

Approved: April 5, 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 April 5, 1996, in Room 123-S of the Capitol.

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

Committee staff present: Lynne Holt, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Betty Bomar, Committee Secretary

Conferees appearing before the committee:  
Stephan A. Hanvey, Wichita

Others attending: See attached list

The Chair presented Minutes of the March 26, March 27, March 28 and March 29, 1996, Meetings. She requested members to review the Minutes and if there are any corrections or deletions, to contact the Secretary before the end of the working day. If there are no corrections, the Minutes will be considered approved.

**Confirmation hearing: Stephan A. Hanvey, Member, KTEC Board, appointment expiring January 1, 2000.**

Stephan A. Hanvey, appeared before the Committee, Vice President, Engineering and Flight Operation, Raytheon Aircraft, Wichita, stated he has been involved with the aviation industry for 27 year. He stated he is responsible for recommending technologies for Raytheon Aircraft new products such as triple redundant light based pathway for the control of the engine. This type of technical innovation and its commercial utility in a future application is the knowledge he brings to the Kansas Technical Enterprise Corporation. Mr. Hanvey stated he has been involved in aviation for approximately 30 years and his particular interest is that of the impact technology has had on flying aircraft. (Attachment 1)

Senator Burke move, seconded by Senator Ranson, that **Stephan A. Hanvey**, be recommended favorable for confirmation to the Kansans Technology Enterprise Corporation. The voice vote was unanimous in favor of the motion.

**SubHB 2728: Concerning telecommunication services**

The Chair submitted the Sub-Committee recommendation. (Attachment 2) The Committee reviewed and considered the sub-committee report.

Senator Hensley moved, seconded by Senator Burke, that the sub-committee report on **SubHB 2728** be recommended favorable for passage.

Senator Reynolds made a substitute motion, seconded by Senator Downey, that **Sections 1, 2, 3, 7, 11, 12, 13, 14, 15, 17, 19, 20 and 21 of the sub-committee report on SubHB 2728, be retained, and strike the balance of the bill.** The voice vote was in favor of the motion.

Senator Ranson moved, seconded by Senator Reynolds, that the sub-committee report on **SubHB 2728** be amended on Page 4, Line 8, following the word "include" by inserting the following: "but not limited to". The voice vote was in favor of the motion.

Senator Ranson moved, seconded by Senator Feleciano, that the sub-committee report on **SubHB 2728** be amended on Pages 30 and 31, by striking Sec. 13 in its entirety. The voice vote was in favor of the motion.

Senator Feleciano moved, seconded by Senator Reynolds, that the sub-committee report on **SubHB 2728** be recommended favorable for passage as amended. The recorded vote was in favor of the motion

The Committee adjourned at 10:00 a.m.

# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: April 5, 1996

NAME	REPRESENTING
Mike Meacham	KCTA
Bill Roche	Sprint
Richard Lawson	Sprint/United
Mike Reelot	AT&T
Tommy Franke	FEC
Judy Allen	SWBT
Jebra Peterson	Sprint
John D. Pingan	SITA
Doug Smith	SITA
David Cunningham	Cunningham Telc.
Tom DAY	KCC
RICHARD VEACH	PIONEER TELEPHONE
BILL BLASE	SWBT
Jay Scott Ember	KINI L.C.
STEVE KEARNEY	KINI C.C.
Carl Falster	SWBT
John Hall	SWBT
Dana Rutherford	KTEC
Carroll O'Neil	AT&T

Ben Senter  
Judy Brueger

Mullender  
Gov's Office

# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: \_\_\_\_\_

NAME	REPRESENTING
Denny Koch	Sul Bell
Scott Richardson	SUBT
Michael Enns	Comptel / CEI
Rebecca Pin	KETA
Orin Fleming	TCI of Kansas Inc.
Woody Wood	TCI of Overland Park KS
Bill Dever	TCI OF KANSAS, INC.
Bill Check	Sprint
Bill Drexel	SUBT
W. Starnin	SUBT
DAVID B SCHLOSSER	PETE Mc GILL & Assoc
CARL KREHBIEL	MOUNDRIUGE TELEPHONE CO.
Randy Debenham	FCC
MIKE LURA	AT&T
Rob Marshall	Mid-America Cable TV Assn.
Charles Hembree	TCI Communications
Greg Harpin	TCI
Debbie Snow	CWA
Ron Hess	Classic Communications

# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: \_\_\_\_\_

NAME	REPRESENTING
Ron Hein	Classic Communications
Scott Richardson	SWBT
Mike Smith	SWBT
Chew-Elm	TCI of Kansas Inc
Barbara Reed	Legislative Post Audit
Sarah McIntosh	Page
Sarah J Jones	Northwest High School
Tom Gleason	Independent Telecom. Group
Bill Blase	SubT
John Pinegar	SITA
Dag Smith	SITA
Stu Schick	Wamego Tel Co. Inc.
Roger Voxfeldt	Rural Telephone Service Co.
Bill Dexel	SWBT
Melvin Farris	Southwestern Bell
Bea Bacon	Aging Advocacy
Mike Meacham	KFTA
Brian Lippold	MULTIMEDIA HYPERION
Don Sorotino	Multimedia Calderon

TESTIMONY OF STEPHAN HANVEY  
SENATE COMMERCE COMMITTEE  
APRIL 5, 1996

Madam Chair and Senators:

Thank you for the opportunity to visit with you today. I am honored to have been asked by the Governor to serve on the KTEC Board. For the past 27 years, I have been involved with the aviation industry and currently serve as Vice President of Engineering and Flight Operations at Raytheon Aircraft. During the last five years I have worked with the National Institute of Aviation Research at Wichita State University on their Board of Advisors and have become familiar with some of the activities of KTEC.

My responsibilities with Raytheon include recommending technologies for Raytheon Aircraft new products. One example is our recent demonstration of a Raytheon developed Local Operating Network fiber optic engine control. The conventional mechanical connection was replaced with a triple redundant light based pathway for the control of the engine. We have named our control concept Control by Light™. You may be familiar with the Fly by ~~Light~~<sup>Light</sup> controls which are in the Airbus A320, Boeing's 777, and in some military aircraft. The light signal is transmitted through a fiber optic instead of an electrical signal through a wire. Light signals offer the advantage of lighter weight, non susceptibility to Electro Magnetic Effects (EMC), and utilization of a very small percentage of the available bandwidth to send the required signals. Cost has been the limiting characteristic in the past,

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Attachment 1 thru 1-12*

but the Raytheon Local Operating Network and CBL™ technologies are substantially lower in cost due to new technology which was applied through a sharing of commercial and military development work within the Raytheon companies. These technologies have applications to any system that can be conventionally controlled by a mechanical connection or an electrical signal, such as household environmental control or a car's steering system, as well as an aircraft system.

This type of technical innovation and its commercial utility in a future application is the background knowledge that I would bring to KTEC. When that technology background is combined with the business analyses which I have conducted on various military and commercial new start programs, I believe I can positively influence the return on investment that Kansas will derive from KTEC and the businesses that it spawns.

Personally I have had a love of aviation for almost 30 years and have marveled at the impact technology has had on flying aircraft. The more applications that technology can have, the lower its cost and hence its ultimate utility in any industry. Areas such as composites, electronics, and light based technologies offer great opportunities for growth through our companies in Kansas. I hope that I can help in that process for growth and assist in the ongoing efforts of KTEC.

If the Committee has any questions, I will be glad to answer them to the best of my ability. Thank you.

*Saati*

**SENATE CONFIRMATION QUESTIONNAIRE**

**Office of Governor Bill Graves**

Please complete and return this form to the Governor's Appointments Office. Attach additional sheets if necessary.

Name: Stephan A. Harvey  
 Home Address: 1345 St. Andrews  
 City, State, Zip: Wichita, Ks. 67230  
 Business Address: Raytheon Aircraft Company, P. O. Box 85  
 City, State, Zip: Wichita, Ks. 67201  
 Home Phone: 316-733-5137 Business Phone: 316-676-7937  
 Date of Birth: 5/23/47 Place of Birth: McCormick, S.C.  
 Party Affiliation: Republican KBI Check: NA In Process Complete  
 Appointed as: Member Kansas Technological Corporation  
 Appointment Date: 3/21/96 Expiration Date: 01/15/00  
 Term Length: 4 yrs Statutory Authority: K.S.A. 74-8101  
 Salary: n/a Predecessor: Bruce Peterman  
 Statutory Requirements: \_\_\_\_\_

**BACKGROUND**

1. List high school, college, or other education institution attended along with the date attended and degree conferred.

Education Institution	Dates	Degree
T.L. Hanna High School	1962-65	Graduate
US Naval Academy	1965-69	B.S.
U of So. California	1979	MSSM (21 semester hrs. no degree)
Claremont University	1984	Adv. Mngmt. Program Graduate

2. List memberships in business, trade and professional organizations for the past 10 years.

Organization	Dates
Society of Experimental Test Pilots (SETP)	1979 to Present
Am Inst. of Aeronautics & Astronautics (AIAA)	1992 to Present
Advanced General Aviation Transport Experiment	1995 to Present
Wichita YMCA's	1992 to Present
WSU, Natl Inst. of Aviation Res. Industry Adv. Brd.	1994 to Present

3. List any public offices you have been elected or appointed to, along with the dates of service.

Office Held	Dates
<u>None</u>	

Stephan A. Harvey  
 Signature

February 23, 1996  
 Date

Return completed questionnaire to Judy Krueger, Secretary of Appointments, State Capitol 226-3, Topeka, Kansas 66612. If you have questions, please call 913/296-1052.

4. List any positions held with a foreign, federal or local government entity along with the dates of service.

Position	Government Entity	Dates
None		

5. List any lobbying activities you have been involved in during the past five years. This includes activities as a registered lobbyist or lobbying activities for which you were compensated.

Group	Compensation (yes/no)	Dates
None		

6. List experience or interests which qualify you for the position to which you have been appointed. Technical background in test flying and engineering education including graduation from the USNaval Test Pilots School. Program Management and Engineering head of multimillion dollar projects. Experience with leading edge technologies such as NOTAR concept development, composites and light controlled fiber optic based architecture.

7. Summarize business and professional experience. Ten years military pilot: 16 years aerospace industry experience as test pilot, engineering and program executive management.

8. List any service in the United States military. Include dates of service, branch, date and type of discharge.

Branch	Discharge	Dates
US Navy	Honorable	1969-74
USMC	Honorable	1974-80
USMCR	Discharge Retired	1980-95

9. Provide details of any arrest, charge or questioning by a federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance (excluding traffic violations for which a fine of \$100 or less was imposed).

None

10. List and provide details of any interests that may present a conflict of interest for this position. NONE

I, Stephan A Hanvey, declare that this questionnaire is true, correct and complete to the best of my knowledge.

Stephan A. Hanvey Signature February 23, 1996 Date

Return completed questionnaire to Judy Krueger, Secretary of Appointments, State Capitol 226-S, Topeka, Kansas 66612. If you have questions, please call 913/296-4052.





**OWNERSHIP INTERESTS:** List any corporation, partnership, proprietorship, trust, joint venture and every other business interest, including land used for income in, which either you or your spouse has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5%, whichever is less. If you or your spouse own more than 5% of a business, you must disclose the percentage held. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "C", check here   x  .

BUSINESS NAME AND ADDRESS	TYPE OF BUSINESS	DESCRIPTION OF INTERESTS HELD	HELD BY WHOM	PERCENT OF OWNERSHIP INTERESTS
NONE			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
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			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	

**GIFTS OR HONORARIA:** List any person or business from whom you or your spouse either individually or collectively, have received gifts or honoraria having an aggregate value of \$500 or more in the preceding 12 months.

If you have nothing to report in Section "D", check here   x  .

PERSON OR BUSINESS FROM WHOM GIFT RECEIVED	ADDRESS	RECEIVED BY:
NONE		

**E. RECEIPT OF COMPENSATION:** List all places of employment in the last calendar year, and any other businesses from which you or your spouse received \$2,000 or more in compensation (salary, thing of value, or economic benefit conferred on in return for services rendered, or to be rendered), which was reportable as taxable income on your federal income tax returns.

1. YOUR PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR. IF SAME AS SECTION "B", CHECK HERE \_\_\_\_.  
 If you have nothing to report in Section "E"1, check here \_\_\_\_.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	RAYTHEON AIRCRAFT COMPANY	P. O. BOX 85, WICHITA KS	AIRCRAFT MFG
2.			

2. SPOUSE'S PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR.  
 If you have nothing to report in Section "E"2, check here X.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.			
2.			

**F. OFFICER OR DIRECTOR OF AN ORGANIZATION OR BUSINESS:** List any organization or business in which you or your spouse hold a position of officer, director, associate, partner or proprietor at the time of filing, irrespective of the amount of compensation received for holding such position. Please insert additional page if necessary to complete this section. If you have nothing to report in Section "F", check here \_\_\_\_.

	BUSINESS NAME AND ADDRESS	POSITION HELD	HELD BY WHOM
1.	RAYTHEON AIRCRAFT COMPANY P. O. BOX 85, WICHITA, KANSAS	VICE PRESIDENT, ENGINEERING AND FLIGHT OPERATIONS	SELF
2.	BOARD OF DIRECTORS, YMCA 402 N. Market, Wichita, Ks. 67202	SECRETARY	SELF
3.	AGATE Executive Council NASA Langley Research Center, HAMPTON, VA23681	CHAIRMAN	SELF
4.			
5.			

**RECEIPT OF FEES AND COMMISSIONS:** List each client or customer who pays fees or commissions to a business or combination of businesses from which fees or commissions you or your spouse received an aggregate of \$2,000 or more in the preceding calendar year. The phrase "client or customer" relates only to businesses or combination of businesses. In the case of a partnership, it is the partner's proportionate share of the business, and hence of the fee, which is significant, without regard to expenses of the partnership. An individual who receives a salary as opposed to portions of fees or commissions is generally not required to report under this provision. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "G", check here  X .

	NAME OF CLIENT / CUSTOMER	ADDRESS	RECEIVED BY
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**H. DECLARATION:**

I, Stephan A. Harvey, declare that this statement of substantial interests (including any accompanying pages and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my substantial interests and other matters required by law. I understand that the intentional failure to file this statement as required by law or intentionally filing a false statement is a class B misdemeanor.

2/23/96  
Date

Stephan A. Harvey  
Signature of Person Making Statement

NUMBER OF ADDITIONAL PAGES  0 .

Return your completed statement to the Secretary of State, State House, Topeka, Kansas 66612.

*State*

KTEC

STEPHAN A. HANVEY  
1343 St. Andrews  
Wichita, Ks. 67230  
316-733-6137 (Home)  
316-675-7937 (Work)

*Fax 316-676-8777*

*John*

- MANAGEMENT:** Vice President of Engineering and Flight Operations, Raytheon Aircraft Company  
1991 to Present (formerly Beech). Responsible for all company design, research, and development of new products, production and field support of all production aircraft and target missiles, technical publications and flight operations for all corporate operations.
- 1980 to 1991 Various senior management positions at McDonnell Douglas Helicopter Company ranging from Chief Experimental Test Pilot to Program Manager, Advanced Programs to Director, Business Development and then Deputy Program Manager for the AH64
- 1969 to 1980 USMC Officer/pilot and test pilot. Retired as Colonel, USMCR
- FLYING/TEST EXPERIENCE:** Commercial rated pilot with approximately 5,000 hours. Test experience primarily in attack helicopter and experimental/development flying. Flew the first flight on the AH-64A Apache as well as the structural demonstration, weapons separation, and systems development. Flew the early development flying on the NOTAR proof-of-concept. Flew the Apache at Farnborough Air Show in 1982 and Paris Air Show in 1983.
- Type rated in King Air B300 and flies all Raytheon products.
- ACADEMIC:** Graduated from the U.S. Naval Academy with a Bachelor of Science Degree in Engineering in 1969.  
Graduated from the U.S. Naval Test Pilot School (Aerodynamics Masters equivalent) in 1976.  
Completed graduate studies (21 semester hours) in Systems Management from University of Southern California in 1979.  
Graduated from the Claremont University Advanced Management Program in 1984.
- AWARDS:** Distinguished Graduate, US Navy Test Pilot School  
Naval Air Test Center Test Pilot of the Year, 1978  
Two (2) Time-to-Climb World Class Records  
AVIATION WEEK Laurel Award in 1984  
J. H. "Jimmy" Doolittle Award (for Technical Management and Engineering Excellence) by Society of Experimental Test Pilots in 1985.  
AVIATION INTERNATIONAL NEWS 1995 Top Ten News Maker.
- PROFESSIONAL:** Associate Fellow, Society of Experimental Test Pilots (SETP)  
Senior Member, American Institute of Aeronautics and Astronautics (AIAA)  
Chairman, Executive Council, AGATE (NASA Consortia of over 70 companies)  
Secretary, Board of Directors, Wichita YMCA's  
Member, Wichita State University, National Institute of Aviation Research Industry Advisory Board

January 1996

*1-9*

specifically declared to be cash funds, restricted in their use and to be used solely as provided herein. No moneys of the authority other than moneys received by appropriation shall be deposited with the state treasurer.

**KANSAS TECHNOLOGY  
ENTERPRISE CORPORATION,  
DIRECTORS**

**74-8101. Kansas technology enterprise corporation; creation; board of directors, membership, qualifications, terms, compensation and expenses; meetings; transaction of business; corporate president; executive committee, membership, duties.** (a) There is hereby created a body politic and corporate to be known as the Kansas technology enterprise corporation. The Kansas technology enterprise corporation is hereby constituted a public instrumentality and the exercise of the authority and powers conferred by this act shall be deemed and held to be the performance of an essential governmental function.

(b) The corporation shall be governed by a board of 20 directors who shall be residents of this state. The board shall consist of (1) the governor or, at the discretion of the governor, the secretary of the department of commerce and housing, (2) the secretary of the state board of agriculture, (3) four directors who are members of the legislature appointed as provided in subsection (d)(1), (4) four directors who are appointed by legislative officers as provided in subsection (d)(2), and (5) ten directors appointed by the governor subject to senate confirmation as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 1995 Supp. 46-2601, no person whose appointment is subject to confirmation by the senate, shall exercise any power, duty or function as a

member of the board until confirmed by the senate.

(c) (1) All 10 of the directors appointed by the governor shall be persons recognized for outstanding knowledge and leadership in their fields. Six of the directors shall be persons from the private sector and four of the directors shall be engineers or scientists who have extensive experience in managing basic or applied scientific and technological research at Kansas educational institutions. Of the six directors appointed from the private sector:

(A) Four directors shall be persons who represent industries of the Kansas economy including small enterprises which include, but are not limited to:

(i) Resource-based industries of agriculture, oil and gas;

(ii) advanced technology industries of aviation, manufacturing, information and design; and

(iii) emerging industries of telecommunications, computer software, information services and research services; and

(B) two directors shall be persons who represent the private financial sector of whom one shall have experience in the area of high-risk venture investments, and the other shall have commercial banking experience in an industry of special technological importance to the Kansas economy.

(2) In making appointments to the board, the governor shall give consideration to the qualifications of the persons who served as commissioners of the Kansas advanced technology commission and shall give consideration to appropriate geographical representation.

(3) Of the members first appointed to the board, two directors shall be appointed for a term of one year, two directors shall be appointed for terms of two years, three directors shall be appointed for terms of three years and three directors shall be appointed for terms of four years. Except as provided

by paragraph (4), successors to such directors shall be appointed for terms of four years. Each director shall hold office for the term of appointment and until the successor has been appointed and confirmed. In the event of a vacancy, the vacancy shall be filled by the governor in the manner provided for original appointments for the remainder of the unexpired portion of the term.

(4) The terms of directors appointed pursuant to this subsection who are serving on the board on the effective date of this act shall expire on January 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, directors shall be appointed for terms of four years and until their successors are appointed and confirmed.

(d) (1) Four directors shall be members of the legislature as follows: The speaker of the house, the house minority leader, the president of the senate, and the senate minority leader, or legislators who are appointed to represent them and who will provide continuity by virtue of their membership on the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives or the joint committee on economic development. Legislative officers designated in this subsection shall serve by virtue of office. Legislators appointed under this subsection shall serve from the dates of their appointment until the first day of the regular legislative session in odd-numbered years and are eligible for reappointment.

(2) (A) Four directors shall be appointed by legislative officers as follows: (1) One shall be appointed by the speaker of the house, (2) one shall be appointed by the house minority leader, (3) one shall be appointed by the president of the senate, and (4) one shall be appointed by the senate minority leader. The members so appointed shall be persons

who are recognized for outstanding knowledge and leadership in their fields, who are from the private sector and who represent industries of the Kansas economy including small enterprises which include, but are not limited to:

(i) Resource-based industries of agriculture, oil and gas;

(ii) advanced technology industries of aviation, manufacturing, information and design; and

(iii) emerging industries of telecommunications, computer software, information services and research services.

(B) Of the directors first appointed by legislative officers under this subsection (d)(2), the directors appointed by the speaker of the house and the president of the senate shall be appointed to a term of four years and the directors appointed by the house minority leader and the senate minority leader shall be appointed to a term of two years. Successors to such directors shall be appointed for terms of four years. Each director shall hold office for the term of appointment and until the successor has been appointed. In the event of a vacancy, the vacancy shall be filled by the legislative officer who appointed the director who created the vacancy in the manner provided for the original appointment for the remainder of the unexpired portion of the term.

(e) Members of the board of directors, in their dealings with enterprises that may receive financing through the corporation, shall declare any potential conflict of interest and abstain from voting prior to taking any actions relating to that transaction.

(f) The board of directors shall conduct a national search and select a corporate president who meets a national standard of experience, ability and initiative for similar positions. The corporate president shall not be a member of the board.

(g) The board of directors shall hold all board meetings within the state of Kansas.

(h) Members of the board of directors are entitled to compensation and expenses as provided in K.S.A. 75-3223, and amendments thereto.

(i) The board shall annually elect from the private sector membership one member as chairperson and one member as vice-chairperson.

(j) The board of directors shall meet at least once during each calendar quarter, and at such other times as may be provided in the rules of the corporation, upon call by the president, the chairperson or upon written request of a majority of the directors.

(k) A majority of the board of directors shall be necessary to transact corporation business, and all actions of the directors shall be by a majority vote of the full number of corporate directors.

(l) The directors shall establish an executive committee composed of the chairperson, vice-chairperson and three additional members chosen by the chairperson from among the remaining directors. The executive committee, in intervals between board meetings, may transact any board business that has been delegated to the executive committee. A majority of the executive committee shall be necessary to transact business and all actions of the executive committee shall be by a majority vote of the committee.

(m) No member of the board of directors is eligible to serve more than two terms of office.

(n) A member appointed to the board of directors by the governor may be removed by the governor for cause, stated in writing, after a hearing thereon.

**74-8102. Purpose; ways of achieving.**

(a) The purpose of the Kansas technology enterprise corporation is to foster innovation in existing and developing businesses, espe-

cially the creation, growth and expansion of Kansas enterprises in a diversified range of primary sectors, which develop value-added products, processes and services including, but not limited to:

(1) Existing resource-based industries of agriculture, oil, gas, coal and helium;

(2) existing advanced technology industries of aviation, pharmaceuticals, computers and electronics; and

(3) emerging industries of telecommunications, computer software, information services and research services.

(b) The corporation shall achieve the purpose stated in subsection (a) of this section by:

(1) Financing basic research, applied research and development, and technology transfer at Kansas educational institutions which meet competitive standards of excellence as measured by national and international peers, and which create innovative collaboration between Kansas educational institutions and Kansas enterprises;

(2) awarding applied research matching grants to Kansas educational institutions and Kansas private enterprises in order to move innovation and applied research toward commercial application;

(3) engaging in seed-capital financing for the development and implementation of innovations or new technologies for existing resource, technology-based and emerging Kansas businesses; and

(4) providing technical referral services to such small, new, emerging or mature businesses and encouraging Kansas educational institutions to establish technical information data bases and industrial liaison offices which are easily accessible by both private and public sector Kansas organizations.

(c) The department of commerce, Kansas, Inc. and all other interested state agencies shall cooperate with the Kansas



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Substitute for HOUSE BILL NO. 2728  
By Select Committee on Telecommunications

AN ACT concerning telecommunications services; amending K.S.A. 66-127, 66-1,187 and K.S.A. 1995 Supp.. 75-4709 and repealing the existing sections and also repealing K.S.A. 66-124 and 66-125.

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

New Section 1. It is hereby declared to be the public policy of the state to:

- (a) Ensure that every Kansan will have access to a first class telecommunications infrastructure that provides excellent services at an affordable price;
- (b) ensure that consumers throughout the state realize the benefits of competition through increased services and improved telecommunications facilities and infrastructure at reduced rates;
- (c) promote consumer access to a full range of telecommunications services, including advanced telecommunications services that are comparable in urban and rural areas throughout the state;
- (d) advance the development of a statewide telecommunications infrastructure that is capable of supporting applications, such as public safety, telemedicine, services for persons with special needs, distance learning, public library services, access to internet providers and others; and
- (e) protect consumers of telecommunications services from fraudulent business practices and practices that are inconsistent with the public interest, convenience and necessity.

Sec. 2. K.S.A. 66-1,187 is hereby amended to read as follows: 66-1,187. As used in this act:

- (a) "Broadband" means the transmission of digital signals at rates equal to or greater than 1.5 megabits per second.

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*Attachment 2 thru 2-34*

1           (b) "CLASS services" means custom local area signaling  
2 services, which include automatic callback, automatic recall,  
3 calling number identification, selective call rejection, selective  
4 call acceptance, selective call forwarding, distinctive ringing  
5 and customer originated trace.

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

7           (d) "Dialing parity" means that a person that is not an  
8 affiliate of a local exchange carrier is able to provide  
9 telecommunications services in such a manner that customers have  
10 the ability to route automatically, without the use of any access  
11 code, their telecommunications to the telecommunications carrier  
12 of the customer's designation from among two or more  
13 telecommunications carriers, including such local exchange  
14 carrier.

15           (e) "Federal act" means the federal telecommunications act  
16 of 1996, P.L. 104-104 (amending the communications act of 1934, 47  
17 U.S.C. 151, et seq.

18           (f) "ISDN" means integrated services digital network which  
19 is a network and associated technology that provides simultaneous  
20 voice and data communications over a single communications  
21 channel.

22           (g) "LATA" has the meaning ascribed to it in the federal  
23 act.

24           (h) "Local exchange carrier" means any telecommunications  
25 public utility or its successor providing switched  
26 telecommunications service within any local exchange service area,  
27 as approved by the commission on or before January 1, 1996.  
28 However, with respect to the Hill City exchange area in which  
29 multiple carriers were certified by the commission prior to  
30 January 1, 1996, the commission's determination, subject to any  
31 court appeals, of which authorized carrier shall serve as the  
32 carrier of last resort will determine which carrier shall be  
33 deemed the local exchange carrier for that exchange.

34           (i) "Number portability" has the meaning ascribed to it in  
35 the federal act.

1 (j) "1+ intraLATA dialing parity" means the ability of a  
2 local exchange service customer to specify the telecommunications  
3 or local exchange carrier that will carry the intraLATA long  
4 distance messages when that customer dials either "1" or "0" plus  
5 a 10-digit number.

6 (k) "Operating area" means:

7 (1) In the case of a rural telephone company, operating area  
8 or service area means such company's study area or areas as  
9 approved by the federal communications commission;

10 (2) in the case of a local exchange carrier other than a  
11 rural telephone company, operating area or service area means such  
12 carrier's local exchange service area or areas as approved by the  
13 commission.

14 (l) "Rural telephone company" has the meaning ascribed to it  
15 in the federal act; excluding any local exchange carrier which  
16 together with all of its affiliates has 20,000 or more access  
17 lines in the state.

18 (m) "Telecommunications carrier" means a corporation,  
19 company, individual, association of persons, their trustees,  
20 lessees or receivers that provides a telecommunications service,  
21 including, but not limited to, interexchange carriers and  
22 competitive access providers, but not including local exchange  
23 carriers certified before January 1, 1996.

24 ~~(a)~~ (n) "Telecommunications public utility" means any public  
25 utility, as defined in K.S.A. 66-104, and amendments thereto,  
26 which owns, controls, operates or manages any equipment, plant or  
27 generating machinery, or any part thereof, for the transmission of  
28 telephone messages, as defined in K.S.A. 66-104, and amendments  
29 thereto, or the provision of telecommunications services in or  
30 through any part of Kansas.

31 ~~(b) "Commission" means the state corporation commission.~~

32 (o) "Telecommunications service" means the provision of a  
33 service for the transmission of telephone messages, or two-way  
34 video or data messages.

35 (p) "Universal service" means telecommunications services

1 and facilities which include single party, two-way voice grade  
2 calling; stored program controlled switching with vertical service  
3 capability, E911 capability, tone dialing, access to operator  
4 services, access to directory assistance and equal access to long  
5 distance services.

6 (q) "Enhanced universal service" means telecommunications  
7 services in addition to those included in universal service, which  
8 shall include signaling system seven capability, with CLASS  
9 service capability; basic and primary rate ISDN capability;  
10 full-fiber interconnectivity or the technological equivalent  
11 between central offices; and broadband capable facilities to all  
12 schools accredited pursuant to K.S.A. 72-1101 et seq., and  
13 amendments thereto, hospitals as defined in K.S.A. 65-425, and  
14 amendments thereto, public libraries and state and local  
15 government facilities which request broadband services. ~~On or~~  
16 ~~before January 1, 1997, the commission shall review the services~~  
17 ~~included in enhanced universal service. Upon a finding that a~~  
18 ~~service is: (1) Not commercially viable in rural areas and not~~  
19 ~~widely deployed in urban areas; or (2) technologically obsolete,~~  
20 ~~the commission may exclude such service from the definition of~~  
21 ~~enhanced universal service.~~

22 New Sec. 3. The commission shall:

23 (a) Adopt a definition of "enhanced universal service,"  
24 pursuant to subsection (q) of section 2;

25 (b) authorize any requesting telecommunications carrier to  
26 provide local exchange or exchange access service pursuant to  
27 subsection (a) of section 4 and subsection ~~(m)~~ (l) of section 6;

28 ~~(c) initiate an investigation and issue an order pursuant to~~  
29 ~~section 5, adopting guidelines for granting certificates to any~~  
30 ~~telecommunications carrier applying to provide local exchange or~~  
31 ~~exchange access service in any operating area of the state served~~  
32 ~~by a rural telephone company on July 1, 1996, the commission shall~~  
33 ~~invoke a rulemaking procedure to adopt guidelines to ensure that~~  
34 ~~all telecommunications carriers and local exchange carriers~~  
35 ~~preserve and enhance universal service, protect the public safety~~

1 and welfare, ensure the continued quality of telecommunications  
2 services and safeguard the rights of consumers;

3 (d) review, approve and ensure compliance with network  
4 infrastructure plans submitted by local exchange carriers pursuant  
5 to section 6;

6 (e) review, approve and ensure compliance with regulatory  
7 plans submitted by local exchange carriers pursuant to section 6;

8 (f) on or before January 1, 1997, establish, pursuant to  
9 section 7, the Kansas lifeline service ~~fund~~ program, hereinafter  
10 referred to as the ~~KLSP~~ KLSP;

11 (g) initiate and complete a proceeding by January 1, 1997,  
12 to establish a competitively neutral mechanism or mechanisms to  
13 fund dual party relay services for Kansans who are speech or  
14 hearing impaired; telecommunications equipment for persons with  
15 visual impediments; and telecommunications equipment for persons  
16 with other special needs; this funding mechanism or mechanisms  
17 shall be implemented by March 1, 1997;

18 (h) on or before January 1, 1997, establish, pursuant to  
19 section 9, the Kansas universal service fund, hereinafter referred  
20 to as the KUSF, and make various determinations relating to the  
21 implementation of such fund;

22 (i) authorize all ~~telecommunications service providers~~ local  
23 exchange carriers to provide internet access ~~to specified parties~~  
24 ~~under certain conditions~~ as outlined in section ~~13~~ 12 and report  
25 on the status of the implementation provisions to specified  
26 legislative committees;

27 (j) review the federal act and adopt additional standards  
28 and guidelines as necessary for implementation of slamming  
29 restrictions pursuant to section ~~14~~ 13;

30 (k) ~~at least every five years after July 1, 1996~~ commencing  
31 on June 1, 1997 and periodically thereafter, review and, to the  
32 extent necessary, modify the definition of universal service and  
33 enhanced universal service, and KUSF, taking into account advances  
34 in telecommunications and information technology and services;

35 (l) on or before January 1, 1997, initiate and complete a

1 proceeding to establish minimum quality of service standards which  
2 will be equally applicable to all local exchange carriers and  
3 telecommunications carriers in the state; any local exchange  
4 carrier or telecommunications carrier violating such standards,  
5 for each occurrence, shall forfeit and pay a penalty of not less  
6 than \$100, nor more than \$5,000; violations of such standards  
7 shall be enforced in accordance with provisions of K.S.A. 66-138  
8 and 66-177, and amendments thereto; and

9 (m) on January 1, 2000, prepare and submit a report to the  
10 legislature. The report shall include an analysis of the manner  
11 in which the regulatory framework has served to: Protect  
12 consumers; safeguard universal service; ensure that consumers have  
13 reaped the benefits of competition, maximize the use of market  
14 forces and promote development of the telecommunications  
15 infrastructure throughout the state. The commission shall also  
16 recommend if and how the KUSF shall be modified.

17 New Sec. 4. (a) On or before September 1, 1996, the  
18 commission shall begin to authorize ~~any requesting~~  
19 ~~telecommunications carrier to provide~~ applications for  
20 certificates of public convenience and necessity to provide local  
21 exchange or exchange access service, if the requesting  
22 ~~telecommunications carrier has been granted a certificate of~~  
23 ~~public convenience to transact utility business in the state.~~

24 (b) A local exchange carrier shall be required to offer to  
25 allow reasonable resale of its retail telecommunications services  
26 and to sell unbundled local loop, switch and trunk facilities to  
27 telecommunications carriers, as required by the federal act and  
28 pursuant to negotiated agreements or a statement of terms and  
29 conditions generally available to telecommunications carriers.

30 (c) To encourage telecommunications carriers to build or  
31 install telecommunications facilities, including, but not limited  
32 to, local loop and switching facilities in the state, and except  
33 as otherwise negotiated by a local exchange carrier and a  
34 telecommunications carrier, the prices for such unbundled  
35 facilities shall be determined by the commission, on a

1 nondiscriminatory basis, to permit the recovery of ~~actual~~ costs  
2 and a reasonable profit; the commission shall determine wholesale  
3 rates on the basis of retail rates charged subscribers for the  
4 telecommunications service requested, excluding the portion  
5 thereof attributable to any marketing, billing, collection and  
6 other costs that will be avoided by the local exchange carrier;  
7 and the commission shall approve resale restrictions proposed by  
8 any local exchange carrier which prohibit resellers from  
9 purchasing retail telecommunications services offered by that  
10 local exchange carrier to one category of customers and reselling  
11 those retail services to a different category of customers, ~~or~~  
12 ~~from purchasing retail telecommunications services and aggregating~~  
13 ~~the usage of multiple customers on those resold services,~~ or upon  
14 a finding that such practice would be anticompetitive,  
15 anticonsumer or detrimental to the quality of the network  
16 infrastructure, the commission may prohibit the resale of retail  
17 services at a rate lower than the ~~purchased discount~~ wholesale  
18 rate or any other reasonable limitation on resale to the extent  
19 permitted by the federal act.

20 (d) As provided in the federal act, in order for  
21 telecommunications carriers to provide local exchange service and  
22 exchange access service, local exchange carriers shall provide the  
23 means to interconnect their respective customers, including, but  
24 not limited to, toll access, access to operator services, access  
25 to directory listings and assistance, and access to 911 service.

26 (e) Customers shall be accorded number portability and local  
27 dialing parity in conformance with national standards to the  
28 extent economically and technically feasible. Terms and prices  
29 for interconnection, unbundled facilities and resale of existing  
30 retail telecommunications services shall be negotiated in good  
31 faith between the parties, ~~but upon the request of either party,~~  
32 ~~the commission shall intervene and arbitrate open issues on an~~  
33 ~~expedited basis if an agreement is not reached between the parties~~  
34 ~~after 135 days of negotiation.~~ During the period from the 135th  
35 through the 160th day after the date on which an incumbent local

1 exchange carrier receives a request for negotiation under this  
2 section, the carrier or any other party to the negotiation may  
3 petition the commission to arbitrate any open issues. Arbitration  
4 shall occur in conformance with the provisions of section 252 of  
5 the federal act.

6 (f) The commission shall require, consistent with the terms  
7 of the federal act, that 1+ intraLATA dialing parity be provided  
8 by all local exchange carriers and telecommunications carriers  
9 coincidentally with the provision of in-region interLATA toll  
10 services in the state by local exchange carriers with more than  
11 150,000 access lines or their affiliates.

12 New Sec. 5. (a) Pursuant to subsection (f)(1) of section 251  
13 of the federal act, the commission shall not require unbundling or  
14 resale of services for rural telephone companies unless there is a  
15 bona fide request for the service and the commission finds that  
16 the request is not unduly economically burdensome; is consistent  
17 with the protection of universal service and with the public  
18 interest, convenience and necessity; avoids a significant adverse  
19 impact on users of telecommunications services generally; and  
20 avoids imposing a requirement that is technically infeasible the  
21 obligations of an incumbent local exchange carrier, which include  
22 the duty to negotiate interconnection, unbundled access, resale,  
23 notice of changes and collocation, shall not apply to a rural  
24 telephone company unless such company has received a bona fide  
25 request for interconnection, services or network elements and the  
26 commission determines that such request is not unduly economically  
27 burdensome, is technically feasible and preserves and enhances  
28 universal service.

29 (b) ~~The commission shall not issue more than one certificate~~  
30 ~~to provide local exchange or exchange access service in the~~  
31 ~~service area of a rural telephone company until such time as the~~  
32 ~~commission has completed a general investigation and adopted~~  
33 ~~statewide guidelines in a final order regarding the application of~~  
34 ~~the federal act to the certification of telecommunications~~  
35 ~~carriers in service areas of rural telephone companies. As part~~



~~1 of the general investigation, the commission shall hold at least  
2 two public hearings in different areas of the state served by  
3 rural telephone companies, seeking public comment on issues  
4 relating to the investigation. Such investigation shall be  
5 initiated on or before August 1, 1996, and shall include, but not  
6 be limited to:~~

~~7 (1) technical feasibility of multiple providers of  
8 telecommunications service in service areas of the state served by  
9 rural telephone companies, including, but not limited to,  
10 technical issues, such as: The additional equipment required to  
11 accommodate resale; interconnection; telephone number  
12 administration and portability; and dialing parity;~~

~~13 (2) economic burden on rural telephone companies, including,  
14 but not limited to, economic burden issues, such as: costs  
15 necessary to meet the technical feasibility requirements; expense  
16 of studies to determine costs of unbundled facilities and  
17 services; and other administrative costs (the economic burden  
18 analysis shall also consider the impact of resale on rural  
19 telephone company revenues and investment, including investments  
20 required pursuant to subsection (a) of section 6.);~~

~~21 (3) preservation and advancement of universal service  
22 including, universal service issues, such as: continued existence  
23 of a carrier of last resort able to serve every part of, and every  
24 customer in, the relevant service area; access for all customers  
25 to universal service at reasonable and affordable rates; the  
26 effect on the quality of telecommunications service available to  
27 all customers in such service area; and the effect on access to  
28 advanced telecommunications services for schools, health care  
29 providers and public libraries~~

On July 1, 1996, the commission shall invoke a rulemaking procedure to adopt guidelines to ensure that all telecommunications carriers and local exchange carriers preserve and enhance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services and safeguard the rights of consumers. Such guidelines shall also ensure that pursuant to subsection (f) of section 253

1 of the federal act any telecommunications carrier that seeks to  
2 provide telephone exchange service or local exchange access in a  
3 service area served by a rural telephone company meet the  
4 requirements of subsection (e) (1) of section 214 of the federal  
5 act for designation as an eligible telecommunications carrier for  
6 that area before being permitted by the commission to provide such  
7 service; however, the guidelines shall be consistent with the  
8 provisions of subsection (f) (1) and (2) of section 253 of the  
9 federal act. The commission shall issue the guidelines no later  
10 than December 31, 1996.

11  
12 ~~(c) Using the findings of such investigation, the commission~~  
13 ~~shall develop guidelines to serve as a basis for granting~~  
14 ~~certificates to telecommunications carriers in service areas of~~  
15 ~~rural telephone companies, placing the highest priority on~~  
16 ~~preservation and enhancement of universal service. The commission~~  
17 ~~shall provide preliminary findings no later than October 31, 1996,~~  
18 ~~and shall issue a final order no later than December 31, 1996.~~

19 ~~(d) After adoption of the guidelines, the commission may~~  
20 ~~consider an application for a certificate to provide local~~  
21 ~~exchange or exchange access service in the service area of a rural~~  
22 ~~telephone company. The commission shall grant such application~~  
23 ~~only upon finding that: (1) The application complies with~~  
24 ~~commission guidelines for multiple providers in rural telephone~~  
25 ~~company service areas; (2) the applicant meets the requirements in~~  
26 ~~section 214(e) (1) of the federal act for designation as an~~  
27 ~~eligible telecommunications carrier for that area; (3) the~~  
28 ~~applicant will provide service throughout the service area of the~~  
29 ~~existing rural telephone company; (4) the applicant will meet and~~  
30 ~~maintain quality of service standards established by the~~  
31 ~~commission pursuant to subsection (1) of section 3; and (5) the~~  
32 ~~approval of the application is consistent with the public~~  
33 ~~interest, convenience and necessity.~~

34 ~~(e) (c)~~ In the event the commission grants certificates for  
35 one or more telecommunications carriers and local exchange

1 carriers to provide service to a single local exchange, all such  
2 certificated telecommunications carriers and local exchange  
3 carriers shall be eligible to receive funds ~~allocated~~ paid from  
4 the KUSF, ~~however, the annual total funds allocated to all such~~  
5 ~~carriers serving a given exchange shall be no greater than the~~  
6 ~~annual amounts of funds which were allocated, as of the date that~~  
7 ~~other telecommunications carriers or local exchange carriers~~  
8 ~~actually began to offer service to the exchange, to the local~~  
9 ~~exchange carrier which initially provided that service.~~ Annually,  
10 the commission shall allocate such funds between all carriers  
11 offering such service to the exchange based upon a determination  
12 of the extent to which such telecommunications carriers have made  
13 infrastructure investments in the exchange and the extent to which  
14 the telecommunications carriers or local exchange carriers serve  
15 high cost portions of the exchange. In addition, when the  
16 commission issues an order designating how such KUSF funds shall  
17 be allocated, the commission shall also issue an order designating  
18 which telecommunications carrier or local exchange carrier shall  
19 serve as the carrier of last resort.

20 ~~(f) Any restrictions established by the commission in this~~  
21 ~~investigation for rural entry of competitors or for resale and~~  
22 ~~unbundling of services shall not apply to any service area of a~~  
23 ~~rural telephone company if such company, or an entity in which~~  
24 ~~such company directly or indirectly owns an equity interest of 10%~~  
25 ~~or more, provides local exchange or exchange access service, as~~  
26 ~~authorized under section 4 and this section in any area of the~~  
27 ~~state outside of its local exchange areas as approved by the~~  
28 ~~commission on or before January 1, 1996, and outside of any area~~  
29 ~~in which it is the successor to the local exchange carrier serving~~  
30 ~~such area on or before January 1, 1996.~~

31 New Sec. 6. (a) Each local exchange carrier shall file a  
32 network infrastructure plan with the commission on or after  
33 January 1, 1997, and prior to January 1, 1998. Each plan, as a  
34 part of universal service protection, shall include schedules,  
35 which shall be approved by the commission, for deployment of

1 universal service capabilities ~~within two years of the date of~~  
2 ~~filing of such plan~~ and the deployment of enhanced universal  
3 service capabilities ~~within five years of the filing of such plan~~  
4 as defined pursuant to subsections (p) and (q) of section 2  
5 respectively. Each plan shall demonstrate the capability of the  
6 local exchange carrier to comply on an ongoing basis with quality  
7 of service standards to be adopted by the commission no later than  
8 January 1, 1997.

9 (b) In order to protect universal service, facilitate the  
10 transition to competitive markets and stimulate the construction  
11 of an advanced telecommunications infrastructure, each local  
12 exchange carrier shall file a regulatory reform plan at the same  
13 time as it files the network infrastructure plan required in  
14 subsection (a). As part of its regulatory reform plan, a local  
15 exchange carrier may elect traditional rate of return regulation  
16 or price cap regulation. Regulatory reform plans shall also  
17 include:

18 (1) A commitment to provide existing and newly ordered  
19 point-to-point broadband services to any hospital as defined in  
20 K.S.A. 65-425, and amendments thereto, school accredited pursuant  
21 to K.S.A. 72-1101 et seq., and amendments thereto, public library  
22 or other state and local government facilities at discounted  
23 prices close to, but not below, long-run incremental cost; and

24 (2) a commitment to provide basic rate ISDN service at  
25 prices which are uniform throughout the carrier's service area and  
26 which are designed to stimulate the development of an extensive  
27 residential market. ~~Local exchange carriers shall not be required~~  
28 ~~to allow customers purchasing the foregoing services to resell~~  
29 ~~those services to other categories of customers.~~ The commission  
30 may reduce prices charged for services outlined in provisions (1)  
31 and (2) of this subsection, if the commitments of the local  
32 exchange carrier set forth in those provisions are not being kept.

33 (c) All local exchange carriers shall reduce intrastate  
34 access charges to interstate levels subject to commission  
35 approval. Rates for intrastate switched access shall be reduced

1 over a three-year period with the objective of equalizing  
2 interstate and intrastate rates in a competitively neutral,  
3 specific and predictable manner, as determined by the commission.  
4

5 ~~(e)~~ (d) For regulatory reform plans in which price cap  
6 regulation has been elected, price cap plans shall have three  
7 baskets: Residential and single-line business, including  
8 touch-tone; switched access; and miscellaneous services. The  
9 commission shall establish price caps at the prices existing when  
10 the regulatory plan is filed for residential services, including  
11 touch-tone services, and for single-line business services  
12 including touch-tone services within the residential and single-  
13 line business service basket. The commission shall approve any  
14 adjustment to the price caps for those two categories of services  
15 within such basket. The commission also shall establish price  
16 caps at the prices existing when the regulatory plan is filed for  
17 certain categories of services to be determined by the commission  
18 within the miscellaneous services basket. The commission shall  
19 approve any adjustments to the price caps for such service  
20 categories.  
21

22 ~~(d)~~ (e) ~~A price cap is a maximum price for all services~~  
23 ~~taken as a whole in a given basket. After the initial three years~~  
24 ~~of rate rebalancing, and except for any subsequent authorized rate~~  
25 ~~rebalancing, no adjustment to an individual service price within~~  
26 ~~the residential and single-line business service basket shall~~  
27 ~~increase more than the consumer price index. Prices for individual~~  
28 ~~services and for services to individual customers may be reduced~~  
29 ~~within a basket. An entire basket, if desired by the local~~  
30 ~~exchange carrier, may be priced below the cap. No service shall~~  
31 ~~be priced below long-run incremental cost which shall serve as a~~  
32 ~~price floor. Access charges equal to those paid by~~  
33 ~~telecommunications carriers to local exchange carriers shall be~~  
34 ~~imputed as part of the price floor for toll services offered by~~  
35 ~~such local exchange carriers on a total toll service basis. Any~~

1 ~~downward adjustment in the price of services within a price cap~~  
2 ~~not otherwise reflected in existing tariff rates or rate charges~~  
3 ~~shall be presumed lawful and shall become effective upon seven~~  
4 ~~days' notice, or such shorter time as the commission shall~~  
5 ~~approve, if the tariff applicant has a good faith basis to believe~~  
6 ~~the price reduction is necessary to meet the price offered by an~~  
7 ~~alternate provider to the customer, or in the area for which the~~  
8 ~~new price applies. Any other downward adjustment in rates or rate~~  
9 ~~ranges for an individual service or for services to individual~~  
10 ~~customers shall be effective upon 14 days' notice, or such shorter~~  
11 ~~time as the commission shall approve, and shall not be suspended~~  
12 ~~for more than 90 days pending any final order of the commission.~~

13 ~~—— (e) The price cap for the residential and single-line~~  
14 ~~business basket, including touch-tone, shall be established at the~~  
15 ~~prices existing when the regulatory plan is filed. Any adjustment~~  
16 ~~to the price cap shall be approved by the commission.~~

17 ~~—— (f) Price caps for intrastate switched access shall be~~  
18 ~~reduced over a three-year period with the objective of equalizing~~  
19 ~~interstate and intrastate prices, as long as corresponding changes~~  
20 ~~to local service price caps are made under subsection (e). After~~  
21 ~~the initial three-year period, intrastate switched access prices~~  
22 ~~shall be capped at the price of switched interstate access, as~~  
23 ~~long as the commission authorizes corresponding changes to local~~  
24 ~~service price caps under subsection (e), or recovery of any such~~  
25 ~~additional amounts on a revenue neutral basis from the KUSF.~~

26 ~~—— (g) The price cap for the basket of all miscellaneous~~  
27 ~~regulated services other than residential and single-line business~~  
28 ~~including touch-tone, and switched access shall be adjusted~~  
29 ~~annually based on the change in consumer price index minus 1.5%.~~  
30 ~~Such services shall continue to be price regulated until the~~  
31 ~~affected local exchange carrier begins to offer 1+ intraLATA~~  
32 ~~dialing parity. The commission may also price deregulate any~~  
33 ~~individual service or service category upon a finding that the~~  
34 ~~service or service category is nonessential for particular~~  
35 ~~residential or business users or there is an alternate provider of~~

1 ~~the service. Changes in the price of services subject to this~~  
2 ~~price cap shall be effective within seven days after a tariff is~~  
3 ~~filed. Such filing shall include information demonstrating that~~  
4 ~~the price cap for the entire basket will not be exceeded by the~~  
5 ~~filing. Such a change shall be presumed lawful unless it is~~  
6 ~~determined that the price cap for the entire basket has been~~  
7 ~~exceeded.~~

8 ~~\_\_\_\_\_ (h) In the case of any service which has been price~~  
9 ~~deregulated, the commission shall impose price regulation for such~~  
10 ~~service in a separate basket, upon showings to the commission~~  
11 ~~that: The service is essential for particular residential or~~  
12 ~~business users; there is no alternative source for the service;~~  
13 ~~and the price of the service has risen more rapidly than the price~~  
14 ~~of basic residential local service. The price cap for such basket~~  
15 ~~shall be adjusted annually based on the change in consumer price~~  
16 ~~index minus 1.5%.~~

17 (e) Prices for individual services may be reduced within the  
18 service categories established by the commission within a basket.  
19 An entire service category within the residential and single-line  
20 business basket or miscellaneous services basket may be priced  
21 below the cap for such category. No service shall be priced below  
22 the price floor which will be long-run incremental cost and  
23 imputed access charges as determined by the commission.

24 (f) Intrastate toll services within the miscellaneous  
25 services basket shall continue to be regulated until the affected  
26 local exchange carrier begins to offer 1+ intraLATA dialing parity  
27 through out its service territory, at which time, intrastate toll  
28 will be price deregulated, except that prices cannot be set below  
29 the price floor. The commission shall also price deregulate any  
30 individual service or service category upon a finding by the  
31 commission that the service or service category is competitive and  
32 that there is an alternative provider of the service.

33 (g) A local exchange carrier may petition the commission to  
34 designate an individual service or service category within the  
35 miscellaneous services basket or the residential and single-line

1 business basket for reduced regulation. The commission shall act  
2 upon the petition within 21 days, subject to a suspension period  
3 of an additional 30 days, and upon a good cause showing of the  
4 commission in the suspension order, or within such shorter time as  
5 the commission shall approve. The commission shall issue a final  
6 order within the 21 day period or within a 51 day period if a  
7 suspension has been issued.

8 (h) Following an order granting reduced regulation of an  
9 individual service or service category within the miscellaneous  
10 services basket or the residential and single-line business basket  
11 as set forth in subsection (g), the local exchange carrier may  
12 request downward adjustment in the prices effective upon seven  
13 days notice, or such shorter time as the commission, and shall not  
14 be suspended for more than 30 days pending any final order of the  
15 commission. Such a change will be presumed lawful unless it is  
16 determined the prices are below the price floor or that the price  
17 cap for a category within the entire basket has been exceeded.

18 (i) Upon complaint or request, the commission may investigate  
19 a price deregulated service. The commission shall resume price  
20 regulation upon a determination that the service is no longer  
21 competitive.

22 ~~(i)~~ (j) The commission shall require that for all local  
23 exchange carriers all such price deregulated intraLATA toll  
24 services be geographically averaged statewide and not be priced  
25 below long-run incremental cost.

26 ~~(j)~~ (k) Cost studies to determine price floors shall be  
27 performed as required by the commission in response to complaints.  
28 On or before January 1, 1997, local exchange carriers with more  
29 than 150,000 access lines in this state shall file with the  
30 commission long-run incremental cost studies for any of its  
31 existing services that the commission requested in its January 4,  
32 1996, order in Docket No. 190,492-U.

33 ~~(k) Any new service introduced after July 1, 1996, and prior~~  
34 ~~to July 1, 1997, shall be placed in the miscellaneous service~~  
35 ~~basket for any local exchange carrier that elected price cap~~



1 ~~regulation as part of its regulatory plan. After July 1, 1997,~~  
2 ~~new services shall be price deregulated but subject to~~  
3 ~~reregulation as provided in subsection (h).~~

4 (l) No audit, earnings review or rate case shall be  
5 performed with reference to ~~the price cap plan and~~ the initial  
6 prices filed as required herein.

7 (m) Telecommunications carriers shall not be subject to  
8 price regulation, except that: Access charge reductions shall be  
9 passed through to consumers by reductions in basic intrastate toll  
10 prices; and basic toll prices shall remain geographically averaged  
11 statewide. As required under K.S.A. 66-131, and amendments  
12 thereto, and except as provided for in subsection (c) of section  
13 5, telecommunications carriers that were not authorized to provide  
14 switched local exchange telecommunications services in this state  
15 as of July 1, 1996, including cable television operators who have  
16 not previously offered telecommunications services, must receive a  
17 certificate of convenience based upon a demonstration of  
18 technical, managerial and financial viability and the ability to  
19 meet quality of service standards established by the commission.  
20 Any telecommunications carrier or other entity seeking such  
21 certificate shall file a statement, which shall be subject to the  
22 commission's approval, specifying with particularity the areas in  
23 which it will offer service, the manner in which it will provide  
24 the service in such areas and whether it will serve both business  
25 customers and residential customers in such areas. Any  
26 structurally separate affiliate of a local exchange carrier that  
27 provides telecommunications services shall be subject to the same  
28 regulatory obligations and oversight as a telecommunications  
29 carrier, as long as the local exchange carrier's affiliate obtains  
30 access to any services or facilities from its affiliated local  
31 exchange carrier on the same terms and conditions as the local  
32 exchange carrier makes those services and facilities available to  
33 other telecommunications carriers. The commission shall oversee  
34 telecommunications carriers to prevent fraud and other practices  
35 harmful to consumers and to ensure compliance with quality of

1 service standards adopted for all local exchange carriers and  
2 telecommunications carriers in the state.

3 New Sec. 7. On or before January 1, 1997, the commission  
4 shall establish the Kansas lifeline service ~~fund~~ program,  
5 hereinafter referred to as the ~~KLSF~~ KLSP. The purpose of the ~~KLSF~~  
6 KLSP shall be to promote the provision of universal service by  
7 local exchange carriers to persons with low-income ~~or special~~  
8 ~~needs~~. The ~~KLSF~~ KLSP shall be targeted to maintain affordable  
9 rates for ~~basic residential~~ local exchange service. The  
10 commission shall approve a means test to determine the eligibility  
11 of customers for such low-income assistance. ~~The KLSF shall~~  
12 ~~provide funds to offset any basic local exchange price increases~~  
13 ~~that low-income customers would otherwise incur pursuant to~~  
14 ~~subsection (c) of section 8 or as a consequence of rate~~  
15 ~~rebalancing pursuant to subsection (e) of section 6.~~

16 New Sec. 8. ~~(a) A rural telephone company that has not~~  
17 ~~elected price cap regulation pursuant to subsection (b) of section~~  
18 ~~6 shall restructure its switched and special access rates to bring~~  
19 ~~the rates and rate structures into parity with its corresponding~~  
20 ~~interstate rates and rate structures effective March 1, 1997,~~  
21 ~~except that the rate for intrastate basic billing and collection~~  
22 ~~service, excluding advertising inserts and uncollectables, shall~~  
23 ~~not exceed \$.05 per message. Any net revenue increase that would~~  
24 ~~otherwise occur for any rural telephone company as a result of~~  
25 ~~this restructuring shall be reflected in an adjustment of the~~  
26 ~~intrastate local switching rate below the interstate rate for any~~  
27 ~~such company. To ensure continued parity of intrastate and~~  
28 ~~interstate access rates, rural telephone companies shall file~~  
29 ~~updated tariffs not later than each two years after March 1, 1997.~~

30 ~~(b)~~ (a) All local exchange carriers and telecommunications  
31 carriers providing long distance service in Kansas shall reduce  
32 their statewide average long distance rates to reflect the net  
33 reductions in access charges ~~set forth in subsection (a)~~; however,  
34 such carriers shall be allowed to increase long distance rates to  
35 reflect the KUSF and ~~KLSF~~ surcharge funding requirements set forth

1 in section ~~11~~ 9.

2 ~~(e)~~ (b) The commission shall approve, upon not more than 120  
3 days' notice, any basic local exchange price increases that in the  
4 aggregate in any one year are \$1.50 or less per access line per  
5 month, that are proposed by any rural telephone company which is  
6 subject to traditional rate of return regulation and that comply  
7 with the requirements of this section. Any such proposed price  
8 increases shall be presumed reasonable and not subject to  
9 commission investigation and review if the rural telephone company  
10 has followed the notice requirements set forth below. However,  
11 the commission shall initiate an investigation if more than 15% of  
12 the subscribers subject to the rate increase request such an  
13 investigation within 60 days of the date of distribution of the  
14 notice of the proposed change. Upon filing such an application  
15 for a rate increase, any rural telephone company seeking  
16 expedited approval of the proposed rate under this section shall  
17 send a notice to its subscribers by regular mail, which may be  
18 included with regular subscriber mailings. Such mailings shall  
19 include the name, mailing address and telephone number of the  
20 commission. The notice shall include a schedule of the proposed  
21 local exchange rates, the effective date of the rates and a  
22 description of the procedures by which the subscribers can  
23 petition the commission to determine the reasonableness of the  
24 proposed rates, including a provision specifically stating that  
25 protest by 15% or more of subscribers subject to the proposed rate  
26 increase would require the commission to initiate an investigation  
27 concerning the reasonableness of the proposed rate increase.

28 ~~(d)~~ (c) The commission shall have the right to investigate  
29 and determine the reasonableness of an increase in local exchange  
30 rates and charges under subsection ~~(e)~~ (b) by any rural telephone  
31 company within one year of the time local exchange rates or  
32 charges are increased. If the commission determines such rate or  
33 charge increases are unreasonable, the commission shall have the  
34 authority to order a rate hearing and, after such hearing, shall  
35 have the authority to rescind all or any portion of the increases

1 found to be unreasonable.

2 New Sec. 9. On or before January 1, 1997, the commission  
3 shall establish the Kansas universal service fund, hereinafter  
4 referred to as the KUSF:

5 ~~—— (a) Rural telephone company revenues lost as a result of the  
6 provisions of subsection (a) of section 8 shall be recovered on a  
7 revenue neutral basis from a newly established KUSF. The revenue  
8 neutral calculation shall be based upon the revenues for the 12  
9 months prior to September 30, 1996, levelized for rate changes  
10 that are ordered by the commission prior to September 30, 1996.~~

11 ~~—— (b) Any local exchange carrier that serves urban and  
12 high-cost rural areas shall receive support:~~

13 ~~—— (1) For the difference between its interstate and intrastate  
14 access rates to the extent as determined by the commission that  
15 full-rate restructuring provided in subsection (e) of section 6  
16 does not occur or if the commission determines that in the course  
17 of such rate restructuring the local exchange carrier experiences  
18 any revenue shortfall; and~~

19 ~~—— (2) to serve the rural areas in its service territory if the  
20 commission, subject to all intervention capabilities of affected  
21 parties, as provided in the stipulation in Docket No. 127, 140-U  
22 (Phase IV) finds that the carrier's costs of providing local  
23 service in such areas, allocated in accordance with the federal  
24 jurisdictional separations procedures, which on the effective date  
25 of this act were set forth in 47 C.F.R. Part 36, as in effect at  
26 the time of the carrier's filing an application with the  
27 commission, and including the intrastate portion of the cost of  
28 the local loop, are not covered by its local rates after the  
29 restructuring provided in any order by the commission authorizing  
30 price cap regulation. Support provided under this subsection  
31 shall not adversely affect receipt by a rural telephone company of  
32 KUSF support.~~

33 ~~—— (c) Effective June 1, 1997, any rural telephone company may  
34 request supplemental KUSF support in accordance with the following  
35 procedures:~~

1 ~~—— (1) A rural telephone company, whether or not eligible to~~  
2 ~~initially receive KUSF support, may receive supplemental KUSF~~  
3 ~~funding based upon the percentage increase in its access lines, as~~  
4 ~~defined in the federal jurisdictional separations procedures,~~  
5 ~~which on the effective date of this act were set forth in 47~~  
6 ~~C.F.R. Section 36.611(a) (8), as in effect at the time of the~~  
7 ~~company's filing an application with the commission, over the 12~~  
8 ~~months prior to its request. Such requests using simplified~~  
9 ~~filing procedures shall be subject to an expedited review by the~~  
10 ~~commission corresponding to the expedited review procedures,~~  
11 ~~including all review, verification and intervention capabilities~~  
12 ~~of affected parties, as provided in the stipulation in Docket No.~~  
13 ~~127, 140-U (Phase IV). Requests shall be deemed approved if a~~  
14 ~~final order is not issued in 60 days.~~

15 ~~—— (2) After March 1, 1997, upon filing intrastate access~~  
16 ~~tariffs to maintain the parity of intrastate access rates with~~  
17 ~~interstate rates, rural telephone companies may file requests~~  
18 ~~using simplified filing procedures with the commission for~~  
19 ~~increased support from the KUSF to be provided on a revenue~~  
20 ~~neutral basis. Such requests shall be subject to an expedited~~  
21 ~~review by the commission corresponding to the expedited review~~  
22 ~~procedures, including all review, verification and intervention~~  
23 ~~capabilities of affected parties, as provided in the stipulation~~  
24 ~~in Docket No. 127, 140-U (Phase IV). Requests shall be deemed~~  
25 ~~approved if a final order is not issued in 60 days.~~

26 ~~—— (3) A rural telephone company that has not elected price cap~~  
27 ~~regulation pursuant to any order of the commission authorizing~~  
28 ~~price cap regulation may file a request using simplified filing~~  
29 ~~procedures with the commission for supplemental funding necessary~~  
30 ~~to recover: (A) Changes to intrastate access revenue requirements~~  
31 ~~caused by mandatory changes in the jurisdictional separation~~  
32 ~~procedures adopted by the federal communications commission, as~~  
33 ~~long as the request is filed within 12 months after the effective~~  
34 ~~date of the change; and (B) changes to intrastate access revenue~~  
35 ~~requirements that are calculated in accordance with jurisdictional~~

~~1 separations procedures adopted by the federal communications  
2 commission and that arise from: (i) The provision of universal  
3 service capabilities; (ii) other infrastructure expenditures in  
4 response to facility or service requirements established by any  
5 legislative, regulatory or judicial authority; or (iii) natural  
6 disasters. In calculating such supplemental funding, the  
7 commission shall utilize the rural telephone company's authorized  
8 interstate rate of return, or its specific intrastate rate of  
9 return, whichever is greater. Such supplemental funding shall be  
10 incurred for purposes of providing service to and within the  
11 certificated territory as of January 1, 1996, of the rural  
12 telephone company, or its successor, eligible for such funding.  
13 Affected parties shall be allowed all review, verification and  
14 intervention capabilities in proceedings involving any request  
15 under this subsection. However, such requests shall be deemed  
16 approved if not acted upon within 120 days or if a final order is  
17 not issued within 180 days of the request filing.~~

~~18 (4) Any additional KUSF funding other than as provided in  
19 paragraphs (1), (2), and (3) of subsection (c) may be authorized  
20 in the discretion of the commission but must be based upon a  
21 general rate case filing.~~

22 (a) The initial amount of the KUSF shall be comprised of  
23 local exchange carrier revenues lost as a result of rate  
24 rebalancing pursuant to subsection (c) of section 6. Such  
25 revenues shall be recovered on a revenue neutral basis. The  
26 revenue neutral calculation shall be based on the volumes and  
27 revenues for the 12 months prior to September 30, 1996, adjusted  
28 for any rate changes.

30 (b) The commission shall require every telecommunications  
31 public utility and wireless telecommunications service provider  
32 that provides intrastate telecommunications services to pay into  
33 the KUSF on an equitable, nondiscriminatory, specific and  
34 predictable basis.

35

1       (c) Pursuant to the federal act, distributions from the KUSF  
2 shall be made in a competitively neutral manner to qualified  
3 telecommunications public utilities and wireless  
4 telecommunications providers, as defined in subsection (e)(1) of  
5 section 214 of the federal act.

6  
7       (d) The commission shall periodically review the KUSF to  
8 determine if the costs of qualified telecommunications public  
9 utilities and wireless telecommunications service providers to  
10 provide local service justify modification of the KUSF. If the  
11 commission determines that any changes are needed, the commission  
12 shall modify the KUSF accordingly.

13  
14       (e) Any qualified telecommunications public utility or  
15 wireless telecommunications provider may request supplemental  
16 funding from the KUSF based upon a percentage increase in access  
17 lines over the 12 months period prior to its request. The  
18 supplemental funding shall be incurred for the purpose of  
19 providing services to and within the service area of the qualified  
20 telecommunications public utility or wireless telecommunications  
21 carrier. Supplemental funding from the KUSF shall be used for  
22 infrastructure expenditures necessary to serve additional  
23 customers within the service area of such qualifying utility or  
24 provider. All affected parties shall be allowed to review and  
25 verify a request of such a qualified utility or provider for  
26 supplemental funding from the KUSF, and to intervene in any  
27 commission proceeding regarding such request. The commission  
28 shall issue an order on the request within 120 days of filing.

29  
30       (f) Additional supplemental funding from the KUSF, other  
31 than as provided in subsection (e) of this section, may be  
32 authorized at the discretion of the commission. However, the  
33 commission may require approval of such funding to be based upon a  
34 general rate case filing. With respect to any request for  
35 additional supplemental funding from the KUSF, the commission

1 shall act expeditiously, but shall not be subject to the 120 day  
 2 deadline set forth in subsection (e) of this section.

3 New Sec. 10. (a) Local exchange carriers that provided  
 4 switched local exchange services in the state prior to January 1,  
 5 1996, or their successors, shall serve as the carrier of last  
 6 resort in their exchanges and shall be eligible to receive KUSF  
 7 ~~and KLSF~~ funding. However, with respect to the Hill City exchange  
 8 area in which multiple carriers were certified prior to January 1,  
 9 1996, the commission's determination, subject to court appeals, of  
 10 which authorized carrier shall serve as carrier of last resort  
 11 ~~also shall govern which carrier is eligible for KUSF support.~~ The  
 12 local exchange carrier serving as the carrier of last resort shall  
 13 remain the carrier of last resort and shall be entitled to recover  
 14 the costs of serving as carrier of last resort ~~until relieved of~~  
 15 ~~that obligation as set forth in subsection (b).~~

16 ~~(b) Except as provided in subsection (e) of section 5, a~~  
 17 ~~local exchange carrier shall be relieved of its carrier of last~~  
 18 ~~resort obligations for its operating area and no~~  
 19 ~~telecommunications or local exchange carrier shall receive KUSF~~  
 20 ~~support for that operating area if the commission determines that:~~  
 21 ~~(1) The revenue neutral rate restructuring that brings intrastate~~  
 22 ~~access rates into parity with interstate access rates has~~  
 23 ~~occurred; (2) one or more telecommunications carriers within that~~  
 24 ~~operating area offer universal service to all inhabitants of that~~  
 25 ~~operating area at least equal to and comparable to the service~~  
 26 ~~provided by the local exchange carrier that has served as the~~  
 27 ~~carrier of last resort; and (3) all telecommunications providers,~~  
 28 ~~including all local exchange carriers, in that operating area are~~  
 29 ~~subject to the same quality of service standards and have the same~~  
 30 ~~flexibility to establish and change the price and other terms and~~  
 31 ~~conditions of service.~~

32 ~~(c) (b)~~ Beginning March 1, 1997, the amount of KUSF ~~and KLSF~~  
 33 funds owed to each ~~local exchange carrier~~ qualifying  
 34 telecommunications public utility or wireless telecommunications  
 35 service provider in the state, based upon the revenue requirements



1 assigned to the funds for ~~that local exchange carrier such~~  
2 ~~qualifying utility or provider or that local exchange carrier's~~  
3 ~~number of qualifying lifeline subscribers,~~ shall be allocated by  
4 the fund administrator in equal monthly installments.

5 ~~New Sec. 11. (a) The aggregate funds and each provider's~~  
6 ~~funding obligation required for the KUSF and the KLSF shall be~~  
7 ~~recovered through a per-minute surcharge assessed to the provider~~  
8 ~~on all intrastate retail billed toll minutes, including 800~~  
9 ~~service billed minutes of telecommunications carriers, local~~  
10 ~~exchange carriers and wireless communications service providers.~~  
11 ~~The surcharge may be collected from customers using any such~~  
12 ~~service provided by any telecommunications carrier, local exchange~~  
13 ~~carrier or wireless telecommunications provider operating within~~  
14 ~~the state. For purposes of this section, a call originated and~~  
15 ~~terminated on wireline facilities is an intrastate toll call~~  
16 ~~subject to this subsection if it terminates outside of the base~~  
17 ~~rate or extended local service area of the local exchange carrier~~  
18 ~~erving the area where the call originates. For purposes of this~~  
19 ~~section, an intrastate retail billed toll minute for wireless~~  
20 ~~communications service providers shall mean each intrastate minute~~  
21 ~~billed by a wireless communications provider for wireless~~  
22 ~~originated calls that are terminated outside of the terminating~~  
23 ~~local exchange carrier's or telecommunications carrier's base rate~~  
24 ~~or extended service area.~~

25 ~~(b) Minutes for calls that would be classified as toll~~  
26 ~~minutes on the effective date of this act shall be considered toll~~  
27 ~~minutes irrespective of any future service repricing or~~  
28 ~~reclassification. Where minutes cannot be measured, surrogates~~  
29 ~~approved by the commission shall be used.~~

30 ~~(c) On March 1, 1997, and annually thereafter, the~~  
31 ~~administrator selected pursuant to subsection (a) of section 12~~  
32 ~~shall calculate the KUSF and KLSF surcharge needed to recover all~~  
33 ~~funding and administrative costs and shall notify all~~  
34 ~~telecommunications carriers, local exchange carriers and wireless~~  
35 ~~communications service providers in the state of the per-minute~~

1 ~~surcharge. All such providers shall be authorized to collect the~~  
 2 ~~surcharge assessed to the provider. In the event that the amount~~  
 3 ~~collected is more or less than the amount necessary to cover~~  
 4 ~~funding and administrative costs, the surcharge in the following~~  
 5 ~~year shall be adjusted to ensure that each contributor and~~  
 6 ~~recipient pays and receives its appropriate share, including any~~  
 7 ~~amounts any recipient was entitled to, but did not receive, in the~~  
 8 ~~prior year.~~

9 New Sec. ~~12~~ 11. (a) The commission shall utilize a  
 10 competitive bidding process to select a neutral, competent and  
 11 bonded third party to administer the KUSF ~~and KLSF~~.

12 (b) The administrator shall be responsible for: (1)  
 13 Collecting and auditing all relevant information from all  
 14 providers qualifying telecommunications public utilities or  
 15 wireless telecommunications service providers receiving funds from  
 16 or providing funds to the KUSF ~~or KLSF~~, including any providers  
 17 ~~not subject to the commission's jurisdiction;~~ (2) ~~calculating the~~  
 18 ~~surcharge that shall be imposed on long distance retail billed~~  
 19 ~~minutes of use~~ verifying, based on the calculations of each  
 20 qualifying telecommunications public utility or wireless  
 21 telecommunications service provider, the percentage of each such  
 22 qualifying utility's or carrier's revenues, minus payments to  
 23 intrastate access charge recipients to generate the funds required  
 24 by the KUSF ~~and KLSF~~; (3) collecting all moneys due to the KUSF  
 25 ~~and KLSF~~ from all ~~long distance providers~~ telecommunications  
 26 public utilities and wireless telecommunications service providers  
 27 ~~in the state, including providers not subject to the commission's~~  
 28 ~~jurisdiction;~~ and (4) distributing amounts on a monthly basis due  
 29 to ~~local exchange carriers~~ qualifying telecommunications public  
 30 utilities and wireless telecommunications service providers  
 31 receiving KUSF ~~or KLSF~~ funding.

32 (c) Any information made available or received by the  
 33 administrator from utilities or providers receiving funds from or  
 34 providing funds to the KUSF ~~or KLSF~~, including providers not  
 35 ~~subject to the commission's jurisdiction,~~ shall not be subject to

1 any provisions of the Kansas open records act and shall be  
2 considered confidential and proprietary.

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

15 (e) The KUSF ~~and KLSF~~ administrator shall be responsible to  
16 ensure that funds do not fall below the level necessary to pay all  
17 amounts collectively owed to all ~~local exchange carriers~~  
18 qualifying telecommunications public utilities. The administrator  
19 shall have the authority to retain and invest in a prudent and  
20 reasonable manner any excess funds collected in any period to help  
21 ensure that adequate funds are available to cover amounts payable  
22 in other periods.

23 New Sec. ~~13~~ 12. ~~—(a) As used in this section, "internet"~~  
24 ~~means the international computer network of both federal and~~  
25 ~~non-federal interoperable packet switched data networks. As used~~  
26 ~~in this section, "telecommunications service providers" mean local~~  
27 ~~exchange carriers and interexchange carriers.~~

28 ~~—(b) The commission shall authorize all telecommunications~~  
29 ~~service providers to provide residential customers, educational~~  
30 ~~institutions and public libraries lacking toll-free access to the~~  
31 ~~Kansas City, Wichita or Topeka metropolitan areas, dial-up access~~  
32 ~~to one internet provider within the calling customer's LATA for a~~  
33 ~~flat monthly fee.~~

34 ~~—(c) The dial-up access provided pursuant to this section~~  
35 ~~shall support at least 28.8 kilobit per second service to all~~

~~1 public libraries, public education institutions including unified  
2 school districts, area vocational schools, area  
3 vocational-technical schools, community colleges, the municipal  
4 university, and state educational institutions, private, nonprofit  
5 elementary and secondary schools and accredited, independent  
6 institutions of higher education requesting service after July 1,  
7 1999. The dial-up access provided to all other customers shall  
8 support at least 14.4 kilobit per-second service to all customers  
9 requesting service after July 1, 1999.~~

~~10 (d) Customers requesting service pursuant to the act may  
11 request either off peak or 24-hour service. (1) For off-peak  
12 users, the flat monthly fee shall apply to access between the  
13 hours of 5 p.m. and 7:59 a.m. weekdays and all hours on weekends  
14 and federal holidays. The flat monthly fee shall not exceed \$15  
15 per-line per-month. (2) For customers who subscribe to 24-hour  
16 service, the flat monthly fee for unlimited use shall not exceed  
17 \$30 per-line per-month.~~

~~18 (e) Additional dial-up access to internet providers within  
19 the calling customer's LATA may be added for an additional flat  
20 fee as described in subsection (d).~~

~~21 (f) The retail prices established in this section shall  
22 apply notwithstanding the prices telecommunications service  
23 providers charge, with the approval of the commission or  
24 otherwise, for wholesale telecommunications services that may be  
25 used to provide similar services.~~

~~26 (g) Telecommunications service providers providing dial-up  
27 access services pursuant to this section shall not be required to  
28 permit resale of those services to other classes of customers, to  
29 allow customers to use the services for other purposes, or to  
30 allow the aggregation of usage by authorized customers.~~

~~31 (h) All internet providers doing business in the state shall  
32 register with the commission. Such registration shall include  
33 the internet provider's name, address, and access line numbers.  
34 The commission shall ensure that the registration is updated on a  
35 regular basis.~~

1 ——(a) As used in this section, "the internet" means the  
2 international network of interconnected government, educational,  
3 and commercial computer networks. An "internet service provider"  
4 means an entity that provides end user access to the internet.  
5 Nothing in this section shall be construed to mean that the  
6 commission has any regulatory jurisdiction over internet service  
7 providers. The provisions of this section apply only to those  
8 locations of the state where local (7-digit) internet access is  
9 not available on July 1, 1996, and to those locations where  
10 existing access may be discontinued in the future.

11  
12 (b) On or after July 1, 1996 and prior to October 1, 1996,  
13 rural telephone companies shall file tariffs with the commission  
14 to provide in any or all portions of their respective service  
15 areas within the state where local internet access is not  
16 available flat-rated or discounted internet access to an intraLATA  
17 internet service provider of the customer's choice. A rural  
18 telephone company shall provide dial-up access to support at least  
19 14.4 kilobit per-second service ubiquitously throughout the  
20 exchange service area, with 28.8 kilobit per-second service made  
21 available to any requesting customer on or before July 1, 1999.

22  
23 (c) On or after July 1, 1996 and prior to October 1, 1996,  
24 all local exchange carriers, other than rural telephone companies,  
25 shall file tariffs with the commission in any or all portions of  
26 their respective service areas within the state where local  
27 internet access is not available two flat-rate dial-up plans.  
28 The first plan includes: (1) For off-peak users, a monthly rate  
29 of not more than \$15 per line for the hours of 5 p.m. through 7:59  
30 a.m. weekdays and all hours on weekends and federal holidays.  
31 Calls placed outside this specified off-peak period shall be  
32 billed at prevailing toll rates. (2) For unlimited usage, the  
33 rate shall not exceed \$30 per line per month. The commission  
34 shall waive imputation considerations in reviewing and approving  
35 these service offerings. The second plan shall provide that a

1 discount of 25% from standard tariff rates shall apply for basic  
2 rate ISDN toll charges and dedicated services used to access the  
3 internet. This discount shall only apply to end users accessing  
4 intraLATA internet service providers.

5 (d) All internet service providers operating in the state  
6 shall register with the commission. Such registration shall  
7 include the name of the internet service provider, the provider's  
8 address, contact name, phone number, and access line numbers.  
9 This information shall be maintained by the commission and  
10 disseminated to all local exchange carriers and rural telephone  
11 companies providing access to internet providers in accordance  
12 with provisions of this section. This information shall be used  
13 to validate customer service requests.

14 ~~(i)~~ (e) During the 1999 session of the Kansas legislature,  
15 the commission shall transmit a report to the chairperson,  
16 vice-chairperson and ranking minority member of the house standing  
17 committee on energy and natural resources, the senate standing  
18 committee on transportation and utilities and the joint committee  
19 on computers and telecommunications concerning implementation of  
20 this section. The report shall include recommendations for  
21 revisions in this section necessitated by technological innovation  
22 or market changes in the telecommunications industry. The report  
23 may also include an expiration date for this section.

24  
25 New Sec. 14 13. (a) No local exchange carrier or  
26 telecommunications carrier shall honor a request by any person  
27 other than its customer to change the provider of intrastate long  
28 distance or local exchange service to such customer in the state,  
29 except: (1) Where the request is placed by a local or long  
30 distance company that has received a letter of agency containing  
31 clear and conspicuous disclosure of such change signed by the  
32 customer authorizing the change; (2) where the customer affected  
33 by the change initiated the contact with the local or long  
34 distance company in order to request the change; (3) where the  
35 customer affected by the change calls a toll-free number to

1 confirm the request for change made in response to a contact  
2 initiated by the local exchange or long distance company  
3 requesting the change; or (4) where the commission otherwise  
4 expressly authorizes.

5 (b) The requisite documentation at a minimum shall identify  
6 a single designated carrier, shall be separate or severable from  
7 any sweepstakes, contest or similar promotional program, shall  
8 contain the telephone number of the account, and shall be signed  
9 by the customer responsible for paying charges on the account. In  
10 the event that a local exchange carrier or telecommunications  
11 carrier changes the primary carrier for any customer based upon  
12 representations that the change was authorized by the customer in  
13 writing or by a customer initiated contact, which is later  
14 disputed by the customer who seeks to be switched back to its  
15 original carrier and is not verified by the carrier requesting the  
16 change, the intrastate long distance or local exchange carrier  
17 requesting the change shall be liable to the customer for any  
18 amount collected from the customer in excess of what the prior  
19 provider would have charged, shall be liable to the local exchange  
20 carrier or telecommunications carrier for the costs of making and  
21 reversing the change, shall be liable for a fine of not less than  
22 \$250 per occurrence and shall be liable for any other fines,  
23 penalties or damages provided by law.

24 Sec. ~~15~~ 14. K.S.A. 1995 Supp.. 75-4709 is hereby amended to  
25 read as follows: 75-4709. (a) The secretary of administration  
26 shall ~~make provision~~ *provide for* and coordinate all  
27 telecommunications services for all divisions, departments and  
28 agencies of the state pursuant to policies established by the  
29 Kansas information resources council. The secretary of  
30 administration shall have the authority to control the  
31 acquisition, retention and use of all telecommunications services  
32 for all divisions, departments and agencies of the state, and to  
33 develop and review plans and specifications for telecommunications  
34 services throughout the state.

35 (b) The secretary of administration, when feasible, may

1 ~~extend~~ enter into agreements with any entity defined in this  
2 subsection extending to such entity the use of state intercity  
3 telecommunications facilities and services under the control of  
4 the secretary to private, nonprofit corporations designated by the  
5 governor pursuant to federal law to perform functions within the  
6 state as provided by federal law or to any governmental units, and  
7 may enter into agreements with such private, nonprofit  
8 corporations or governmental units for provision of such service.

9 As used in this subsection, an "entity" means:

10 (1) Any governmental unit, including any state agency,  
11 taxing subdivision of the state or municipality; or

12 (2) any hospital or nonprofit corporation which the  
13 secretary determines to be performing any state function on an  
14 ongoing basis through agreement or otherwise, or any function  
15 which will assist a governmental unit in attaining an objective or  
16 goal bearing a valid relationship to powers and functions of such  
17 unit.

18 ~~(b)~~ (c) Every record made, maintained or kept by the  
19 secretary of administration or the division of information systems  
20 and communications, or any agency or instrumentality thereof,  
21 which relates to the acquisition, retention or use of  
22 telecommunications services provided to any division, department  
23 or agency of the state, state officer or governmental unit and  
24 which pertains to individually identifiable individuals using such  
25 telecommunication services shall constitute for purposes of the  
26 open records act a record of the division, department or agency of  
27 the state, state officer or governmental unit to which such  
28 records relate ~~and~~. The official custodian of such records for  
29 the purposes of the open records act shall be the official  
30 custodian of the records of such division, department or agency of  
31 the state, state officer or governmental unit.

32 New Sec. 16. No references in this act to local exchange  
33 carriers in the Hill City exchange area shall be considered a  
34 statement of legislative intent for the purpose of determining  
35 which carrier or carriers shall be authorized to provide service



1 to the exchange.

2        New Sec. 17 16. In order to adequately assess the impact of  
3 TeleKansas I, the commission shall review the capital expenditure  
4 required to be made by telecommunications public utilities  
5 pursuant to subsection (a) of K.S.A. 66-1,197, and amendments  
6 thereto. After review of such expenditures, the commission shall  
7 determine the extent to which such expenditures have not been made  
8 and may issue an order establishing a schedule for completion of  
9 such capital expenditures.

10        New Sec. 17. The definitions in this act shall not be used  
11 as a basis to determine whether a taxpayer is a public utility for  
12 purposes of K.S.A. 79-5a01, and amendments thereto.

13        New Sec. 18        The commission shall not enforce any provision  
14 of this act nor any order entered by authority of this act which  
15 is specifically preempted by the federal act or the rules and  
16 regulations implementing the federal act.

17        Sec. 19        K.S.A. 66-127 is hereby amended to read as  
18 follows: No common carrier or public utility governed by the  
19 provisions of this act, domestic or foreign, shall hereafter  
20 purchase or acquire, take or hold any part of the capital stock,  
21 bonds or other forms of indebtedness of any competing public  
22 utility or common carrier, either as owner or pledgee, unless  
23 authorized by the commission. Any common carrier engaged in  
24 intrastate commerce in this state is prohibited in the  
25 transportation of such commerce, articles or commodities under the  
26 following circumstances and conditions:

27        (a) When the article or commodity has been manufactured,  
28 mined or produced by a carrier or under its authority and at the  
29 time of the transportation the carrier has not in good faith,  
30 before the act of transportation, disassociated itself from such  
31 article or commodity;

32        (b) when the carrier owns the article or commodity to be  
33 transported, in whole or part;

34        (c) when the common carrier at the time of transportation has  
35 a legal or equitable interest, directly or indirectly, in the

1 article or commodity, except materials and supplies for its own  
2 use.

3 Every public utility is prohibited from engaging in any  
4 business in this state which is not in conformity with its charter  
5 or in which it is not permitted to engage under the laws of the  
6 state of Kansas: Provided, That this section shall not apply to  
7 ownership by railroads of the stock, bonds, or other forms of  
8 indebtedness of union depot or terminal railroad properties used  
9 in common by two or more such railroads. The provisions of this  
10 section shall not apply to resellers of telecommunications  
11 services or interexchange carriers.

12  
13 Sec. ~~18~~ 20. K.S.A. 66-124, 66-125, 66-127 and 66-1,187 and K.S.A.  
14 1995 Supp.. 75-4709 are hereby repealed.

15 Sec. ~~19~~ 21. This act shall take effect and be in force from  
16 and after its publication in the statute book.

17