

Approved: Don Myers
Date

Apr 9, 98

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on March 24, 1998 in Room 313-S of the Capitol.

All members were present except: Rep. Mayans - excused

Committee staff present: Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Chairman Don Myers opened the meeting to discussion regarding action taken by the Sub-committee regarding the Kansas Universal Service Fund. The Chairman recognized Representative Aurand, Chairman of the Kansas Universal Service Fund Sub-committee, who made a motion, as recommended by the Sub-committee, to delete the language in SB 212 and replace it with the language developed by the Sub-Committee having to do with universal service (Attachment #1). The motion was seconded by Representative McKinney. Representative Aurand explained the Sub-committee's action to the Committee. The Chairman thanked the Sub-committee for their activity and noted that they met six times spending considerable time in meetings. Questions and discussion followed. Representative Aurand closed and noted that the Sub-committee did reject some of the language that was presented to the Sub-committee on things to change, but thinks what was presented is fairly measured and asked that the Committee adopt it. Also, he indicated that if there is any individual concern, the Committee would be able to go back in and look into changes and moved his motion. Motion carried.

The Chairman recognized Representative Burroughs who made a motion for an amendment that would allow supplemental funding to be requested for infrastructure and enhanced universal service investments in an urban blighted area as defined in KSA 12-1771(A) and the commission may rely on state and federal data to confirm the presence of an urban blighted area (Attachment #2). The motion was seconded by Representative Klein. Questions and discussion followed. The Chairman recognized Representative McKinney who inquired of the Revisor, regarding KSA 17-4760, if the statute had been repealed and she thought it had been, but it is existing. Representative McKinney felt that KSA 17-4760 would be a very tight definition of blighted area so not very many areas would be eligible for it and thought universal service funding should only be eligible for those hardest hit areas. Representative Burroughs agreed with Representative McKinney. Upon agreement with Representative Klein who had seconded the motion, Representative Burroughs restated his motion to include the definition of a blighted area under KSA 17-4760 (Attachment #3). Representative Burroughs brought to attention a typographical error in the attached amendment where the word "relay" in line 3 should be "rely" and needs correction. Motion carried.

The Chairman recognized Representative Aurand who made a motion to publish the act in the Kansas Register. Representative Sloan seconded the motion. Motion carried.

The Chairman recognized Representative Alldritt who made a motion to amend on Page 9, line 31, regarding the commission auditing local exchange carriers and the language be changed by omitting the word "may" and replace it with the word "shall". The motion was seconded by Representative McClure. Questions and discussion followed. Representative Alldritt closed by noting that he supports the universal service fund and it is not known what amount should be in the fund. He indicated that technology is going to change, and there is talk about what the assessment should be and how much money should be collected would be a best guess, but asked that the Committee not make a best guest. Motion failed.

The Chairman recognized Representative McKinney who made a motion to make a two-year cap on the Kansas Universal Service Fund for the years 1998 and 1999 so that in the year 2000 the legislature would address it, and if there is major cost arising because of enhanced universal service or other provisions, the

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 313-S Statehouse, at 9:00 a.m. on March 24, 1998.

legislature would address it then. The motion was seconded by Representative Aurand. Representative McKinney closed by noting that when electricity was provided to rural areas in the state there was a lot of opposition, but it was discovered that it facilitated tremendous economic growth which did benefit the entire state. He felt that it is the same with telecommunications and enhanced telecommunications in that it makes growth possible in a lot of areas where it would not otherwise be possible. He was concerned about protecting the universal service fund so development that should take place is not preempted because that development would benefit the entire state. He felt it is important that the legislature in the year 2000 be forced to deal with the issue because the deadline to deploy a lot of these services is 2001 and there should be a two-year cap and not a three-year cap. Motion carried.

The Chairman recognized Representative Toelkes who made a motion to remove the cap on the Kansas Universal Service fund due to the uncertainty of the universal service fund and universal service needs to be provided to all the state. The motion was seconded by Representative Johnson. Questions and discussion followed. Representative Toelkes closed by noting the legislature could wait until the study group comes up with some firm information, and if the universal service needs to be capped, it can be done then. She felt that the legislature needs to allow time for the issues to be researched and feels that would be the prudent way to do it. Motion failed.

The Chairman recognized Representative Sloan who made a motion to pass SB 212 as amended favorable for passage. The motion was seconded by Representative Burroughs. Discussion followed. Motion carried.

The meeting was adjourned at 10:40 a.m.

This was the last regular Committee meeting for this session. Any further meetings are on call of the Chairman.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 24, 1998

NAME	REPRESENTING
Rob Hodges	KTA
CARL KREHBIEL	MOUNDRI/D66 TELEPHONE CO.
Roger Green	KPR
W Paul O'Leary	SITA
Doug Smith	SITA
Shirley Allen	SWBT
Carolyn Sutton	Sprint
David D. Hemmora	KCC
Larry Beams	KCC
Karen Matson	KCC
Ron Hein	Classic Communications
BMI Draxel	SWBT
Ann A. Webb	SWBT
Dave Holtwick	SWBT
Mike Murray	Sprint
Bico Bryant	SWBT
Richard	SWBT
Paul Smith	SWBT
Terry Diebolt	SWBT

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 24, 1998

NAME	REPRESENTING
John Pinegar	State Independent Telephone Association
DANNY KOCH	SW Bell
ED SCHAUB	WESTERN RESOURCES
SHAUN McKENZIE	SOUTHWESTERN BELL
SADDY WEVER	SW BELL
Cindy Denton	Budget
Bob Vance	AT&T
Carroll O'Neal	AT&T
Ernie Lehman	Western Resources
J.C. LONG	UTILICORP UNITED INC.
Angela Campbell	Midwest Energy Inc.
JOY KROUSE	mid. Am. Com. Services -
Bill Speedy	SW Bell
Mike Scott	SW BELL
Rich Dolbert	CMT Partners
Richard Nelson	AirTouch Communications
Beth Canuteson	Sprint PCS
Petrick Shurley	AT&T
Cindy Johnson	SWB.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 24, 1998

NAME	REPRESENTING
<i>Carl Hoto</i>	<i>SWBT</i>
<i>Richard Shank</i>	<i>SWBT</i>
<i>Jim Yonally</i>	<i>Cellular One</i>
<i>Jay Smith Enter</i>	<i>KINI. L.C.</i>
<i>Tom Gaches</i>	<i>SWBMS</i>
<i>Bill Roche</i>	<i>sprint.</i>
<i>Ted F Knapp</i>	<i>Guest of Rep. Vining</i>

1 Section 1. K.S.A. 1997 Supp. 66-2005 is hereby amended to
2 read as follows: 66-2005. (a) Each local exchange carrier shall
3 file a network infrastructure plan with the commission on or
4 after January 1, 1997, and prior to January 1, 1998. Each plan,
5 as a part of universal service protection, shall include
6 schedules, which shall be approved by the commission, for
7 deployment of universal service capabilities by July 1, 1998, and
8 the deployment of enhanced universal service capabilities by July
9 1, 2001, as defined pursuant to subsections (p) and (q) of K.S.A.
10 1997 Supp. 66-1,187 and amendments thereto, respectively.
11 Deployment of enhanced universal service with respect to ISDN and
12 broadband facilities shall mean deploying services to meet a firm
13 order for service within six months after receipt of the order. A
14 local exchange carrier may petition the commission for an
15 extension or suspension of the deployment of ISDN or broadband
16 facilities in response to a firm order and the commission shall
17 have authority to grant or deny the petition. On or before the
18 first day of the regular legislative session each year, the
19 commission shall submit to the senate standing committee on
20 commerce and the house standing committee on utilities a report
21 of actions taken on such petitions during the preceding year and
22 the response for such actions. Each plan shall demonstrate the
23 capability of the local exchange carrier to comply on an ongoing
24 basis with quality of service standards to be adopted by the
25 commission no later than January 1, 1997.

26 (b) In order to protect universal service, facilitate the
27 transition to competitive markets and stimulate the construction
28 of an advanced telecommunications infrastructure, each local
29 exchange carrier shall file a regulatory reform plan at the same
30 time as it files the network infrastructure plan required in
31 subsection (a). As part of its regulatory reform plan, a local
32 exchange carrier may elect traditional rate of return regulation
33 or price cap regulation. Carriers that elect price cap regulation
34 shall be exempt from rate base, rate of return and earnings
35 regulation. However, the commission may resume such regulation
36 upon finding, after a hearing, that a carrier that is subject to

1 price cap regulation has: violated minimum quality of service
2 standards pursuant to subsection (1) of K.S.A. 1997 Supp. 66-2002
3 and amendments thereto; been given reasonable notice and an
4 opportunity to correct the violation; and failed to do so.
5 Regulatory reform plans also shall include:

6 (1) A commitment to provide existing and newly ordered
7 point-to-point broadband services to: Any hospital as defined in
8 K.S.A. 65-425, and amendments thereto; any school accredited
9 pursuant to K.S.A. 72-1101 et seq., and amendments thereto; any
10 public library; or other state and local government facilities at
11 discounted prices close to, but not below, long-run incremental
12 cost; and

13 (2) a commitment to provide basic rate ISDN service, or the
14 technological equivalent, at prices which are uniform throughout
15 the carrier's service area ~~and which are designed to stimulate~~
16 ~~the development of an extensive residential market.~~ Local
17 exchange carriers shall not be required to allow retail customers
18 purchasing the foregoing discounted services to resell those
19 services to other categories of customers. Telecommunications
20 carriers may purchase basic rate ISDN services for resale in
21 accordance with K.S.A. 1997 Supp. 66-2003 and amendments thereto.
22 The commission may reduce prices charged for services outlined in
23 provisions (1) and (2) of this subsection, if the commitments of
24 the local exchange carrier set forth in those provisions are not
25 being kept.

26 (c) Subject to the commission's approval, all local exchange
27 carriers shall reduce intrastate access charges to interstate
28 levels as provided herein. Rates for intrastate switched access,
29 and the imputed access portion of toll, shall be reduced over a
30 three-year period with the objective of equalizing interstate and
31 intrastate rates in a revenue neutral, specific and predictable
32 manner. The commission is authorized to rebalance local
33 residential and business service rates to offset the intrastate
34 access and toll charge reductions. Any remaining portion of the
35 reduction in access and toll charges not recovered through local
36 residential and business service rates shall be paid out from the

1 KUSF pursuant to K.S.A. 1997 Supp. 66-2008 and amendments
2 thereto. Rural telephone companies shall reduce their intrastate
3 switched access rates to interstate levels on March 1, 1997, and
4 every two years thereafter, as long as amounts equal to such
5 reductions are recovered from the KUSF.

6 (d) Beginning March 1, 1997, each rural telephone company
7 shall have the authority to increase annually its monthly basic
8 local residential and business service rates by an amount not to
9 exceed \$1 in each 12 month period until such monthly rates reach
10 an amount equal to the statewide rural telephone company average
11 rates for such services. The statewide rural telephone company
12 average rates shall be the arithmetic mean of the lowest flat
13 rate as of March 1, 1996, for local residential service and for
14 local business service offered by each rural telephone company
15 within the state. In the case of a rural telephone company which
16 increases its local residential service rate or its local
17 business service rate, or both, to reach the statewide rural
18 telephone company average rate for such services, the amount paid
19 to the company from the KUSF shall be reduced by an amount equal
20 to the additional revenue received by such company through such
21 rate increase. In the case of a rural telephone company which
22 elects to maintain a local residential service rate or a local
23 business service rate, or both, below the statewide rural
24 telephone company average, the amount paid to the company from
25 the KUSF shall be reduced by an amount equal to the difference
26 between the revenue the company could receive if it elected to
27 increase such rate to the average rate and the revenue received
28 by the company.

29 (e) For regulatory reform plans in which price cap
30 regulation has been elected, price cap plans shall have three
31 baskets: Residential and single-line business, including
32 touch-tone; switched access services; and miscellaneous services.
33 The commission shall establish price caps at the prices existing
34 when the regulatory plan is filed subject to rate rebalancing as
35 provided in subsection (c) for residential services, including
36 touch-tone services, and for single-line business services,

1 including touch-tone services, within the residential and
2 single-line business service basket. The commission shall
3 establish a formula for adjustments to the price caps. The
4 commission also shall establish price caps at the prices existing
5 when the regulatory plan is filed for the miscellaneous services
6 basket. The commission shall approve any adjustments to the price
7 caps for the miscellaneous service basket, as provided in
8 subsection (f).

9 (f) On or before January 1, 1997, the commission shall issue
10 a final order in a proceeding to determine the price cap
11 adjustment formula that shall apply to the price caps for the
12 local residential and single-line business and the miscellaneous
13 services baskets and for sub-categories, if any, within those
14 baskets. In determining this formula, the commission shall
15 balance the public policy goals of encouraging efficiency and
16 promoting investment in a quality, advanced telecommunications
17 network in the state. The commission also shall establish any
18 informational filing requirements necessary for the review of any
19 price cap tariff filings, including price increases or decreases
20 within the caps, to verify such caps would not be exceeded by any
21 proposed price change. The adjustment formula shall apply to the
22 price caps for the local residential and single-line business
23 basket after December 31, 1999, and to the miscellaneous services
24 basket after December 31, 1997. The price cap formula, but not
25 actual prices, shall be reviewed every five years.

26 (g) The price caps for the residential and single-line
27 business service basket shall be capped at their initial level
28 until January 1, 2000, except for any increases authorized as a
29 part of the revenue neutral rate rebalancing under subsection
30 (c). The price caps for this basket and for the categories in
31 this basket, if any, shall be adjusted annually after December
32 31, 1999, based on the formula determined by the commission under
33 subsection (f).

34 (h) The price cap for the switched access service basket
35 shall be set based upon the local exchange carrier's intrastate
36 access tariffs as of January 1, 1997, except for any revenue

1 neutral rate rebalancing authorized in accordance with subsection
2 (c). Thereafter, the cap for this basket shall not change except
3 in connection with any subsequent revenue neutral rebalancing
4 authorized by the commission under subsection (c).

5 (i) The price caps for the miscellaneous services basket
6 shall be adjusted annually after December 31, 1997, based on the
7 adjustment formula determined by the commission under subsection
8 (f).

9 (j) A price cap is a maximum price for all services taken as
10 a whole in a given basket. Prices for individual services may be
11 changed within the service categories, if any, established by the
12 commission within a basket. An entire service category, if any,
13 within the residential and single-line business basket or
14 miscellaneous services basket may be priced below the cap for
15 such category. Unless otherwise approved by the commission, no
16 service shall be priced below the price floor which will be
17 long-run incremental cost and imputed access charges. Access
18 charges equal to those paid by telecommunications carriers to
19 local exchange carriers shall be imputed as part of the price
20 floor for toll services offered by local exchange carriers on a
21 toll service basis.

22 (k) A local exchange carrier may offer promotions within an
23 exchange or group of exchanges. All promotions shall be approved
24 by the commission and shall apply to all customers in a
25 nondiscriminatory manner within the exchange or group of
26 exchanges.

27 (l) Unless the commission authorizes price deregulation at
28 an earlier date, intrastate toll services within the
29 miscellaneous services basket shall continue to be regulated
30 until the affected local exchange carrier begins to offer 1+
31 intraLATA dialing parity throughout its service territory, at
32 which time intrastate toll will be price deregulated, except that
33 prices cannot be set below the price floor.

34 (m) On or before July 1, 1997, the commission shall
35 establish guidelines for reducing regulation prior to price
36 deregulation of price cap regulated services in the miscellaneous

1 services basket, the switched access services basket, and the
2 residential and single-line business basket.

3 (n) Subsequent to the adoption of guidelines pursuant to
4 subsection (m), the commission shall initiate a petitioning
5 procedure under which the local exchange carrier may request rate
6 range pricing. The commission shall act upon a petition within 21
7 days, subject to a 30 day suspension. The prices within a rate
8 range shall be tariffed and shall apply to all customers in a
9 nondiscriminatory manner in an exchange or group of exchanges.

10 (o) A local exchange carrier may petition the commission to
11 designate an individual service or service category, if any,
12 within the miscellaneous services basket, the switched access
13 services basket or the residential and single-line business
14 basket for reduced regulation. The commission shall act upon a
15 petition for reduced regulation within 21 days, subject to a
16 suspension period of an additional 30 days, and upon a good cause
17 showing of the commission in the suspension order, or within such
18 shorter time as the commission shall approve. The commission
19 shall issue a final order within the 21 day period or within a 51
20 day period if a suspension has been issued. Following an order
21 granting reduced regulation of an individual service or service
22 category, the commission shall act on any request for price
23 reductions within 7 days subject to a 30 day suspension. The
24 commission shall act on other requests for price cap adjustments,
25 adjustments within price cap plans and on new service offerings
26 within 21 days subject to a 30 day suspension. Such a change will
27 be presumed lawful unless it is determined the prices are below
28 the price floor or that the price cap for a category, if any,
29 within the entire basket has been exceeded.

30 (p) The commission may price deregulate within an exchange
31 area, or at its discretion on a statewide basis, any individual
32 service or service category upon a finding by the commission that
33 there is a telecommunications carrier or an alternative provider
34 providing a comparable product or service, considering both
35 function and price, in that exchange area. The commission shall
36 act upon a petition for price deregulation within 21 days,

1 subject to a suspension period of an additional 30 days, and upon
2 a good cause showing of the commission in the suspension order,
3 or within such shorter time as the commission shall approve;
4 provided that no such petition shall be filed prior to July 1997,
5 unless the commission otherwise authorizes. The commission shall
6 issue a final order within the 21 day period or within a 51 day
7 period if a suspension has been issued.

8 (q) Upon complaint or request, the commission may
9 investigate a price deregulated service. The commission shall
10 resume price regulation of a service provided in any exchange
11 area by placing it in the appropriate service basket, as approved
12 by the commission, upon a determination by the commission that
13 there is no longer a telecommunications carrier or alternative
14 provider providing a comparable product or service, considering
15 both function and price, in that exchange area.

16 (r) The commission shall require that for all local exchange
17 carriers all such price deregulated basic intraLATA toll services
18 be geographically averaged statewide and not be priced below the
19 price floor established in subsection (j).

20 (s) Cost studies to determine price floors shall be
21 performed as required by the commission in response to
22 complaints. In addition, notwithstanding the exemption in
23 subsection (b), the commission may request information necessary
24 to execute any of its obligations under the act.

25 (t) A local exchange carrier may petition for individual
26 customer pricing. The commission shall respond expeditiously to
27 the petition within a period of not more than 30 days subject to
28 a 30 day suspension.

29 (u) No audit, earnings review or rate case shall be
30 performed with reference to the initial prices filed as required
31 herein.

32 (v) Telecommunications carriers shall not be subject to
33 price regulation, except that: Access charge reductions shall be
34 passed through to consumers by reductions in basic intrastate
35 toll prices; and basic toll prices shall remain geographically
36 averaged statewide. As required under K.S.A. 66-131, and

1 amendments thereto, and except as provided for in subsection (c)
2 of K.S.A. 1997 Supp. 66-2004 and amendments thereto,
3 telecommunications carriers that were not authorized to provide
4 switched local exchange telecommunications services in this state
5 as of July 1, 1996, including cable television operators who have
6 not previously offered telecommunications services, must receive
7 a certificate of convenience based upon a demonstration of
8 technical, managerial and financial viability and the ability to
9 meet quality of service standards established by the commission.
10 Any telecommunications carrier or other entity seeking such
11 certificate shall file a statement, which shall be subject to the
12 commission's approval, specifying with particularity the areas in
13 which it will offer service, the manner in which it will provide
14 the service in such areas and whether it will serve both business
15 customers and residential customers in such areas. Any
16 structurally separate affiliate of a local exchange carrier that
17 provides telecommunications services shall be subject to the same
18 regulatory obligations and oversight as a telecommunications
19 carrier, as long as the local exchange carrier's affiliate
20 obtains access to any services or facilities from its affiliated
21 local exchange carrier on the same terms and conditions as the
22 local exchange carrier makes those services and facilities
23 available to other telecommunications carriers. The commission
24 shall oversee telecommunications carriers to prevent fraud and
25 other practices harmful to consumers and to ensure compliance
26 with quality of service standards adopted for all local exchange
27 carriers and telecommunications carriers in the state.

28 Sec. 2. K.S.A. 1997 Supp. 66-2008 is hereby amended to read
29 as follows: 66-2008. On or before January 1, 1997, the commission
30 shall establish the Kansas universal service fund, hereinafter
31 referred to as the KUSF.

32 (a) The initial amount of the KUSF shall be comprised of
33 local exchange carrier revenues lost as a result of rate
34 rebalancing pursuant to subsection (c) of K.S.A. 1997 Supp.
35 66-2005 and amendments thereto and subsection (a) of K.S.A. 1997
36 Supp. 66-2007 and amendments thereto. Such revenues shall be

1 recovered on a revenue neutral basis. The revenue neutral
2 calculation shall be based on the volumes and revenues for the 12
3 months prior to September 30, 1996, adjusted for any rate
4 changes.

5 (b) The commission shall require every telecommunications
6 carrier, telecommunications public utility and wireless
7 telecommunications service provider that provides intrastate
8 telecommunications services to contribute to the KUSF on an
9 equitable and nondiscriminatory basis. The assessment for
10 contributions by wireless telecommunications service providers
11 shall not exceed 50% of the assessment for contributions by
12 wireline telecommunications service providers. Any
13 telecommunications carrier, telecommunications public utility or
14 wireless telecommunications service provider which contributes to
15 the KUSF may collect from customers an amount equal to such
16 carrier's, utility's or provider's contribution. Any
17 contributions in excess of distributions collected in any
18 reporting year shall be applied to reduce the estimated
19 contribution that would otherwise be necessary for the following
20 year.

21 (c) Pursuant to the federal act, distributions from the KUSF
22 shall be made in a competitively neutral manner to qualified
23 telecommunications public utilities, telecommunications carriers
24 and wireless telecommunications providers, that are deemed
25 eligible both under subsection (e)(1) of section 214 of the
26 federal act and by the commission.

27 (d) The commission shall periodically review the KUSF to
28 determine if the costs of qualified telecommunications public
29 utilities, telecommunications carriers and wireless
30 telecommunications service providers to provide local service
31 justify modification of the KUSF. The commission may require
32 audits of a local exchange carrier's records to verify the
33 accuracy of cost studies and to determine the actual costs of
34 providing universal service and enhanced universal service. If
35 the commission determines that any changes are needed, the
36 commission shall modify the KUSF accordingly.

1 (e) Any qualified telecommunications carrier,
2 telecommunications public utility or wireless telecommunications
3 service provider may request supplemental funding from the KUSF
4 based upon a percentage increase in access lines over the 12
5 month period prior to its request. The supplemental funding shall
6 be incurred for the purpose of providing services to and within
7 the service area of the qualified telecommunications carrier,
8 telecommunications public utility or wireless telecommunications
9 service provider. Supplemental funding from the KUSF shall be
10 used for infrastructure expenditures necessary to serve
11 additional customers within the service area of such qualifying
12 utility, provider or carrier. All affected parties shall be
13 allowed to review and verify a request of such a qualified
14 utility, carrier or provider for supplemental funding from the
15 KUSF, and to intervene in any commission proceeding regarding
16 such request. The commission shall issue an order on the request
17 within 120 days of filing. Additional funding also may be
18 requested for: the recovery of shortfalls due to additional
19 rebalancing of rates to continue maintenance of parity with
20 interstate access rates; shortfalls due to changes to access
21 revenue requirements resulting from changes in federal rules;
22 additional investment required to provide universal service and
23 enhanced universal service; and for infrastructure expenditures
24 in response to facility or service requirements established by
25 any legislative, regulatory or judicial authority. Such requests
26 shall be subject to simplified filing procedures and the
27 expedited review procedures, as outlined in the stipulation
28 attached to the order of November 19, 1990 in docket no.
29 127,140-U (Phase IV).

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
34 a general rate case filing. With respect to any request for
35 additional supplemental funding from the KUSF, the commission
36 shall act expeditiously, but shall not be subject to the 120 day

1 deadline set forth in subsection (e).

2 (g) The commission shall establish assessments for universal
3 service fund contributions for calendar years 1998, 1999 and 2000
4 in amounts that result in total contributions not exceeding
5 \$90,000,000 per year.

6 Sec. 3. K.S.A. 1997 Supp. 66-2011 is hereby amended to read
7 as follows: 66-2011. (a) As used in this section, "the internet"
8 means the international network of interconnected government,
9 educational, and commercial computer networks. An "internet
10 service provider" means an entity that provides end user access
11 to the internet. Nothing in this section shall be construed to
12 mean that the commission has any regulatory jurisdiction over
13 internet service providers. The provisions of this section apply
14 only to those locations of the state where local (7-digit)
15 internet access, which supports at least 14.4 kilobits per second
16 service with no more than 5% blockage during the busiest hour of
17 the service, is not available on October 1, 1996. The provisions
18 of this section also apply to those locations where local access
19 has been discontinued as of October 1, 1996, or access to the
20 service deteriorates to more than 5% blockage during the busiest
21 hour of the service.

22 (b) On or after July 1, 1996 and prior to October 1, 1996,
23 rural telephone companies shall file concurring tariffs to offer
24 internet access in locations identified in subsection (a) to an
25 intraLATA internet service provider of the customer's choice. All
26 rural telephone companies, including local exchange carriers
27 pursuant to subsection (c), shall provide dial-up access to
28 support at least 14.4 kilobit per second service ubiquitously
29 throughout the exchange service area, with ~~28.8~~ 19.2 kilobit per
30 second service ~~made-available-to-any-requesting-customer-on-or~~ on
31 and after July 1, 1999. The commission shall increase the 19.2
32 kilobit per second requirement when the commission determines
33 that more advanced technology is both available and feasible.

34 (c) On or after July 1, 1996 and prior to October 1, 1996,
35 all local exchange carriers, other than rural telephone
36 companies, shall file tariffs with the commission for two

1 flat-rate dial-up plans, which would provide internet access in
2 locations identified in subsection (a) to an intraLATA internet
3 service provider of the customer's choice. All such plans shall
4 be approved by the commission if they meet the criteria
5 established in this section. The first plan includes: (1) For
6 off-peak users, a monthly rate of not more than \$15 per line for
7 the hours of 5 p.m. through 7:59 a.m. weekdays and all hours on
8 weekends and federal holidays. Calls placed outside this
9 specified off-peak period shall be billed at prevailing toll
10 rates. (2) For unlimited usage, the rate shall not exceed \$30 per
11 line per month. The commission shall waive imputation
12 considerations in reviewing and approving these service
13 offerings.

14 (d) If a location was previously eligible for the plans
15 provided in subsection (c) and a new internet service provider
16 establishes a local presence in that location, the local exchange
17 carrier serving the location shall:

18 (1) Notify all subscribers of the discounted internet access
19 service that a local internet service provider is now available;

20 (2) continue to make the discounted internet access service
21 available to existing subscribers of such service; and

22 (3) allow no new subscribers of the discounted internet
23 access service.

24 (e) Nothing in this section shall be construed to imply that
25 the commission has any regulatory jurisdiction over the internet
26 or internet service providers with respect to quality of service,
27 rates, billing and collection practices, end-to-end bandwidth,
28 technical support or any other aspects of the business of
29 providing internet access service. However, the commission shall
30 monitor the adequacy of connectivity to internet service
31 providers. Upon complaints of inadequate access, commission staff
32 shall request a seven-day traffic busy line study from the local
33 exchange carrier serving the internet service provider.
34 Commission staff shall analyze the study results to determine
35 whether there is more than 5% access blockage and shall provide
36 the analysis to the internet service provider for consideration

1 and possible action. If the analysis indicates a corrective
2 action within 45 days after the analysis is provided to such
3 provider by the commission staff, the internet service provider
4 shall be removed from the commission's internet service provider
5 registry and subscribers of such internet service subscriber
6 shall be eligible for the plans provided in subsection (c) if
7 there is no other local internet service provider serving the
8 location.

9 (d) (f) All internet service providers operating in the
10 state shall register with the commission. Such registration shall
11 include the name of the internet service provider and the
12 provider's address, contact name, phone number, and access line
13 numbers. This information shall be maintained by the commission
14 ~~and--disseminated--to--all--local--exchange--carriers--and--rural~~
15 ~~telephone---companies---providing---access---to---internet---service~~
16 ~~providers--in--accordance--with--provisions--of--this--section---This~~
17 ~~information--shall--be--used--to--validate--customer--service--requests~~
18 at the commission's internet home page
19 (<http://www.kcc.state.ks.us>). This information shall be used to
20 determine a requesting customer's eligibility for the plans
21 provided in subsection (c) and to provide a single authoritative
22 listing of internet service provider access numbers for local
23 exchange carriers to use in processing service orders. Absent
24 complaints to commission staff, internet service providers shall
25 be assumed to provide service with 5% or less access blockage
26 upon registration. If, upon complaint and subsequent
27 investigation, access blockage is determined to exceed 5%, the
28 provider shall be removed from the commission's registry.

29 (e) (g) During the 1999 session of the Kansas legislature,
30 the commission shall transmit a report to the chairperson,
31 vice-chairperson and ranking minority member of the house
32 standing committee on energy and natural resources, the senate
33 standing committee on transportation and utilities and the joint
34 committee on computers and telecommunications concerning
35 implementation of this section. The report shall include
36 recommendations for revisions in this section necessitated by

1 technological innovation or market changes in the
2 telecommunications industry. The report also may include an
3 expiration date for this section.

4 New Sec. 4. (a) The commission shall initiate a KUSF working
5 committee on or before June 1, 1998. The commission will
6 establish the committee and its membership in conjunction with
7 its general investigation docket into local competition.

8 (b) The membership of the KUSF working committee shall
9 include, at a minimum:

10 (1) One representative for each of the
11 following: Competitive local exchange carriers, long distance
12 providers, cable companies, wireless telecommunications service
13 providers, rural local exchange carriers, nonrural local exchange
14 carriers, competitive access providers, the citizens' utility
15 ratepayer board and the commission; and

16 (2) four legislators as follows: One member of the house
17 standing committee on utilities appointed by the speaker of the
18 house of representatives, one member of such committee appointed
19 by the minority leader of the house of representatives, one
20 member of the senate standing committee on commerce appointed by
21 the president of the senate and one member of such committee
22 appointed by the minority leader of the senate. Legislators
23 serving as members of the committee shall receive amounts
24 provided by subsection (e) of K.S.A. 75-3223 and amendments
25 thereto for each day of actual attendance at any meeting of the
26 task force or any subcommittee meeting approved by the task
27 force. Such amounts paid to members shall be paid from
28 appropriations to the legislative coordinating council pursuant
29 to vouchers prepared by the director of legislative
30 administrative services and approved by the chairperson or
31 vice-chairperson of the legislative coordinating council.

32 (c) The KUSF working committee shall discuss, identify and
33 develop recommendations regarding technology issues, KUSF funding
34 regulatory procedures, modifications to universal and enhanced
35 universal service and other issues identified by the committee,
36 including but not limited to:

- 1 (1) What should be funded from the KUSF in light of changing
2 technology;
- 3 (2) how to address internet access in light of changing
4 technology;
- 5 (3) whether revenue neutrality is appropriate in terms of
6 how much customers should pay for services relative to how much
7 should be paid from the KUSF;
- 8 (4) how to increase flexibility for the commission and for
9 telecommunications service providers under K.S.A. 66-2001 et seq.
10 and amendments thereto;
- 11 (5) how to facilitate competition and end subsidies;
- 12 (6) how to address number portability; and
- 13 (7) what wireless telecommunications service providers'
14 contribution to the KUSF should be.
- 15 (d) On or before the first day of the regular legislative
16 session in the year 2000, the KUSF working group shall submit to
17 the legislature a report of the committee's activities and
18 recommendations.

66-2008 (c)

Add-in

Supplemental funding may be requested for infrastructure and enhanced universal service investments in an urban blighted area as defined in K. S.

A. ~~17-4760 (h) and (i)~~. The commission may ^{rely} ~~rely~~ on state and federal
12-1771 (A)
data to confirm the presence of an urban blighted area.

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(3) enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;

(4) appoint and fix the duties of such officers, agents and employees as the officer deems necessary to carry out the purposes of such ordinance; and

(5) delegate any of the officer's functions and powers under such ordinance to such officers, agents and employees as the officer may designate.

(g) The governing body of any municipality adopting an ordinance under this section shall as soon as possible thereafter prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the structures in such municipality to determine the fitness of such structures for human use or habitation, and for the enforcement and administration of its ordinance or ordinances adopted under this section.

(h) Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

(i) Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

(j) Any municipality may by ordinance adopted by its governing body (1) prescribe minimum standards for the use and occupancy of any type structure throughout the city, (2) prevent the use or occupancy of any structure which is injurious to the public health, safety, morals or welfare, and (3) prescribe punishment for the violation of any provision of such ordinance.

History: L. 1955, ch. 86, § 18; L. 1965, ch. 155, § 1; L. 1981, ch. 173, § 54; July 1.

Research and Practice Aids:

Municipal Corporations - 278.

C.J.S. Municipal Corporations § 1062 et seq.

Law Review and Bar Journal References:

"Recovery of Attorney Fees in Kansas," Mark A. Furney, 18 W.L.J. 535, 557 (1979).

Attorney General's Opinions:

Miscellaneous provisions; abatement of nuisances; assessment of costs. 81-273.

CASE ANNOTATIONS

1. Various constitutional objections held without merit, *act valid*. State, ex rel., v. Urban Renewal Agency of Kansas City, 179 K. 435, 296 P.2d 656.

2. Powers of Urban Renewal Agency determined. Argentine Citizens Committee v. Urban Renewal Agency, 194 K. 468, 469, 470, 399 P.2d 553.

17-4759a. Same; purpose of act. This act is intended to authorize a municipality to prescribe minimum standards for all types of structures (both "residential" and "nonresidential") and to regulate their use, occupancy, maintenance and repair, removal and demolition. This expansion of K.S.A. 17-4759 to include "nonresidential" structures is not intended to limit or impair in any manner a municipality's power to prescribe minimum housing standards within the municipality.

History: L. 1965, ch. 155, § 2; May 18.

17-4760. Definitions. The following terms wherever used or referred to in this act shall have the following meanings, unless a different meaning is clearly indicated by the context:

(a) "Agency" or "urban renewal agency" shall mean a public agency created by K.S.A. 17-4757.

(b) "Municipality" shall mean any incorporated city in the state of Kansas.

(c) "Public body" shall mean the state or any municipality, township, village, board, commission, authority, district, or any other subdivision or public body of the state.

(d) "Local governing body" shall mean the council, commission or other legislative body charged with governing the municipality.

(e) "Mayor" shall mean the mayor of a municipality or other officer or body having the duties customarily imposed upon the executive head of a municipality.

(f) "Clerk" shall mean the clerk and other official of the municipality who is the custodian of the official records of such municipality.

(g) "Federal government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(h) "Slum area" shall mean an area in which there is a predominance of buildings or improvements, whether residential or nonresidential.

which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

(i) "Blighted area" shall mean an area (other than a slum area) which by reason of the presence of a substantial number of slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use. *Provided*, That if such blighted area consists of open land the conditions contained in the proviso in K.S.A. 17-4747(d) shall apply.

(j) "Urban renewal project" may include undertakings or activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan.

(k) "Slum clearance and redevelopment" may include (1) acquisition of a slum area or a blighted area or portion thereof; (2) demolition and removal of buildings and improvements; (3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this act in accordance with the urban renewal plan; and (4) making the land available for development or redevelopment by private enterprise or public agencies (including sale, initial leasing, or retention by the municipal-

ity itself) at its fair value for uses in accordance with the urban renewal plan.

(l) "Rehabilitation" or "conservation" may include the restoration and renewal of a slum or blighted area or portion thereof, in accordance with an urban renewal plan, by (1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (2) acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this act; and (4) the disposition of any property acquired in such urban renewal area (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with such urban renewal plan.

(m) "Urban renewal area" means a slum area or a blighted area or a combination thereof which the local governing body designates as appropriate for an urban renewal project.

(n) "Urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan (1) shall conform to the general plan for the municipality as a whole; and (2) shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(o) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

(p) "Bonds" shall mean any bonds (including refunding bonds), notes, interim certificates, cer-