

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 25, 1998 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Barone, Brownlee, Donovan, Feleciano, Gooch, Jordan, Ranson, Steffes, Steineger and Umbarger.

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

Conferees appearing before the committee:

Carl C. Krehbiel, President, Moundridge Telephone Company  
Tony Fernandez, Ph.D., Dean of College of Health and Life Sciences Ft. Hays State University  
Kirk Golbach, Director of Finance, CMT Partners  
Richard Nelson, AirTouch Cellular  
Mark Tallman, Director of Governmental Relations, Kansas Association of School Boards  
Randy Waldran, Crop Quest, Inc., Dodge City  
Sherry Bever, Maize Unified School District #266  
Gus Rau Meyer, Rau Construction Company, Overland Park  
Ron Kelly, Unified School District #279, Jewell  
Richard Lawson, Sprint  
Michael Byington, Envision

Others attending: See attached list

Upon motion by Senator Steffes, seconded by Senator Jordan, the Minutes of the March 24, 1998 Meeting were unanimously approved.

**SB 666 - Telecommunications act; cost-based regulation; eliminating universal service requirements**

Carl Krehbiel, President, Moundridge Telephone Company, testified on behalf of the Kansas Telecommunications Coalition, in opposition to **HB 666**. Mr. Krehbiel disputed the Kansas Corporation Commission (KCC) comments that "enhanced universal service" is too expensive and that technology that is mandated is already outdated. Mr. Krehbiel cited differences in costs of ISDN and proposed DSL, ISDN being much cheaper at \$91.00 per month versus \$5,750.00 per month for DSL. Mr. Krehbiel also disputed KCC's recommendation to freeze deployment of enhanced universal service, stating the service and expectations for such service is now, not tomorrow.

Mr. Krehbiel raised the question as to why the Legislature would not want to ensure that all telecommunications carriers and local exchange carriers preserve enhanced universal service, protect the public safety and welfare, and ensure the continued quality of telecommunications service. **SB 666** strikes the requirement that the KCC adopt guidelines to ensure that those essential matters are addressed, and instead directs the KCC to "review its competition orders and to make such changes as may be necessary to safeguard the rights of consumers." Abandoning requirements pertaining to these crucial matters in favor of inserting a redundant requirement is questionable. **SB 666** strikes the infrastructure deployment requirements and opens the door for the KCC to deny advanced telecommunications services to Kansans. Failure to make such services available to all Kansans would constitute a violation of the Federal Act and would be challenged in court. (Attachment 1)

**SB 666** deletes the provision of the Kansas Telecommunication Act (KTA) which allows telephone companies to elect traditional rate of return regulation or price cap regulation. Mr. Krehbiel stated that while rural telephone companies are under rate of return regulation and large telephone companies are under price cap regulation, the requirement that rural telephone companies submit forward looking cost studies (FLCS) in

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on March 25, 1998.

2001 is problematic, as there are no standards or a methodology established for conducting such a study. The Federal Communication Commission (FCC) indicates it is considering a transition that, if implemented, may begin for rural telephone companies in 2001 - - not an immediate requirement to adopt FLCS in 2001. **SB 666** suggests an immediate shift to FLCS and does not address how rural telephone companies are to recover the investments made in response to requirements established by the KTA and the KCC.

Mr. Krehbiel stated that striking the provision regarding the initial amount of the Kansas Universal Service Fund (KUSF) denies rate of return regulated companies the ability to recover costs that had been recovered through now reduced intrastate access charges and would almost certainly guarantee that rural telephone companies would not be able to invest further in telecommunications facilities, denying thousands of Kansans access to advanced telecommunications services.

**SB 666** has the net effect of requiring rate of return companies to file a full rate case whenever they need to deploy facilities to customers if they are to recover their investment, turning the clock back to a procedure that is onerous, burdensome and expensive.

Mr. Krehbiel stated, the KTA is not yet two years old, and it is premature to make such drastic changes in public policy as espoused in **SB 666**.

Dr. Tony Fernandez, Dean of the College of Health and Life Sciences, Fort Hays State University, testified that Fort Hays State University accommodates off-campus students of a diverse population with differences in educational requirements, motivation, constraints, goals and opportunities. Virtual College of Fort Hays, charged with coordinating all university academic outreach programs, facilitates the delivery of both degree and non-degree programs to unserved and under served students through the innovative application of various technologies, including instruction by interactive television, broadcast television, audiotape, videotape, computer and various multimedia strategies. Dr. Fernandez stated that during the 1996-97 academic year, there were 5853 enrollment in outreach courses, over half of which were served through electronically mediated instruction. Dr. Fernandez stated increased telecommunication costs associated with delivery, especially over fiber and ISDN lines, may force decreased offerings and lessen access to higher education. Dr. Fernandez, in response to a question, took no position on **HB 666**. (Attachment 2)

Kirk Golbach, Director of Finance - CMT Partners doing business as Cellular One, testified as to the impact the universal service assessment has had on wireless customers. Mr. Golbach stated the current 9.8% assessment has increased the average bill for all cellular customers in the state. Mr. Golbach stated the Committee should: 1) clarify that the size of the fund should be based upon the cost of providing services intended to be subsidized, and eliminate any connection with the concept of revenue neutrality; 2) reduce the contribution of wireless carriers by 50%; and (3) provide clear direction to the KCC that they have the authority to perform cost studies and audits to determine the proper size of the KUSF. (Attachment 3)

Richard Nelson, Director of Government Relations for AirTouch Cellular stated the KUSF is fundamentally flawed as it is not cost based, that KTA provided the fund be revenue neutral to existing local exchange carriers, and that the fund is over funded. Wireless companies are required to subsidize local exchange companies even though they do not receive similar support when building their networks, and Kansans pay a larger assessment than any other state. Mr. Nelson recommended the Committee eliminate the provision mandating revenue neutrality for local exchange companies; reduce by 50% the assessment on wireless companies; and provide direction to the KCC to revise the universal service program based on cost studies. (Attachment 4)

Mark Tallman, Director of Governmental Relations, Kansas Association of School Boards, testified that Kansas and the federal government have adopted the goal of providing public schools with access to appropriate telecommunications technology. Mr. Tallman testified it is necessary that quality telecommunication technology be available to all schools at an affordable rate. (Attachment 5)

A copy of a letter addressed to Senator Brownlee from Randy Waldran, Crop Quest, Inc., Dodge City, was distributed to members of the Committee. (Attachment 6)

A copy of a Memorandum from Sherry Bever Maize Unified School District #266, was distributed to members of the Committee. (Attachment 7)

A Copy of a letter from Gus Rau Meyer, Rau Construction Co., Overland Park, was distributed to members of the Committee. (Attachment 8)

A copy of a Memorandum from Ron Kelly, Unified School District #279, Jewell, was distributed to members of the Committee. (Attachment 9)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on March 25, 1998.

Michael Byington, Director, Envision Governmental Affairs Office, testified in opposition to **SB 666** as the bill deletes the KUSF and enhanced universal telecommunications services. The KUSF and enhanced universal services provide disabled persons with an opportunity to live a much richer life by making equipment available in the homes and communities of persons who have disabilities giving these persons greater opportunities to work, support themselves, and contribute as tax payers. Mr. Byington submitted an amendment to **SB 666** which would reinsert the stricken language on Pages 2 and 3, and add the following: "Enhanced universal service also means the provision of equipment to ensure that persons who have disabilities, and who request enhanced universal services, will be able to access and utilize the other enhanced universal services defined in this section and to an extent providing equally effective communications to those available to non-disabled individuals." Mr. Byington advocated the technology of speech to text and text to speech be made available to disabled persons. (Attachment 10)

Richard Lawson, Sprint, testified in opposition to **SB 666** stating the bill: 1) returns to a system of using revenues from one service to hold prices artificially low for local service; 2) returns to a system of rate-of-return regulation; and 3) diminishes the stability and predictability that the KTA offers consumers and telecommunications providers. Mr. Lawson urged the Committee to reject **SB 666** and to take a more incremental approach to stabilize or reduce the current size of the fund and the current level of assessment, and reduce future pressure on the fund. Reducing the size of the KUSF and the related assessment by rebalancing rates and adjusting local service rates, would reduce the KUSF from \$77 Million to \$32 Million and the assessment from 10% to 4%. Mr. Lawson is in agreement with the KCC, the Kansas Telecommunications Coalition, AT&T and the Consumer Utilities Ratepayers Board, that the mandated deployment of enhanced universal service should be curtailed or slowed down. Sprint forecasts it will spend approximately \$80 Million from now until July 1, 2001 to comply with the KTA's mandate and would recoup less than 25% of its cost. As a result, Sprint must rely on general rate increases or the KUSF for cost recovery. (Attachment 11)

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for March 26, 1998.

# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: March 25, 1998

NAME	REPRESENTING
BUD CORANT	ICE CI
<del>Ann Henning</del> Hush	KASB
<del>Mark Tallman</del>	KASB
TONY FERNANDEZ	FORT HAYS STATE UNIV.
Debra Prideaux	FHSU
Jolana Krasnicka	_____
Bill Drexel	SWBT
William Hendrix	
WALKER HENDRIX	CURB
Bill Roche	Sprint
RICHARD LAWSON	SPRINT
Mike Scott	SWBT
Carl Folster	SWBT
John Pinegar	State Independent Telephone Assn.
Beth Cameron	Sprint PCS
Cindy Quisenberry	SW Bell
Jim Vachett	SOUTHWESTERN BELL
LES DEPPERSCAMIDT	SW BELL
Ann Watts	SW Bell



TESTIMONY OF CARL C. KREHBIEL  
PRESIDENT, MOUNDRIDGE TELEPHONE COMPANY  
FOR THE KANSAS TELECOMMUNICATIONS COALITION  
BEFORE THE SENATE COMMERCE COMMITTEE  
March 25, 1998

My name is Carl Krehbiel. I am the president of the Moundridge Telephone Company, a rural telephone company that serves about 2,500 access lines in Moundridge, Goessel, and the surrounding rural areas in three counties in central Kansas. I am speaking on behalf of the Kansas Telecommunications Coalition, and I will address some of the concerns of the rural telephone companies with regard to SB 666.

Page 3, line 15: Why would the Legislature **NOT** want to ensure that all telecommunications carriers and local exchange carriers:

- preserve and enhance universal service,
- protect the public safety and welfare, and
- ensure the continued quality of telecommunications services?

SB 666 would strike the requirement that the KCC adopt guidelines to ensure that those essential matters are addressed, and instead direct the Commission to "review its competition orders and to make such changes as may be necessary to safeguard the rights of consumers."

Certainly, the rights of consumers are important, but the KCC has long-standing authority to safeguard them. The key public policy issue is how to ensure that universal service, the public safety and welfare, and availability of quality telecommunications services are maintained in the face of a new era of competition and less regulation. Abandoning requirements pertaining to these crucial matters in favor of inserting a redundant requirement is questionable.

Page 4, line 25. SB 666 strikes the infrastructure deployment requirements from the Kansas Act. This opens the door for the Commission to deny access to telecommunications services, and in particular advanced telecommunications services, to any Kansan. It turns the policy statement in the Kansas Act on its head. You must understand that without this provision, **many Kansans may well never have access to advanced telecommunications services**. Failure to make such services available to *all* Kansans would constitute a violation of the Federal Act, and would be challenged in court.

Page 4, line 41. The Kansas Act allows telephone companies to elect traditional rate of return regulation or price cap regulation. SB 666 strikes this provision. New subsection 3(a) of SB 666, beginning on Page 5, line 24, gives the Commission the authority to change essentially anything. Why would the Legislature want to deny these companies the ability to elect the form of regulation that is best for them? We already have heard indications that the Commission Staff believes they should determine when it is

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Attachment # 1-1 thru 1-3

necessary for us to move to a different form of regulation, and effect that change. Is that not a decision that belongs with a company, not the staff of a state agency?

Page 5, line 40: While it is positive that this bill recognizes that there are significant differences between rural telephone companies on rate of return regulation and large telephone companies on price cap regulation, and that companies in these categories must be treated differently, the requirement that rural telephone companies submit forward looking cost studies in 2001 is problematic.

- "Forward looking cost study" (FLCS) is only a concept at the present time. There are no standards, nor is there an established methodology for conducting such a study.
- The FCC has indicated that it is considering a *transition* that, if implemented, *may* begin for rural telephone companies in 2001 -- not an immediate requirement to adopt forward looking cost studies in 2001. SB 666 suggests an immediate shift to FLCS.
- There is nothing in this bill to indicate whether a forward looking cost study would be based on a proxy model, or on company-specific information (i.e., actual costs). This is crucial, since no proxy model has yet been developed that accurately represents the costs of providing service in rural areas. And in any event, a proxy model is by definition *not* based on actual costs.
- SB 666 does not address the question of how rural telephone companies are supposed to recover the investments they have made in response to requirements established by the Legislature and the Commission. A significant portion of these investments has not yet been recovered, and will not have been recovered by 2001.

Does the Legislature really want to require, *three years from now*, a type of study that (1) is today a popular buzz-word, but may be entirely different or replaced by a new approach (fad?) by then; (2) that may well have been significantly changed, or even discarded, by then; (3) may be based on a computer model that bears no resemblance to reality; and (4) would most likely result in a court challenge?

Page 11, line 2. By striking the provision regarding the initial amount of the KUSF, SB 666 would deny rate of return regulated companies the ability to recover costs that had been recovered through the now-reduced intrastate access charges. SB 666 means that rate of return companies would not recover investments already made by mandate of the Legislature and the Commission, would be foolish to make further investments in this State's telecommunications infrastructure, and could even be unable to continue to provide telephone service to their customers.

Page 11, line 30. By striking the provision regarding additional and supplementary KUSF, SB 666 would almost certainly guarantee that rural telephone companies would not be able to invest further in telecommunications facilities, and that hundreds of thousands of Kansans will not have access to advanced telecommunications services. This provision appears to violate sections of the Federal Act that require *sufficient* state universal service funding, and that require access to advanced telecommunications

services for *all* Americans in every part of the country – specifically including those in rural and high-cost areas.

SB 666 appears to have the net effect of requiring rate of return companies to file a full rate case any time they need to deploy facilities to serve customers, if they are to recover on that investment. Thus, at a time when *less* regulation is the trend, SB 666 strikes the simplified and expedited filing procedure for the intrastate portion of cost recovery – a provision that was in effect *before* the Kansas Act was passed, and that was maintained in the Act in the procedures for companies to request additional and supplemental funding from the KUSF. Instead, SB 666 turns the clock back to a procedure that is onerous, burdensome, and extremely expensive. Is this really what the Legislature intends?

The Kansas Telecommunications Act is not perfect. Certainly, there are provisions in the Act that we would change. But in general, we believe the Act represents good public policy that will ensure that *all* Kansans will “have access to a first class telecommunications infrastructure that provides excellent services at an affordable price,” as the declaration of public policy in the Act states. The Act is not yet two years old. It is very premature to make the drastic changes to the public policy established in the Act, and the means to implement it, that would be made in SB 666. Let the Act do its job, and let those of us in the telecommunications industry get on with our job, which should *not* be coping with a significantly increased regulatory regime, but rather deploying a telecommunications system that will bring a full range of modern telecommunications services to all Kansans.



Higher Education:  
Telecommunications and Distance Education  
In Western Kansas

Testimony of Dr. Tony Fernandez  
Dean of the College of Health and Life Sciences  
Fort Hays State University

Presented before the  
Senate Commerce Committee

March 25, 1998

Senate Commerce Committee

Date 3-25-98

Attachment # 2-1 thru 2-4

## Introduction

The Virtual College of Fort Hays State University is charged with coordinating all university academic outreach programs. The Virtual College provides educational programs primarily through mediated instruction. The College facilitates the delivery of both degree and non-degree programs to unserved and underserved students through the innovative application of various technologies. The Virtual College cooperates with the Colleges of Arts and Sciences, Business, Education, Health and Life Sciences, and the Graduate School to extend the institution's academic instruction resources to the people of western Kansas.

Off-campus students are a diverse population with differences in educational requirements, motivation, constraints, goals and opportunities. The FHSU Virtual College accommodates these differences. The Virtual College increases the opportunities for the entry and reentry of students into higher education by assisting them to overcome or minimize participatory barriers such as location, finance, and time through mediated delivery of instruction. Fort Hays State University is committed to serve the higher education needs of these students. Consistent with this mission, the Virtual College delivers instruction by interactive television, broadcast television, audiotape, videotape, computer and various multimedia strategies in order to provide increased instructional opportunities for the citizens of Kansas.

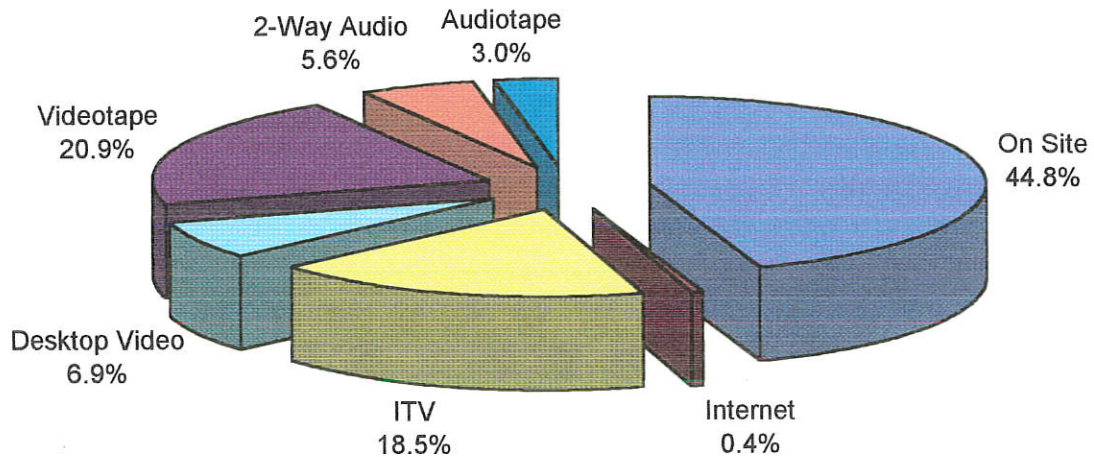
## The Challenges

- Great distances
- Small concentration of learners
- Accessibility
- New and changing needs

## Meeting the Challenges

During the Fall, Spring, and Summer Sessions of the 1996-97 Academic Year, there were 5853 enrollments in outreach courses offered by Fort Hays State University. Over half of these students were served through electronically mediated instruction (Fig. 1). Of these, over 1,000

enrollments were at ITV sites throughout western Kansas (Fig.2). ISDN and POTS interactive networks serviced an additional 500 enrollments.



**Fig. 1 Virtual College Enrollments, Academic Year 1996-97**

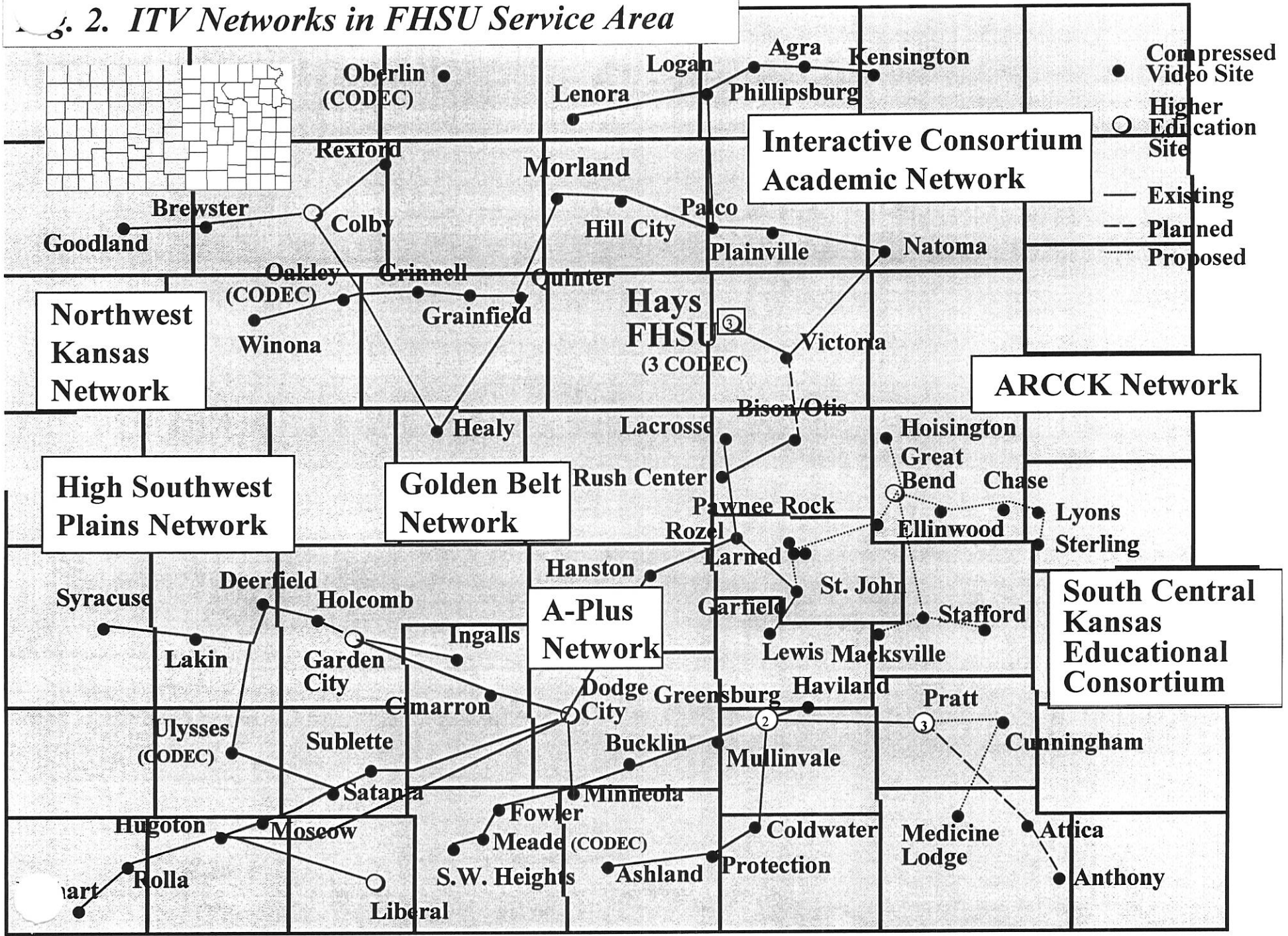
### The Future

Fort Hays State University plans to improve access to higher education for the citizens of rural western Kansas by increased use of:

- Interactive television and two-way audio networks
- Internet-based courses
- Video/Audio tapes for geographically isolated students.

Increased telecommunication costs associated with delivery, especially over fiber and ISDN lines, may force decreased offerings and lessen access to higher education in western Kansas.

Fig. 2. ITV Networks in FHSU Service Area



**Testimony on the Universal Service Program**  
**Kansas Senate Commerce Committee**  
**Kirk Golbach, Director of Finance - CMT Partners**  
**March 25<sup>th</sup>, 1998**

Good morning Madam Chairman and members of the committee. Thank you for the opportunity to testify before you today. CMT does business as Cellular One and provides cellular service in and around Topeka, Wichita, Lawrence and the Kansas City metropolitan areas.

I am here today to help ensure the interests of the cellular users will be appropriately considered in crafting modifications to the current Kansas universal service program. Kansas wireless customers currently pay the highest universal service tax of any wireless users in the nation. Our customers are unhappy with the level of taxes on their wireless service. We urge the legislature to consider the adverse impact that this tax has had on the demand for and use of wireless technology.

Specifically, I would like the committee to consider the following points:

- The wireless phone market looks very much like a cross section of America-men and women, young and old, professionals and blue collar workers, high school and college graduates, and members of both lower and upper income households.<sup>1</sup>
- 58% of cellular subscribers use their service primarily for emergency communication or personal safety.<sup>2</sup>
- 87% of cellular subscribers indicate that price is one of the most important factors in the decision to subscribe.<sup>1</sup>
- The current universal funding mechanism has resulted in over a 10% increase in the average bill for cellular service in the state of Kansas.
- The typical cellular customer must balance his or her desire for emergency communication with their concern over the cost of the protection this service provides.

**Specific Requests**

- Clarify that the size of the fund should be based upon the cost of providing the services intended to be subsidized. Eliminate any connection with the concept of revenue neutrality.
- Reduce the contribution of the wireless carriers to recognize the proportionate use of the subsidized infrastructure. A 50% differential has been discussed in previous testimony before this committee and is currently contained in House Bill 212.
- Provide clear direction to the Kansas Corporation Commission that they have the authority to perform cost studies and audits to determine the proper size of the fund.

<sup>1</sup> Peter D. Hart Research Associates March, 1997 & 1998

<sup>2</sup> Consumer Electronics Manufacturers Association, 1996

Senate Commerce Committee

Date 3-25-98

Attachment # 3

**Testimony of AirTouch Cellular on the Universal Service Program**  
**Kansas Senate Commerce Committee**  
**March 25, 1998**

Good morning Madam Chairwoman and members of the Senate Commerce Committee, I am pleased to appear before you today. I am Richard Nelson, Director of Government Relations for AirTouch Cellular. AirTouch Cellular along with AT&T Wireless are partners in the Cellular One operations here in Kansas. In addition, AirTouch holds cellular licenses on its own behalf for the Wichita and Topeka metropolitan areas. AirTouch operates cellular networks in 22 states. Its affiliate, AirTouch Paging provides paging service in approximately 38 states. Through joint ventures and partnerships, AirTouch also provides wireless communications internationally.

I am here today to urge this committee to pass legislation which addresses the problems which you have heard about the Kansas universal service program: it has not been correctly sized resulting in a surplus; the funding mechanism excludes some telecommunications carriers; and it ignores the investment in and use of the wireless infrastructure.

**Overview**

- Fundamental flaw in Kansas Universal Service Program is that it is not cost based; instead the Kansas Telecommunications Act of 1996 provided that it be revenue neutral to existing local exchange carriers.
- The universal service fund is significantly overfunded (pursuant to recent testimony by Commission staff) because it is not based on the cost of providing service to consumers. AirTouch is unaware of any other state which has established a fund without approved cost studies.
- Kansans pay in excess of a 9% tax on their cellular telephone charges which is the highest universal service tax in the country. Only 7 other states have imposed a universal service tax on wireless; the rate paid by customers ranges from \$0.35 in Oregon to 2.87% of intrastate retail revenues in California (to support high cost areas). Many of the other states in which AirTouch operates such as Georgia have elected not to include wireless until the wireless industry provides telecommunication service to a substantial portion of the population.
- The existing statute imposes a 9% tax on wireless and long distance companies and their customers while rate increases by local exchange companies are treated as contributions to the universal service fund.
- Wireless companies are required to subsidize local exchange companies even though wireless companies did not receive similar support when building their networks. This continual subsidy prevents wireless companies from becoming competitive with local exchange companies and, therefore, denies Kansans choices of service providers.
- Wireless companies and their customers are being unfairly taxed:
  - wireless companies should pay half what long distance companies pay since only half of each wireless call utilizes the landline network; in fact, an increasing portion of wireless calls never utilize the landline network;
  - local exchange companies and their customers are not paying into the universal fund resulting in a larger burden being placed on wireless.

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Attachment # *4-1 thru 4-5*

- The Kansas Supreme Court overturned the Court of Appeals decision on March 13th and upheld the Kansas Telecommunications Act of 1996 but the Court noted on the key issue of revenue neutrality: “The legislature determines utility policy, and so long as a legislative act does not contravene federal or state law, courts should not interfere with it, even though the action taken appears, to the court, to be unsound and not the best way, or even a good way, to carry out the stated purpose of the act.”

**Recommended Changes to the Kansas Telecommunications Act of 1996**

- Eliminate the provision which mandates revenue neutrality for local exchange companies and/or reduce the fund by ceasing to consider the per line assessments by local companies as contributions and require all companies to be subject to an explicit universal service tax or charge.
- Recognize the use of the wireless infrastructure for all wireless calls by providing a 50% discount on the contribution by wireless companies.
- Eliminate or delay any and all service enhancements to the universal service program.
- Provide direction to the Kansas Corporation Commission to reopen the universal service docket to conduct a cost proceeding to revise the universal service program based on the cost to provide service in Kansas while taking into consideration contributions from the federal universal service program.

# SURVEY OF STATES ON UNIVERSAL SERVICE

(as of 03/02/98)

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STATE	STATE PROGRAM TODAY?	WIRELESS CONTRIBUTE?	AMOUNT	CURRENT DOCKETS	DESCRIPTION
ARIZONA	Yes	Yes	0.1345 / Trunk	R-0000-97-308	7/2 Commission adopted federal discount mechanism for schools & libraries.
CALIFORNIA	Yes	Yes	6% (total of 4 surcharges)		<ul style="list-style-type: none"> <li>1/19 Cellular Assoc. filed Applic. for Rehearing of order demanding interest on two surcharges collected but not remitted.</li> <li>12/16 ULTS surcharge reduced from 3.2 to 2.4%. Relay Service surcharge reduced from 0.36 to 0.25%</li> </ul>
COLORADO	Yes	Yes	% of Retail Revenue	97R-043 95-R-558T 97M-063T 90M-766T	<ul style="list-style-type: none"> <li>Docket addresses rule changes for eligibility and administering the high cost fund and making adjustments to certain 1998 payments.</li> </ul>
HAWAII	No	No		7702	<ul style="list-style-type: none"> <li>2/17 - PUC sponsored bill to codify plan to implement state program - includes all telecoms.</li> <li>Cost phase near completion, \$15-30M is cost range.</li> <li>PUC adopted Telecom discounts for libraries &amp; schools.</li> </ul>
IDAHO	No	—	—	—	<ul style="list-style-type: none"> <li>Cost model prehearing conf. held 1/8/98.</li> <li>Cost models &amp; testimony filed 2/17</li> <li>Rebuttal 3/2 hearings scheduled for 3/8 &amp; 3/9.</li> <li>Legislation including wireless pending</li> </ul>
ILLINOIS	No	—	—	—	Workshop was held 2/2/98.
INDIANA	No	—	—	40785	Hearings to be scheduled before anticipated implementation of 7/98.
IOWA	No	—	—		As of 2/17 no action.
KANSAS	Yes	Yes	9.1% - 14%	94-GIMT-478-GIT 97-GIMT-754-GIT	<ul style="list-style-type: none"> <li>2/5 H.2802 would freeze existing surcharge until Jan. 1, 2000 - bill could be amended to change existing law.</li> <li>2/4 Supreme Court stayed implementation of annual increase in surcharge but has yet to rule on appeal of Court of Appeals decision.</li> <li>w/o 1/26 Senate Commerce Committee held hearings; concern about the overfunding inequities of the program.</li> </ul>



# SURVEY OF STATES ON UNIVERSAL SERVICE

(as of 03/02/98)

STATE	STATE PROGRAM TODAY?	WIRELESS CONTRIBUTE?	AMOUNT	CURRENT DOCKETS	DESCRIPTION
KENTUCKY	No	—	—	Admin Case 360 TBD	Hearing scheduled for March 3 to address the cost recovery models.
MICHIGAN	No	—	—	—	<ul style="list-style-type: none"> <li>As of 2/17, PSC expected to open docket any day.</li> </ul>
MINNESOTA	Yes	No	—	—	<ul style="list-style-type: none"> <li>SF 2718 and companion, HF 3064 introduced which would add wireless to the funding of the State's Telephone Assistance Plan &amp; directs the MPUC to implement a state USF by Dec. 31, 2000.</li> <li>Wireless was recently amended out of SF 2718</li> </ul>
MISSOURI	No	No	—	TO-97-367	<ul style="list-style-type: none"> <li>PSC adopted rules establishing a universal service fund. Local &amp; Long distance required to support.</li> <li>PSC will open separate docket to address details on assessments, disbursements, eligibility requirements, support levels.</li> </ul>
MONTANA	No	—	Will be based on percentage of retail revenue.	Docket 97.6.97 Order #5985	<ul style="list-style-type: none"> <li>2/10 Costing workshop conducted.</li> <li>S.89 passed 4/22/97: allows PSC to establish USF if needed and require all carriers to contribute. established program for discounts to schools, libraries, etc.</li> </ul>
NEBRASKA	No	—	—	—	<ul style="list-style-type: none"> <li>No action since LB686 passed authorizing PSC to establish USF with wireless included.</li> </ul>
NEVADA	No	—	—	97-508	<ul style="list-style-type: none"> <li>3/23 Comments due on US funding cost studies.</li> <li>2/9 Docket on costing methodology continuing.</li> <li>10/22 Wireless carriers filed comments urging no change to code or procedures which currently exclude wireless</li> </ul>
N. MEXICO	Yes	No	—	97-246	<ul style="list-style-type: none"> <li>2/9 Wireless carriers monitoring US West Telecom Bill to ensure no amendments to impose surcharge obligation on wireless.</li> <li>1/13 SouthwestCo/BAMS filed testimony "CMRS not a substitute".</li> <li>11/97 Wireless carriers met with Gov's Leg Team</li> </ul>

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# SURVEY OF STATES ON UNIVERSAL SERVICE

(as of 03/02/98)

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STATE	STATE PROGRAM TODAY?	WIRELESS CONTRIBUTE?	AMOUNT	CURRENT DOCKETS	DESCRIPTION
N. DAKOTA	No	—	—	Docket PU-439-96-149	ND Regulatory Reform Review Commission has met on the creation of a state USF; legislation may be required.
OHIO	No	Not Yet	—	Case No. 97632-TP-COI	As of 2/17 no action. PUCO is expected to initiate a proceeding any day (PUCO's local comp order states all telecoms, including wireless, to contribute).
OKLAHOMA	Yes	Yes	2.5% of Intrastate Revenue	RM 96-15 Rules issued 3/31/97	<ul style="list-style-type: none"> <li>• First payment due 3/16/98.</li> <li>• As of 2/23 CMRS Carriers submitting work papers.</li> </ul>
OREGON	Yes	Yes	\$.35	Order No. 97-489	PUC adopted a rule that requires \$.35 per wireless instrument & allows wireless to apply for ETC status.
S. DAKOTA*	No	—	—	—	—
TEXAS	Yes	Yes	Not yet determined	TRD 97-10677	PUC adopted rules implementing the state universal service law. Hearing set for March 23 to determine the size of the fund.
UTAH	No	—	—	—	H.71 passed _____: authorizes universal service fund with wireless to contribute.
WASHINGTON	Yes	No	—	—	<ul style="list-style-type: none"> <li>• SB6046 passed _____: authorizes universal service fund to be developed.</li> <li>• WUTC has asked legislature for authority to extend USF to nonreg telecom providers.</li> </ul>
WISCONSIN	Yes	No	—	Docket 1-AG166	<ul style="list-style-type: none"> <li>• 2/21 Comments filed in Rulemaking.</li> </ul>
WYOMING	Yes	Yes	1%	—	<ul style="list-style-type: none"> <li>• 1/28/98 Hearing regarding cost models.</li> <li>• 5/20 PSC approved assessment of 1%, effective 7/1/97.</li> </ul>

4-5

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

1420 S.W. Arrowhead Rd, Topeka, Kansas 66604  
913-273-3600

### Comments on S.B. 666 - Telecommunications Issues

By Mark Tallman, Director of Governmental Relations, Kansas Association of School Boards

Also Representing:     United School Administrators  
                              Schools for Quality Education  
                              USD 501 (Topeka)  
                              USD 500 (Kansas City)  
                              Kansas Education Coalition

The State of Kansas, as well as the federal government, has adopted the goal of providing public schools with access to appropriate telecommunications technology. We recognize that the methods of achieving this goal is subject to evaluation and revision. Circumstances, as well as technologies, change. But as the Legislature considers changes in its telecommunications policies, we believe the goal of high quality school-based access must be continued.

The quality of a student's education should not be limited or diminished because of where the student lives. This is the goal of school finance policies; it should also be a goal of telecommunications policies. Affordable access to the Internet and systems for distance learning opportunities not only enhance the quality of education; they can also make delivery of a quality education more affordable and efficient. The Internet dramatically increases access to learning resources far beyond any school's printed library; distance learning can provide curriculum offerings far beyond what most schools can provide on site; and both can strengthen staff development.

We recognize that there are different ways of providing services. But we believe that the State must make a commitment to provide these services to schools a part of any telecommunications policy. If the a process is put in place to review and amend this policy, we believe representatives of educational institutions should be a part of that process.

Thank you for your consideration.

Senate Commerce Committee

Date 3-25-98

Attachment # 5

*"Employee Owned & Customer Driven"*

Crop Quest, Inc.  
P.O. Box 1715 • 1204 Frontview • Dodge City, KS 67801  
Phone: (316) 225-2233 • FAX: (316) 225-3199 • www.cropquest.com

Senator Brownlee:

Crop Quest is a regional crop consulting firm that operates in 5 of the plains states. We currently have 85 full time agronomist serving the agriculture community in these areas. Each of the agronomist vehicles are equipped with a cellular phone and an SMR unit for dispatch only. Of these 85 agronomist we currently have 62 that reside in Kansas and use cellular carriers that operate in Kansas.

In 1997 fiscal year Crop Quest spent \$61,217 in pretax dollars on cellular communications in Kansas so we could offer our customers the type of service they expect from us. We paid \$9,301 state and federal taxes on our cellular service. Of this \$9,301 Crop Quest made contributions to the KUSF of \$5,368. This is an average of 7.87 per phone per month. Crop Quest finds this additional tax burden unacceptable.

I understand the charge on our land line carriers. The additional funds are to be used to off set the cost of intrastate long distance. I do not understand the reasoning behind the KUSF assessment in regards to the wireless carriers in Kansas. I have contacted the carriers and they have told me they will not receive any monies from the fund and more importantly that Crop Quest will not see any reduction in monthly access of long distance charges.

I also have a problem with House Bill No.2728 in regards to New Section 11 -c- that basically says "information on what is paid into and who receives monies is not subject to any provisions of the Kansas open records act and shall be considered confidential and proprietary." I feel that if Crop Quest is the entity that is paying into the fund they should have the right to know the status of the monies in this fund! Why is this tax any different than other taxes paid? How can Crop Quest know if the money we are paying to our carriers is actually being paid into the fund?

Crop Quest is not opposed to a reasonable monthly tax on our cell phones in order to help fund rural telecommunication in Kansas. A number of our agronomist and clients live in areas of Kansas that are serviced by rural LEC'S. I feel something in the range of \$1.00 to \$2.00 per phone per month would be more reasonable.

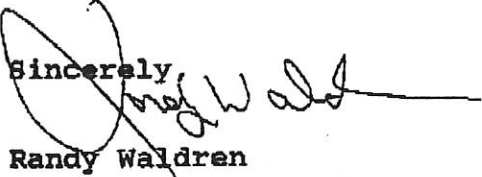
Senate Commerce Committee

Date 3-25-98

Attachment # 6-1 thru 6-2

In the past month Crop Quest has also been charged a .35 to .43 per phone per month by our cellular carriers for the Federal Universal Service Fund. The carriers indicate that these funds will go towards helping rural schools and libraries to have access to the Internet. Is not a portion of the 7.87 per phone per month we are currently paying to the KUSF being used for the same purpose?

Sincerely,



Randy Waldren

# Maize Unified School District 266

201 South Park

Maize, KS 67101

PH 316-722-0614

FAX 316-722-8538

**SUPERINTENDENT  
OF SCHOOLS**

*Dr. Craig Elliott*

**BOARD OF EDUCATION**

*Joni Garcia*

President

*Dave Shank*

Vice President

*Dr. Ron Fisher*

*Rich Gillispie*

*Bruce Nicholson*

*Richard Stuverson*

*Doug Wright*

*Martbel Ford*

Clerk

*Vickie Bolton*

Treasurer

**ASSISTANT**
**SUPERINTENDENT**

*Mike Meler*

*James L. Baker*

Transportation/Facilities

*Teresa San Martin*

Curriculum/Instruction

**DIRECTORS**

*Steve Williams*

Business Affairs

*Trd. Plzantier*

Facilities

*Julie Hickey*

Food Service

*Amber Pike*

Public Information

*Sherry Bever*

Technology

*Norma Crusinbery*

Transportation

*Gary Cundiff*

7-12 Athletics

**MISSION STATEMENT:**

*The mission of the Maize Public Schools is to ensure that all students have the opportunity for a quality education which will enable them to develop attitudes, knowledge and experience necessary to reach their potential for becoming responsible and productive members of society.*

To: Senate Commerce Committee  
Senator Alicia Salisbury, Chairman

From: Sherry Bever *SB*

Date: 3/20/98

Re: For hearings on Senate Bill #666 on March 23, 1998

I am not available to testify in person in regard to Senate Bill #666 so I am submitting written information for your review. This bill is an act concerning the telecommunications act eliminating enhanced universal service mandates; authorizing the state corporation commission to examine the cost of intrastate switched access and to make certain adjustments to the Kansas universal service fund.

As a school district we are in the process of providing distance learning opportunities to our staff and students. I have enclosed a copy of the contract issued to the Maize USD 266 school district by Southwestern Bell (SWB) for Broadband Educational Video Service. The rates presented for connectivity are at a rate of \$2390 per month. Prior to October 1, the rates were \$1155 per month, an increase of over 100%. In addition, we are required to sign a 5-year contract, which eliminates negotiation of service costs for a relatively long time period considering the rapid changes in technology. SWB is the only choice available as a provider of this service in our area.

We were not in a position to enter into contract prior to October 1, 1997. We are implementing a classroom this fall and will be prepared to receive and offer courses to area schools the fall of 1999. These cost increases need to be addressed in helping our schools provide the best opportunities for learning in our society.

Since tax dollars will be paying for this service, SWB needs to provide help to school districts in connecting to a distance learning network. Please consider this information in reviewing this Senate Bill #666.

**"Quality Education for Young People"**

Senate Commerce Committee

Date *3-25-98*

Attachment # *7-1 thru 7-2*



**Southwestern Bell Telephone**

Retention Period: Active Plus 5 Years

**Agreement For Specialized Service or Arrangement**

Case Number 97-CKS-85702

This agreement is entered into by and between Southwestern Bell Telephone Company (hereinafter "Seller") and Maize USD 266 (hereinafter "Buyer"), for the provision of the service (hereinafter "Service").

1. Seller will install and maintain (enter description of service being sold and service locations): Broadband Educational Video Service. One (1) classroom interface installed at 11600 W 45th Street N, Maize, KS, used solely for not-for-profit educational applications. Service is provided via digital ATM (Asynchronous Transfer Mode) facilities.  
 Seller agrees to provide Service for a term of 60 months commencing on the date testing by Seller is complete and the service is available for use by the Buyer. Seller will give Buyer at least five (5) days advance notice, by telephone, of test date. At no additional charge, Seller will, at Buyer's request, cooperatively test at the time of installation the parameters applicable to the Service as specified in this Agreement. All test results will be made available to Buyer upon request. Buyer's failure to participate in the test shall not delay commencement of the term of this Agreement.
2. Seller will use its best effort to install and test the Service to meet the Buyer's requested service date of August 1, 1998.
3. (a) Buyer agrees to pay Seller, during the above term, a monthly recurring charge of \$ 2,390.00 and at the commencement of said term a one-time non-recurring charge of \$ 1,000.00. These rates (\_\_\_ will; X will not) be subject to Seller initiated increases during said term. The rates will be subject to any order of the Federal Communications Commission (FCC), state regulatory commissions, or any other applicable governmental regulatory authority.  
 (b) In the event that the Service is terminated by the Buyer prior to the end of the term of this Agreement, Buyer agrees to pay Seller full payment based on the number of months remaining on the contract times Seller's last authorized monthly rate discounted by the Seller's Annuity factor discount rate as stated in the General Exchange Tariff, Section 20, at the time of termination.
4. Alteration by the Buyer of any technical parameter specified for the Service, without the prior written permission of Seller, shall terminate this Agreement and Buyer will be subject to the termination charges described in paragraph 2 (b) above.
5. The network interface for the Service shall be determined by Seller within the building where the Service is terminated, and Buyer may attach its equipment at this point.
6. (a) Seller shall exclusively repair and maintain the Service up to and including the network interface. Maintenance of the Service shall be at Seller's expense, except if required because of negligent or willful conduct of the Buyer, its subsidiaries or affiliates, or any other person using the Buyer's facilities which are connected to Seller's facilities, or because of the equipment provided by Buyer or by any other person on Buyer's behalf, which equipment is connected to Seller's facilities on Buyer's side of the network interface. In such event, Buyer shall pay Seller cost of labor and material as determined in accordance with Seller's cost accounting system. Provided, however, if the charge for any work operation is specified in a Seller Tariff filed with the governmental regulatory commission with jurisdiction over the subject matter, the work operation will be billed at the Tariff rate.  
 (b) Buyer shall assure that the equipment it provides does not cause hazards to Seller's personnel, or cause damage to or require modification of Seller's equipment or facilities. Buyer shall provide to Seller access to the Buyer's originating and terminating locations of the Service as described in paragraph 1, above.
7. Seller and Buyer will take reasonable precautions in the location, construction and maintenance of their facilities so as not to interfere with the Service or facilities furnished by the other.
8. No subsequent Agreement between Buyer and Seller concerning the Service shall be effective or binding unless it is made in writing. No representation, promise, inducement or statement of intention has been made by either party which is not embodied herein.
9. Notices under this agreement shall be addressed as follows:  
 Buyer: **Sherry Bever, Technology Director**  
           201 South Park  
           Maize, KS 67101  
 Seller: **Curtis F. Ghormley, Area Manager**  
           154 N. Broadway, Room 162  
           Wichita, KS 67202  
 The effective date of any notice under this Agreement shall be the date of receipt by the addressee.
10. The failure of either party to give notice of default, or to strictly enforce or insist upon compliance with any of the terms or conditions of this Agreement, the waiver of any term or condition of this Agreement, or the granting of an extension of time for performance shall not constitute the permanent waiver of any term or condition of this Agreement. This Agreement and each of its provisions shall remain at all times in full force and effect until modified by the parties in writing.
11. This Agreement is subject and subordinate to the rules and regulations of the FCC, state regulatory commissions or any other applicable governmental regulatory authority.
12. Neither party shall be liable to the other or any third parties claiming through or for such party for indirect, special or consequential damages even if advised of the possibility of such damages.
13. Neither party shall assign or otherwise transfer its rights or obligations under this Agreement except with the prior written consent of the other, said consent not to be unreasonably withheld; provided, however, each party shall have the right to assign this Agreement to any present or future affiliate, subsidiary or parent corporation of such party, without securing the consent of the other party and may grant to any such assignee the same rights and privileges such assigning party enjoys under this Agreement. Any attempted assignments not assented to in the manner as prescribed herein shall be void.
14. In the event either party shall be in breach or default of any terms or conditions of this Agreement, and said breach or default shall continue for a period of ten (10) days after the giving of written notice to the defaulting party thereof, or if said breach or default is not capable of being cured within said 10 day period and the defaulting party shall not commence the cure within said period or shall not thereafter diligently prosecute to completion the curing of such breach or default, then in addition to all other rights and remedies at law or in equity, the non-defaulting party shall have the right to cancel this Agreement.

**RAU CONSTRUCTION CO.**

SINCE 1870



913-642-6000/FAX 913-642-6031

9650 NALL AVENUE

OVERLAND PARK, KANSAS 66207-2979

March 24, 1998

Honorable Karin Brownlee  
Kansas Senate  
State Capitol Building - Room 143N  
Topeka, Kansas 66612

Dear Senator Brownlee:

I appreciate your willingness to consider legislation concerning the "Universal Fund" as it relates to Telecommunications in the State of Kansas. Before I give you some specifics about how this "tax" has effect my company, please let me tell you some background about Rau Construction. We are a mid-sized general contractor in Overland Park, Kansas. There is an office staff of 9 people and 25 to 35 workers on projects in the field. We will have 7 to 9 projects under construction at any time. Besides the office, each jobsite will have phone(s), and sometimes fax lines. We also have 13 cellular phones used by key personnel in the company.

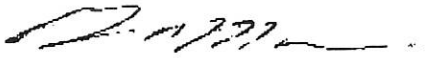
We have evaluated our phone bills and would like to pass along to you some information. Based on our cellular phone usage in 1997 after this tax was assessed on our bills, our annualized cost would be approximately \$1,500 per year. Based on an average of 25 phone (land lines) for the office and construction projects, this tax would have an annualized cost of \$600 per year. The total cost of this tax would be approximately \$2,100 per year for Rau Construction Company. This is a very significant number considering that the 1996 Kansas State Income Tax liability for Rau Construction was approximately \$2,300!

One other comparison which I feel needs to be made is the tax as it relates to cellular phone lines. If the tax on these lines was the same as land lines (\$2.00/month/line), our tax for cellular phones would be \$312 per year. This is compared to our projected annualized cost of \$1,500 per year.

Again, thank you for your willingness to consider legislation concerning the "Universal Fund". Hopefully you can use this time to consider the detriment of this tax to businesses (as well as residents). I hope you consider repealing this tax, or modifying how it is collected on cellular phones. If this tax must remain in place, please consider a \$2/line/month charge for cellular phones which is similar to what is collected for land lines.

Very truly yours,

RAU CONSTRUCTION COMPANY



Gus Rau Meyer  
President



Mary Birch - Overland Park Chamber of Commerce

Senate Commerce Committee

Date 3-25-98

Attachment # 8



## PRINCIPALS

Terry Rupe  
Jewell High School  
Randall Middle School

Ron Kelley  
Jewell Elementary School

## Unified School District No. 279

303 Buffalo, P. O. Box 20  
Jewell, Kansas 66949  
(913) 428-3217

Mr. Ron Kelley, *Superintendent*  
Norma Conn, *Clerk* James Thiessen, *Treasurer*

## SCHOOL BOARD

Leon Boden  
Chuck Gibson  
Robin Griffeth  
Wayne McElroy

Mike Nulty  
Von Taylor  
Allan Wanklyn

March 20, 1998

To: Senator Karin Brownlee

Ref: Impact of Telecommunication Rates on Distance Learning Network

Dear Senator,

I am writing to you to address the impact that excessive telecommunication charges are having on schools.

We are a small rural school district in north central Kansas that is committed to providing our students with access to the latest instructional opportunities. Many of these opportunities are provided over various sources of telecommunications networks and providers.

The Distance Learning Network (DLN) is an interactive, live telecommunication broadcast where one teacher can serve many students in several schools at one time. This system holds the opportunity for small rural schools to share resources, time, and teachers.

Our local Board of Education is committed to implementing the DLN system in the near future. We have recently finished construction on a new technology laboratory with a DLN studio.

However, the rates being charged by telecommunication companies for schools to access the lines is prohibitive. At the current charges, we can hire a new teacher cheaper than we can access the fiber-optic lines for DLN. These excessive rates are preventing rural schools from providing our students with access to their "lane" on the information super highway.

Your help would make a difference for our kids!



Senate Commerce Committee

Date 3-25-98

Attachment # 9

Choices & resources for people who are blind or low vision



**Envision**<sup>SM</sup>

**PLEASE REPLY TO: Michael Byington, Director**  
**Envision Governmental Affairs Office**  
**P. O. Box 1063**  
**Topeka, Kansas 66601**  
**(785) 575-7477 (local office and voice mail)**  
**(785) 233-2539 (FAX)**  
***mbyington@delphi.com or mbyingto@ink.org***

March 23, 1998

TO: SENATE COMMERCE COMMITTEE

RE: SENATE BILL 666

I represent Envision, A State-wide not-for-profit agency serving persons who are blind and low vision with rehabilitation, employment and advocacy services. I rise in opposition to this Bill.

There is no question that the Kansas Universal Service Fund needs to have some adjustments made in the interest of universal fairness. Whether the adjustments proposed in this Bill are the correct ones is a matter I shall not address. I am sure plenty of other conferees will have points to make on this subject.

Envision has proposed changes in the definition of "enhanced universal services." We think some additions are needed in this category. IT WOULD BE A COUNTERPRODUCTIVE TRAGEDY, HOWEVER, IF ENHANCED SERVICES, AND A DEFINITION THEREOF, WERE TO BE ELIMINATED FROM LAW.

801 E: Senate Commerce Committee

Tel 31 Date *3-25-98*

Web Attachment # *10-1 thru 10-3*

We can not turn back the clock! The types of services discussed in the current definition of enhanced universal services are the services which will give the next generation of Kansas students the ability to be competitive in the job market. It is a death warrant for our rural communities not to have the same access to these enhancements as are available in the city. The idea that only wealthy persons should have access to enhanced services will lead to an increasing gap where the haves will have more and more and accumulate more wealth while the have-nots will have less and less opportunity to become competitive, and will thus become a greater burden on society.

Please do not do away with defined "enhanced universal services."  
AMEND THE DEFINITION INSTEAD.

Remove the strikeouts of the current definition, and at the end of line six on page three, add the following sentence, "Enhanced universal service also means the provision of equipment to ensure that persons who have disabilities, and who request enhanced universal services, will be able to access and utilize the other enhanced universal services defined in this section to an extent providing equally effective communications to those available to non-disabled individuals."

In support of this amendment, let me assure the Committee that I am not requesting this addition because Kansas citizens who are blind and low vision, or citizens who have other types of disabilities, are looking for a hand-out, or things to make their lives more interesting while they sit at home and become couch potatoes. Making the equipment described above readily available in the homes and communities of persons who have disabilities will give these persons much greater opportunities to work, support themselves, and contribute as tax payers. Without access to enhanced universal services, persons who have disabilities will essentially become second class citizens in the workplace to an even greater extent than is currently the case.

It hurts to admit that we have not solved this problem yet, but we have not. We know from number crunching done with the data from the 1990 census that 74% of all working aged blind and legally blind persons are unemployed. Statistics provided by the President's Committee on Employment of the Disabled suggest that the unemployment figures for

other groups of severely disabled people are nearly as high. Even with all of the efforts we are putting into solving this problem today, jobs of the present and future depend more and more on being able to utilize enhanced universal telecommunications services. At present, we are providing equipment which allows people with disabilities to access and utilize enhanced services only on a spotty, sporadic, catch as catch can basis. Such equipment is not readily available in the community, and current funding sources which exist to help provide it, usually kick in, if at all, only after the person who has a disability already has a job offer. Then, quite often, the person who has the disability has to be able to learn to use the equipment, as well as do the job, very quickly in order to have a chance to keep the job. The failures of this distribution system result in those very high unemployment figures mentioned above.

I promise, I will not ever be in front of this Committee or any other asking for a handout so that the constituency of disabled people I represent can get out of working. I do come before you, however, to ask with conviction, for the tools which can make the next generation of blind or otherwise disabled people more competitive and productive. I ask for such tools, or enhancements, to be readily, universally available in our communities, not just given to those disabled people who know how to jump through enough special hoops in order to get them. Equally effective communication, whether it is the universal service of voice to voice, or an enhanced service of data-stream to ears or fingers, will only dependably work if it is available UNIVERSALLY.

Thank you for considering my remarks. Please amend this bill as requested here. If you can not do so at this time, then please kill the bill.



Testimony of  
Richard Lawson  
Sprint State Executive - Kansas and Missouri  
Before the Senate Commerce Committee  
March 24, 1998

Good morning Madam Chairwoman and members of the committee. My name is Richard Lawson. I manage the regulatory and legislative activities for Sprint in Kansas and Missouri. My task today is to explain why Sprint opposes Senate Bill 666 and to offer an alternative approach to addressing concerns about the Kansas Universal Service Fund size and assessments.

First, I think it is important for me to note that the views I express are not those of just a local telephone company or just a long distance company. Sprint is both. While Sprint provides local service to about 127,000 access lines in Kansas, Sprint is also a long distance company providing service to millions of customers across America and internationally. I only explain this because I think it helps to understand the unique voice we have. The positions we take on regulatory and legislative issues come only after vigorous debate internally in an attempt to balance the legitimate business interests of our diverse units and especially the interests of the customers they serve. What I offer today is, I believe, a balanced solution to the concerns about the state's universal service fund.

As I said at the beginning, Sprint must oppose Senate Bill 666. Simply put, the proposal goes much too far at this time. I have heard people remark that it is too late in this legislative session to give sufficient debate to these weighty issues. While this may be true, this is not my principle concern. My

Senate Commerce Committee

Date 3-25-98

Attachment # 11-1 thru 11-7

main concern is that Senate Bill 666 would undo everything this legislature accomplished just two short years ago when it passed the Kansas Telecommunications Act of 1996.

Sprint was engaged in that debate in 1996. We vigorously opposed the first version of the legislation, which went much too far in deregulating local exchange carriers and would have discriminated against long distance carriers and shackled would-be competitors in the local market. We argued at the time that consumers must be protected by regulation where they have no or few choices in suppliers. At the same time, we argued that regulation should be made less burdensome and less costly and that local exchange carriers should have some degree of flexibility in how they price their services and generally run their businesses as they prepare themselves for competition. Two years ago we advocated an approach to regulation that encourages competition. And that's what I believe this legislature ultimately achieved in the Kansas Act.

Is the Act perfect? Of course not. Are there things Sprint would change more to its liking? Certainly. But on the whole, the Kansas Act serves the interests of Sprint's local *and* long distance customers and the people of Kansas generally. Sprint continues to believe the Kansas Act is sound public policy and urges the legislature not to make dramatic changes at this time. In truth, sufficient time has not passed to see if the Act will bear the fruit we hoped for just two years ago. And if we discover that mistakes were made, or if conditions in our industry change, Sprint will be among the first to urge you to amend the law.

How does Senate Bill 666 go too far?

First, the proposal would return us to a system of using revenues from one service to hold prices artificially low for local service. The Kansas Act recognized that for competition to work, prices have to reflect the economic costs of providing a service. That's why the act called for reducing intrastate access charges by removing implicit subsidies that have kept local rates well below the actual costs of providing the service. The Act gave the Kansas

Corporation Commission the authority to increase local rates to cover more of the actual costs of providing the service. The Act also gave the Commission the Kansas Universal Service Fund as a tool to offset lost subsidies and thus ensure that local rates will remain affordable. Senate Bill 666 calls for determining the actual cost of providing access services and lowering rates to those levels. But the proposal also calls for the Commission to use revenues from other unspecified services to make up lost subsidies, rather than telling the Commission that the policy of this state is to establish cost-based rates that are necessary for competition to work.

Second, the Senate Bill 666 would return us to a system of rate-of-return regulation. While the proposal permits the Commission to consider and adopt other forms of regulation, the emphasis would be to return to regulating costs. In contrast, the Act emphasizes capping and constraining the price of essential services and providing local exchange carriers the incentive to be as efficient as possible and to grow revenues through the introduction of new products and services.

Third, and more generally, the proposal would greatly diminish the stability and predictability that the Act offers consumers and telecommunications providers. The Act embodies these principles:

- ◆ That prices should more closely reflect costs;
- ◆ That regulation should be streamlined and focus on reasonable prices for essential services;
- ◆ That efficiency and innovation are to be rewarded.

In contrast, the proposal would return us to a system of implicit subsidies and burdensome regulation.

Sprint urges this Committee to reject Senate Bill 666 and, instead, to take a more incremental approach to modifying the Kansas Act, if you ultimately determine that modification is necessary.

As I understand the issue, you are concerned that increased assessments for the Kansas Universal Service Fund may burden consumers. I think your concerns can be addressed without fundamentally altering the policies you established in the Act. The course of action is obvious – (1) stabilize or even reduce the current size of the fund and the current level of assessment and (2) reduce future pressure on the fund.

To stabilize the current size of the fund, the Commission staff has said that no action is required. The Commission staff has said that the current level of funding is sufficient to reduce intrastate access charges to the level of corresponding interstate access rates this year. In addition, the staff has said that the current funding assessment can be reduced by a modest amount, even with the access reductions. If the Commission takes these actions, there would be no need for the legislature to amend the law to control growth of the KUSF as it relates to access charge reductions. Such action by the Commission would achieve the Act's goal of reducing intrastate access charges to interstate levels. And the goal would be achieved one year earlier than the Act's deadline for doing so. Of course, the Commission would not be prohibited from reducing intrastate access rates even further.

If you choose to reduce the size of the KUSF and the related assessment, Sprint encourages you to consider a proposal that has been made by the Kansas Telecommunications Coalition (Southwestern Bell and non-Bell local exchange carriers other than Sprint). The Coalition is proposing that rates be rebalanced. Specifically, the Coalition proposes that current local exchange carrier assessments for the fund become adjustments to local service rates. In Sprint's case, this would mean that its \$1.35 surcharge for the fund would simply become a part of its local rate. Sprint and other local exchange carriers would also collect some lower surcharge to remit to the fund. According to the



Coalition, the effect would be to reduce the KUSF from \$77 million to \$32 million and the assessment from 10% to 4%. The Act would still require that intrastate access charges be reduced, with the goal being at least interstate levels.

Sprint finds the Coalition's proposal attractive for two reasons – (1) long distance customers would pay less explicit and implicit subsidies to keep local services rates artificially low and (2) additional local service costs would be recovered through local service rates.

Regarding future growth of the fund, the principal driver is the cost of deploying enhanced universal service capabilities. Sprint agrees with the parties (the Commission staff, the Coalition, AT&T, and the Consumer Utilities Ratepayers Board, among others) that have proposed curtailing or slowing down the mandated deployment of enhanced universal service capabilities. Sprint believes that most of the costs associated with deploying these capabilities is uneconomic. In Sprint's case, we will spend about \$80 million from now until July 1, 2001, to comply with the Act's mandate. Sprint forecasts that customer demand may recoup less than 25% of the costs of enhanced universal service. As a result, Sprint must rely on general rate increases or the KUSF for cost recovery.

Sprint believes that market demand – not government mandates – should dictate where and when investments are made. In addition, current law prescribes the deployment of specific technologies and services that may be quickly displaced by even more advanced technologies and services. For these reasons, Sprint supports amending the Act to remove the enhanced universal service requirements.

However, it is not Sprint's role to set public policy for the State of Kansas. If the legislature concludes that deployment of enhanced universal service is in the public interest, Sprint recommends that the legislature consider the Coalition's proposal that would require deployment for certain of the more expensive services (ISDN and broadband) only after a legitimate request has

been made for the service. In addition, local carriers should be given a reasonable period of time to construct the necessary facilities.

I thank you for your attention, and I welcome your questions.



## ENHANCED UNIVERSAL SERVICE CAPABILITIES

### The recovery of uneconomic investments

- ✓ Sprint expects to spend about \$80 during the next three years to deploy Enhanced Universal Service capabilities.
- ✓ Sprint estimates that customer demand will recover less than 25% of the costs of Enhanced Universal Service.
- ✓ The costs not recovered through customer demand for advanced services must be recovered either through a general rate increase or the Kansas Universal Service Fund.
- ✓ Sprint estimates that it will need to recover about \$12 million annually from the KUSF as the result of having to deploy Enhanced Universal Service.

