section 6(b))

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SCHEDULE	ACTIVITY
On March 1, 1997	A rural telephone company that has not elected price cap regulation must restructure its switched and access rates to bring its rates and rate structures into parity with its corresponding interstate rates and rate structures. (New Section 8(a))
On March 1, 1997 and annually thereafter	The administrator of KUSF and KLSF shall determine the surcharge needed to recover all funding and administrative costs and notify the carriers and providers of the surcharge. (New Section 11(c))
Beginning March 1, 1997	The administrator of Kansas Universal Service Fund (KUSF) and Kansas Lifeline Service Fund (KLSF) shall begin allocating funds in equal monthly installments. (New Section 10(c))
By March 1, 1997	KCC shall implement a funding mechanism for dual party relay services. (New Section 3(g))
On June 1, 1997	Any rural telephone company may request supplemental KUSF support. (New Section 9(c))
On or before July 1, 1997	Any new service introduced after July 1, 1996 shall be placed in the miscellaneous service basket but shall be price deregulated after July 1, 1997. (New Section 6(k))
During the 1999 Session	KCC shall report to the 1999 Legislature on the implementation of Internet provisions. (New Section 13(i))
After July 1, 1999	Dial-up access to the Internet at transmission capabilities specified in the bill shall be available to all customers requesting such service. (New Section 13(c))
On January 1, 2000	KCC shall prepare and submit a report to the Legislature on the effectiveness of the regulatory framework. (New Section 3(m))
On or before July 1, 2001 and every five years thereafter.	KCC shall review, and if necessary, modify the definition of universal service and KUSF. (New Section 3(k))

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March 21, 1996

**To:** Senate Commerce Committee  
**From:** Lynne Holt, Principal Analyst  
**Re:** Committee Questions Regarding Substitute for H.B. 2728

This memorandum addresses three questions raised in the House Select Committee on Telecommunications:

1. How are telephone companies in Kansas regulated now?
2. What will happen if Sub. for H.B. 2728 is not enacted?
3. What are the implications of Sub. for H.B. 2728 if it is enacted?

### How Are Telephone Companies Regulated Now?

The Kansas Corporation Commission regulates the local and intraLATA services of the local exchange carriers. All the independent telephone companies and United Telephone are subject to rate-of-return regulation and Southwestern Bell has been subject to alternative regulation under TeleKansas I and II. A modified version of TeleKansas I was approved in February 1990 by a Commission order. The 1994 Legislature enacted H.B. 3039, which extended TeleKansas I (commonly referred to as TeleKansas II). TeleKansas II is scheduled to terminate on March 1, 1997. Throughout the TeleKansas program, Southwestern Bell has not been subject to rate-of-return regulation and associated audits.

Under TeleKansas, local rates for single-line residential and single-line businesses have been capped and other services have been flexibly priced. This has enabled Southwestern Bell to change rates in an expedited manner (within 20 days subject to Commission approval) to better respond to competition. In exchange for greater pricing flexibility, Southwestern Bell agreed to certain measures. Under TeleKansas I, Southwestern Bell made a commitment of \$160 million over a five-year period to modernize its network throughout the state, which involved upgrading its switches and providing one-party service to all customers in its service area. The company also reduced access charges for long distance, reduced long distance rates, funded the Dual Party Relay System, eliminated all basic 911 service charges, reduced touch tone rates, increased directory assistance rates, and introduced the Talk Program aimed at increasing penetration among low-income customers.

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Under TeleKansas II, the alternative regulatory scheme was extended with the understanding that Southwestern Bell was to commit \$64 million to construct a fiber optic network for Kansas public high schools requesting such service in the Company's service areas. The Company is in the process of meeting its obligations and also has committed to waiving connection charges to the independent telephone companies so that two-way interactive video may be more affordable for schools located in areas of the state not served by Southwestern Bell.

United Telephone is in the process of upgrading its network. A show-cause order was issued in the spring of 1994 to accelerate the process. The Company is expected to complete its modernization activity by December 31, 1997. The Commission staff anticipates a filing for rate increases given the expense associated with the modernization plan. Although United Telephone is subject to rate-of-return regulation, the Commission staff indicated that an application for price cap regulation might be forthcoming.

The independent telephone companies are also subject to rate-of-return regulation but their cases are usually handled through a streamlined process (generally within 120 days).

### **What Will Happen If Sub. for H.B. 2728 Is Not Enacted?**

If Sub. for H.B. 2728 is not enacted, the Commission's Phase II of the competition docket would continue as scheduled. (The Commission's order on Phase I was issued on May 5, 1995.) According to the updated tentative schedule, there will be a hearing, to commence August 12, 1996, on establishing price cap components, rate rebalancing, resale, unbundling, number portability, access charges, finalization of the Kansas Basic Service Fund, and additional regulatory changes. The tentative date for briefs to be filed is now scheduled for September 16, 1996. A Commission decision is expected on October 13, 1996. The Commission's order is expected to address a framework to promote competition and an alternative regulatory framework for Southwestern Bell, to include the following issues: a state universal service fund, rate rebalancing, resale, unbundling, number portability, quality of service measures as a function of rate caps, interconnection, and access charges. In addition, the order would set forth a regulatory framework for the other local exchange carriers providing them with two options -- a "traditional" regulatory option or a "competitive" option similar to that of Southwestern Bell. The order would make the Kansas Basic Service Fund operational for all providers regardless of competitive status. All provisions of the order would take effect on March 1, 1997 coincident with the termination of TeleKansas II.

The Federal Communications Commission (FCC) will also be working to adhere to its tentative schedule of implementing the manifold provisions of the Federal Telecommunications Act of 1996. This will occur regardless of the action taken by the Kansas Legislature or any other state legislature or state commission. (An implementation schedule is available at the Kansas Legislative Research Department.) Many proceedings will commence in 1996 and several FCC orders are scheduled to be issued this year or in 1997. Several issues addressed in the federal act could render moot some of the issues that were originally proposed for Phase II of the competition docket.

### **What Are the Implications of Sub. for H.B. 2728, If the Bill Is Enacted?**

Sub. for H.B. 2728 defines the nature of competition among telecommunications providers in Kansas. This bill will have major implications in the future for the competitive positioning of various telecommunications carriers serving Kansas customers. Some of those implications may not be obvious for many months or years. One might argue, and it is absolutely true, that Commission orders also have major implications for competitive positioning. However, passage of this bill in the House Committee version or



a similar version shifts some or considerable (depending on one's perspective) regulatory responsibility from the Commission to the Legislature as well as the burden of understanding the potential ramifications associated with that responsibility.

For example, the bill specifies:

1. the conditions under which the Commission may grant one or more certificates to provide local exchange or exchange access service in the service area of a rural telephone company;
2. the definition of "universal service" and "enhanced universal service";
3. the requirements for network infrastructure plans;
4. the method of addressing price cap regulation, including the categories of services that would be subject to price caps, the specific conditions for downward adjustments in the price of service within a price cap for an individual service or services, the formula to be used to adjust the price cap and services within the residential and single-line business service basket (after the first three years of rebalancing), the price cap adjustment for the miscellaneous services basket, initial pricing of the price cap for residential and single-line business services, and the minimum pricing level (price floor) for individual services;
5. the conditions under which services can be price deregulated;
6. the conditions under which services could be price reregulated or price regulated;
7. the regulatory treatment of new services introduced after July 1, 1997;
8. the provisions governing the establishment of a Kansas Lifeline Service Fund;
9. the mechanism to be used in restructuring the switched and special intrastate rates and rate structures of rural telephone companies and bringing them into parity with corresponding interstate rates and rate structures;
10. the mechanism to address proposed rate increases of basic local exchange services provided by rural telephone companies subject to rate-of-return regulation;
11. the conditions under which a local exchange carrier may be relieved of its carrier of last resort obligations for its operating area, and the method for allocating funds from the Kansas Universal Service Fund for carriers to whom the Commission has granted certification (if more than one carrier is certificated);
12. the method for funding the Kansas Universal Service Fund and the Kansas Lifeline Service Fund;
13. conditions governing eligibility for supplemental state universal service funding; and
14. the method of administering the Funds.

The overarching policy question for the Legislature has been and will continue to be: What is the proper role for the Legislature and the Kansas Corporation Commission with respect to public utility regulation? To some extent, the 1994 Legislature responded to that question by enacting H.B. 3039, which extended TeleKansas. Nonetheless, there are some notable differences between that bill and Sub. for H.B. 2728 and they relate to both scope and specificity. H.B. 3039 applied only to Southwestern Bell, was confined to a two-year period, and essentially extended a mode of regulation which was initiated by order of the Commission in 1990. The Legislature did make a policy decision with respect to the amount of investment to be committed by the Company in exchange for continued alternative regulation and the intended use of such funds. Sub. for H.B. 2728 unequivocally has a far greater breadth of scope -- in terms of projected duration, in terms of companies affected, and in terms of specificity of regulation in statute. The issue before the Legislature, if this bill or a similar one is enacted, is how the Legislature will oversee proper implementation of those provisions in the bill not specifically delegated to the Commission.