

## HOUSE BILL No. 2201

By Committee on Utilities and Telecommunications

2-1

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1 AN ACT concerning telecommunications; relating to the state corporation  
2 commission, regulation; concerning the Kansas universal service fund,  
3 eligibility and disbursements; establishing the telecommunications  
4 study committee; amending K.S.A. 66-1,188, 66-2002, 66-2003 and  
5 66-2007 and K.S.A. 2012 Supp. 66-1,187, 66-2005, 66-2006, 66-2008  
6 and 66-2009 and repealing the existing sections.

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

9 New Section 1. (a) There is hereby established the  
10 telecommunications study committee. The committee shall study  
11 telecommunications issues and ensure that the public policy of Kansas, as  
12 expressed in K.S.A. 66-2001, and amendments thereto, is maintained, with  
13 priority being given to advancing statewide telecommunications  
14 infrastructure.

15 (b) The study committee shall be composed of 13 voting members, as  
16 follows: (1) The chairperson, vice-chairperson and ranking minority  
17 member of the senate committee on utilities;

18 (2) the chairperson, vice-chairperson and ranking minority member of  
19 the house committee on utilities and telecommunications;

20 (3) two members appointed by the president of the senate;

21 (4) one member appointed by the minority leader of the senate;

22 (5) three members appointed by the speaker of the house of  
23 representatives; and

24 (6) one member appointed by the minority leader of the house of  
25 representatives.

26 (c) Members shall be appointed to the study committee on or before  
27 August 1, 2013 for a term ending on June 30, 2016. The chairperson of the  
28 senate committee on utilities and the chairperson of the house committee  
29 on utilities and telecommunications shall serve as co-chairpersons of the  
30 committee. The co-chairpersons shall determine the procedures for calling  
31 a meeting to order and conducting committee business. The first meeting  
32 of the study committee shall be called by the co-chairpersons of the  
33 committee following the conclusion of the 2013 regular session of the  
34 Kansas legislature. The committee shall have the authority to meet at any  
35 time and at any place within the state on the call of the co-chairpersons.

36 (d) The provisions of the acts contained in article 12 of chapter 46 of

1 the Kansas Statutes Annotated, and amendments thereto, applicable to  
2 special committees shall apply to the telecommunications study committee  
3 to the extent that the same do not conflict with the specific provisions of  
4 this act applicable to the study committee.

5 (e) A quorum of the telecommunications study committee shall be  
6 seven members. All actions of the committee shall be taken by a majority  
7 of all of the members of the committee.

8 (f) Any vacancy in the membership of the committee shall be filled  
9 by appointment in the same manner prescribed by this section for the  
10 original appointment.

11 (g) The telecommunications study committee shall provide an annual  
12 report to the senate committee on utilities and the house committee on  
13 utilities and telecommunications. The committee shall make  
14 recommendations and may introduce such legislation as it deems  
15 necessary in performing the committee's duties. The committee shall issue  
16 a final report and policy recommendations for telecommunications to the  
17 senate committee on utilities, the senate committee on ways and means,  
18 the house committee on utilities and telecommunications and the house  
19 committee on appropriations prior to January 31, 2016.

20 (h) Members of the telecommunications study committee shall  
21 receive compensation, travel expenses and subsistence expenses as  
22 provided in K.S.A. 75-3212, and amendments thereto, when attending  
23 meetings of the committee.

24 (i) The staff of the office of the revisor of statutes, the legislative  
25 research department and the division of legislative administrative services  
26 shall provide such assistance as may be requested by the study committee.

27 (j) The provisions of this section shall expire on June 30, 2016.

28 Sec. 2. K.S.A. 2012 Supp. 66-1,187 is hereby amended to read as  
29 follows: 66-1,187. As used in this act:

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

32 (b) "CLASS services" means custom local area signaling services,  
33 which include automatic callback, automatic recall, calling number  
34 identification, selective call rejection, selective call acceptance, selective  
35 call forwarding, distinctive ringing and customer originated trace.

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

37 (d) "Dialing parity" means that a person that is not an affiliate of a  
38 local exchange carrier is able to provide telecommunications services in  
39 such a manner that customers have the ability to route automatically,  
40 without the use of any access code, their telecommunications to the  
41 telecommunications carrier of the customer's designation from among two  
42 or more telecommunications carriers, including such local exchange  
43 carrier.

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

4 (f) "ISDN" means integrated services digital network which is a  
5 network and associated technology that provides simultaneous voice and  
6 data communications over a single communications channel.

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

8 (h) "Local exchange carrier" means any telecommunications public  
9 utility or its successor, *not to include an electing carrier*, providing  
10 switched telecommunications service within any local exchange service  
11 area, as approved by the commission on or before January 1, 1996.  
12 However, with respect to the Hill City exchange area, in which multiple  
13 carriers were certified by the commission prior to January 1, 1996, the  
14 commission's determination, subject to any court appeals, of which  
15 authorized carrier shall serve as the carrier of last resort will determine  
16 which carrier shall be deemed the local exchange carrier for that exchange.

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

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

23 (k) "Operating area" means:

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

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

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

33 (m) "Telecommunications carrier" means a corporation, company,  
34 individual, association of persons, their trustees, lessees or receivers that  
35 provides a telecommunications service, including, but not limited to,  
36 interexchange carriers and competitive access providers, but not including  
37 local exchange carriers certified before January 1, 1996, ~~except for~~  
38 ~~electing carriers.~~

39 (n) "Telecommunications public utility" means any public utility, as  
40 defined in K.S.A. 66-104, and amendments thereto, which owns, controls,  
41 operates or manages any equipment, plant or generating machinery, or any  
42 part thereof, for the transmission of telephone messages, as defined in  
43 K.S.A. 66-104, and amendments thereto, or the provision of

1 telecommunications services in or throughout any part of Kansas.

2 (o) "Telecommunications service" means the provision of a service  
3 for the transmission of telephone messages, or two-way video or data  
4 messages.

5 (p) "Universal service" means telecommunications services and  
6 facilities which include: single party, two-way voice grade calling; stored  
7 program controlled switching with vertical service capability; E-911  
8 capability; tone dialing; access to operator services; access to directory  
9 assistance; and equal access to long distance services.

10 (q) "Enhanced universal service" means telecommunications services,  
11 in addition to those included in universal service, which shall include:  
12 Signaling system seven capability, with CLASS service capability; basic  
13 and primary rate ISDN capability, or the technological equivalent; full-  
14 fiber interconnectivity, or the technological equivalent, between central  
15 offices; and broadband capable facilities to: All schools accredited  
16 pursuant to K.S.A. 72-1101 et seq., and amendments thereto; hospitals as  
17 defined in K.S.A. 65-425, and amendments thereto; public libraries; and  
18 state and local government facilities which request broadband services.

19 Sec. 3. K.S.A. 66-1,188 is hereby amended to read as follows: 66-  
20 1,188. The commission is given full power, authority and jurisdiction to  
21 supervise and control the ~~telecommunications public utilities~~ *local*  
22 *exchange carriers*, as defined in K.S.A. 66-1,187, *and amendments*  
23 *thereto*, doing business in Kansas, and is empowered to do all things  
24 necessary and convenient for the exercise of such power, authority and  
25 jurisdiction. *Notwithstanding the provisions of any other section, the*  
26 *commission shall have no jurisdiction to supervise or control*  
27 *telecommunications carriers or electing carriers except as provided for in*  
28 *subsections (y) and (z) of K.S.A. 66-2005, and amendments thereto.*

29 Sec. 4. K.S.A. 66-2002 is hereby amended to read as follows: 66-  
30 2002. The commission shall:

31 (a) Adopt a definition of "universal service" and "enhanced universal  
32 service," pursuant to subsections (p) and (q) of K.S.A. 66-1,187, *and*  
33 *amendments thereto*;

34 (b) authorize any requesting telecommunications carrier to provide  
35 local exchange or exchange access service pursuant to subsection (a) of  
36 K.S.A. 66-2003, *and amendments thereto*;

37 (c) on or before July 1, 1996, the commission shall initiate a  
38 proceeding to adopt guidelines to ensure that all telecommunications  
39 carriers and local exchange carriers preserve and enhance universal  
40 service, protect the public safety and welfare, ensure the continued quality  
41 of telecommunications services and safeguard the rights of consumers;

42 (d) review, approve and ensure compliance with network  
43 infrastructure plans submitted by local exchange carriers pursuant to

1 K.S.A. 66-2005, *and amendments thereto*;

2 (e) review, approve and ensure compliance with regulatory plans  
3 submitted by local exchange carriers pursuant to K.S.A. 66-2005, *and*  
4 *amendments thereto*;

5 (f) on or before January 1, 1997, establish, pursuant to K.S.A. 66-  
6 2006, *and amendments thereto*, the Kansas lifeline service program,  
7 hereinafter referred to as the KLSP;

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

15 (h) on or before January 1, 1997, establish the Kansas universal  
16 service fund pursuant to K.S.A. 66-2008, *and amendments thereto*,  
17 hereinafter referred to as the KUSF, and make various determinations  
18 relating to the implementation of such fund;

19 (i) authorize all local exchange carriers to provide internet access as  
20 outlined in K.S.A. 66-2011, *and amendments thereto*, and report on the  
21 status of the implementation provisions to specified legislative  
22 committees;

23 (j) review the federal act and adopt additional standards and  
24 guidelines as necessary for enforcing slamming restrictions;

25 (k) commencing on June 1, 1997 and periodically thereafter, review  
26 and, to the extent necessary, modify the definition of universal service and  
27 enhanced universal service, and KUSF, taking into account advances in  
28 telecommunications and information technology and services;

29 (l) on or before January 1, 1997, initiate and complete a proceeding to  
30 establish minimum quality of service standards which will be equally  
31 applicable to all local exchange carriers ~~and telecommunications carriers~~  
32 in the state; any local exchange carrier ~~or telecommunications carrier~~  
33 violating such standards, for each occurrence, shall forfeit and pay a  
34 penalty of not less than \$100, nor more than \$5,000; violations of such  
35 standards shall be enforced in accordance with provisions of K.S.A. 66-  
36 138 and 66-177, and amendments thereto; and

37 (m) on January 1, 2000, prepare and submit a report to the legislature.  
38 The report shall include an analysis of the manner in which the regulatory  
39 framework has served to: Protect consumers; safeguard universal service;  
40 ensure that consumers have reaped the benefits of competition; maximize  
41 the use of market forces; and promote development of the  
42 telecommunications infrastructure throughout the state. The commission  
43 also shall recommend if and how the KUSF should be modified.

1       Sec. 5. K.S.A. 66-2003 is hereby amended to read as follows: 66-  
2 2003. (a) On or before September 1, 1996, the commission shall begin to  
3 authorize applications for certificates of public convenience and necessity  
4 to provide local exchange or exchange access service.

5       (b) A local exchange carrier *and an electing carrier* shall be required  
6 to offer to allow reasonable resale of its retail telecommunications services  
7 and to sell unbundled local loop, switch and trunk facilities to  
8 telecommunications carriers, as required by the federal act and pursuant to  
9 negotiated agreements or a statement of terms and conditions generally  
10 available to telecommunications carriers.

11       (c) To encourage telecommunications carriers to build or install  
12 telecommunications facilities, including, but not limited to, local loop and  
13 switching facilities in the state, and except as otherwise negotiated by a  
14 local exchange carrier *or electing carrier* and a telecommunications  
15 carrier, the prices for such unbundled facilities shall be determined by the  
16 commission, on a nondiscriminatory basis, to permit the recovery of costs  
17 and a reasonable profit. The commission shall determine wholesale rates  
18 on the basis of retail rates charged subscribers for the telecommunications  
19 service requested, excluding the portion thereof attributable to any  
20 marketing, billing, collection and other costs, that will be avoided by the  
21 local exchange carrier. The commission shall approve resale restrictions  
22 proposed by any local exchange carrier *or electing carrier* which prohibit  
23 resellers from purchasing retail telecommunications services offered by  
24 that local exchange carrier *or electing carrier* to one category of customers  
25 and reselling those retail services to a different category of customers.  
26 Upon a finding that such practice would be anticompetitive, anticonsumer  
27 or detrimental to the quality of the network infrastructure, the commission  
28 may prohibit the resale of retail services at a rate lower than the wholesale  
29 rate. The commission shall approve any other reasonable limitation on  
30 resale to the extent permitted by the federal act.

31       (d) As provided in the federal act, in order for telecommunications  
32 carriers to provide local exchange service and exchange access service,  
33 local exchange carriers *and electing carriers* shall provide the means to  
34 interconnect their respective customers, including, but not limited to, toll  
35 access, access to operator services, access to directory listings and  
36 assistance, and access to E-911 service.

37       (e) Customers shall be accorded number portability and local dialing  
38 parity in conformance with national standards to the extent economically  
39 and technically feasible. Terms and prices for interconnection, unbundled  
40 facilities and resale of existing retail telecommunications services shall be  
41 negotiated in good faith between the parties. During the period from the  
42 135<sup>th</sup> through the 160<sup>th</sup> day after the date on which an incumbent local  
43 exchange carrier *or electing carrier* receives a request for negotiation

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

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

10 Sec. 6. K.S.A. 2012 Supp. 66-2005 is hereby amended to read as  
11 follows: 66-2005. (a) Each local exchange carrier shall file a network  
12 infrastructure plan with the commission on or after January 1, 1997, and  
13 prior to January 1, 1998. Each plan, as a part of universal service  
14 protection, shall include schedules, which shall be approved by the  
15 commission, for deployment of universal service capabilities by July 1,  
16 1998, and the deployment of enhanced universal service capabilities by  
17 July 1, 2003, as defined pursuant to subsections (p) and (q) of K.S.A. 66-  
18 1,187, and amendments thereto, respectively. With respect to enhanced  
19 universal service, such schedules shall provide for deployment of ISDN, or  
20 its technological equivalent, or broadband facilities, only upon a firm  
21 customer order for such service, or for deployment of other enhanced  
22 universal services by a local exchange carrier. After receipt of such an  
23 order and upon completion of a deployment plan designed to meet the firm  
24 order or otherwise provide for the deployment of enhanced universal  
25 service, a local exchange carrier shall notify the commission. The  
26 commission shall approve the plan unless the commission determines that  
27 the proposed deployment plan is unnecessary, inappropriate, or not cost  
28 effective, or would create an unreasonable or excessive demand on the  
29 KUSF. The commission shall take action within 90 days. If the  
30 commission fails to take action within 90 days, the deployment plan shall  
31 be deemed approved. This approval process shall continue until July 1,  
32 2000. Each plan shall demonstrate the capability of the local exchange  
33 carrier to comply on an ongoing basis with quality of service standards to  
34 be adopted by the commission no later than January 1, 1997.

35 (b) In order to protect universal service, facilitate the transition to  
36 competitive markets and stimulate the construction of an advanced  
37 telecommunications infrastructure, each local exchange carrier shall file a  
38 regulatory reform plan at the same time as it files the network  
39 infrastructure plan required in subsection (a). As part of its regulatory  
40 reform plan, a local exchange carrier may elect traditional rate of return  
41 regulation or price cap regulation. Carriers that elect price cap regulation  
42 shall be exempt from rate base, rate of return and earnings regulation and  
43 shall not be subject to the provisions of K.S.A. 66-136 and 66-127, and

1 amendments thereto, except as otherwise provided in such sections.  
2 However, the commission may resume such regulation upon finding, after  
3 a hearing, that a carrier that is subject to price cap regulation has: violated  
4 minimum quality of service standards pursuant to subsection (l) of K.S.A.  
5 66-2002, and amendments thereto; been given reasonable notice and an  
6 opportunity to correct the violation; and failed to do so. Regulatory reform  
7 plans also shall include:

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

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

24 (c) Subject to the commission's approval, all local exchange carriers  
25 shall reduce intrastate access charges to interstate levels as provided  
26 herein. Rates for intrastate switched access, and the imputed access portion  
27 of toll, shall be reduced over a three-year period with the objective of  
28 equalizing interstate and intrastate rates in a revenue neutral, specific and  
29 predictable manner. The commission is authorized to rebalance local  
30 residential and business service rates to offset the intrastate access and toll  
31 charge reductions. Any remaining portion of the reduction in access and  
32 toll charges not recovered through local residential and business service  
33 rates shall be paid out from the KUSF pursuant to K.S.A. 66-2008, and  
34 amendments thereto. Each rural telephone company shall adjust its  
35 intrastate switched access rates on March 1 of each odd-numbered year to  
36 match its interstate switched access rates, subject to the following:

37 (1) Any reduction of a rural telephone company's cost recovery due to  
38 reduction of its ~~interstate~~ *intrastate* access revenue shall be recovered from  
39 the KUSF;

40 (2) any portion of rural telephone company reductions in intrastate  
41 switched access rates which would result in an increase in KUSF recovery  
42 in a single year which exceeds .75% of intrastate retail revenues used in  
43 determining sums which may be recovered from Kansas



1 telecommunications customers pursuant to subsection (a) of K.S.A. 66-  
2 2008, and amendments thereto, shall be deferred until March 1 of the next  
3 following odd-numbered year; and

4 (3) no rural company shall be required at any time to reduce its  
5 intrastate switched access rates below the level of its interstate switched  
6 access rates.

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

27 (e) For purposes of determining sufficient KUSF support, an  
28 affordable rate for local exchange service provided by a rural telephone  
29 company subject to traditional rate of return regulation shall be determined  
30 as follows:

31 (1) For residential service, an affordable rate shall be the arithmetic  
32 mean of residential local service rates charged in this state in all exchanges  
33 served by rural telephone companies and in all exchanges in rate groups 1  
34 through 3 as of February 20, 2002, of all other local exchange carriers, but  
35 not including electing carriers, weighted by the number of residential  
36 access lines to which each such rate applies, and thereafter rounded to the  
37 nearest quarter-dollar, subject to the following provisions:

38 (A) If a rural telephone company's present residential rate, including  
39 any separate charge for tone dialing, is at or above such weighted mean,  
40 such rate shall be deemed affordable prior to March 1, 2007.

41 (B) If a rural telephone company's present residential rate, including  
42 any separate charge for tone dialing, is below such average: (i) Such rate  
43 shall be deemed affordable prior to March 1, 2003; (ii) as of March 1,

1 2003, and prior to March 1, 2004, a rate \$2 higher than the company's  
2 present residential monthly rate, but not exceeding such weighted mean,  
3 shall be deemed affordable; (iii) as of March 1, 2004, and prior to March  
4 1, 2005, a rate \$4 higher than the company's present residential monthly  
5 rate, but not exceeding such weighted mean, shall be deemed affordable;  
6 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher  
7 than the company's present residential monthly rate, but not exceeding  
8 such weighted mean, shall be deemed affordable.

9 (C) As of March 1, 2007, and each two years thereafter, an affordable  
10 residential service rate shall be the weighted arithmetic mean of local  
11 service rates determined as of October 1 of the preceding year in the  
12 manner hereinbefore specified, except that any increase in such mean  
13 exceeding \$2 may be satisfied by increases in a rural telephone company's  
14 residential monthly service rate not exceeding \$2 per year, effective March  
15 1 of the year when such mean is determined, with the remainder applied at  
16 the rate of \$2 per year, but not to exceed the affordable rate.

17 (2) For single line business service at any time, an affordable rate  
18 shall be the existing rate or an amount \$3 greater than the affordable rate  
19 for residential service as determined under provision (1) of this subsection,  
20 whichever is higher, except that any increase in the business service  
21 affordable rate exceeding \$2 may be satisfied by increases in a rural  
22 telephone company's business monthly service rate not exceeding \$2 per  
23 year, effective March 1 of the year when such rate is determined, with the  
24 remainder applied at the rate of \$2 per year, but not to exceed the  
25 affordable rate.

26 (3) Any flat fee or charge imposed per line (3) on all residential service  
27 or single line business service, or both, other than a fee or charge for  
28 contribution to the KUSF or imposed by other governmental authority,  
29 shall be added to the basic service rate for purposes of determining an  
30 affordable rate pursuant to this subsection.

31 (4) Not later than March 1, 2003, tone dialing shall be made available  
32 to all local service customers of each rural telephone company at no charge  
33 additional to any increase in the local service rate to become effective on  
34 that date. The amount of revenue received as of March 1, 2002, by a rural  
35 telephone company from the provision of tone dialing service shall be  
36 excluded from reductions in the company's KUSF support otherwise  
37 resulting pursuant to this subsection.

38 (5) A rural telephone company which raises one or more local service  
39 rates on application made after February 20, 2002, and pursuant to  
40 subsection (b) of K.S.A. 66-2007, and amendments thereto, shall have the  
41 level of its affordable rate increased by an amount equal to the amount of  
42 the increase in such rate.

43 (6) Upon motion by a rural telephone company, the commission may

1 determine a higher affordable local residential or business rate for such  
2 company if such higher rate allows the company to provide additional or  
3 improved service to customers, but any increase in a rural telephone  
4 company's local rate attributable to the provision of increased calling  
5 scope shall not be included in any subsequent recalculation of affordable  
6 rates as otherwise provided in this subsection.

7 (7) A uniform rate for residential and single line business local  
8 service adopted by a rural telephone company shall be deemed an  
9 affordable rate for purposes of this subsection if application of such  
10 uniform rate generates revenue equal to that which would be generated by  
11 application of residential and business rates which are otherwise deemed  
12 affordable rates for such company under this subsection.

13 (8) The provisions of this subsection relating to the implementation of  
14 an affordable rate shall not apply to rural telephone companies which do  
15 not receive KUSF support. When recalculating affordable rates as  
16 provided in this subsection, the rates used shall include the actual rates  
17 charged by rural companies that do not receive KUSF support.

18 (f) For regulatory reform plans in which price cap regulation has been  
19 elected, price cap plans shall have three baskets: Residential and single-  
20 line business, including touch-tone; switched access services; and  
21 miscellaneous services. The commission shall establish price caps at the  
22 prices existing when the regulatory plan is filed subject to rate rebalancing  
23 as provided in subsection (c) for residential services, including touch-tone  
24 services, and for single-line business services, including touch-tone  
25 services, within the residential and single-line business service basket. The  
26 commission shall establish a formula for adjustments to the price caps. The  
27 commission also shall establish price caps at the prices existing when the  
28 regulatory plan is filed for the miscellaneous services basket. The  
29 commission shall approve any adjustments to the price caps for the  
30 miscellaneous service basket, as provided in subsection (g).

31 (g) On or before January 1, 1997, the commission shall issue a final  
32 order in a proceeding to determine the price cap adjustment formula that  
33 shall apply to the price caps for the local residential and single-line  
34 business and the miscellaneous services baskets and for sub-categories, if  
35 any, within those baskets. In determining this formula, the commission  
36 shall balance the public policy goals of encouraging efficiency and  
37 promoting investment in a quality, advanced telecommunications network  
38 in the state. The commission also shall establish any informational filing  
39 requirements necessary for the review of any price cap tariff filings,  
40 including price increases or decreases within the caps, to verify such caps  
41 would not be exceeded by any proposed price change. The adjustment  
42 formula shall apply to the price caps for the local residential and single-  
43 line business basket after December 31, 1999, and to the miscellaneous

1 services basket after December 31, 1997. The price cap formula, but not  
2 actual prices, shall be reviewed every five years.

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

9 (i) The price cap for the switched access service basket shall be set  
10 based upon the local exchange carrier's intrastate access tariffs as of  
11 January 1, 1997, except for any revenue neutral rate rebalancing  
12 authorized in accordance with subsection (c). Thereafter, the cap for this  
13 basket shall not change except in connection with any subsequent revenue  
14 neutral rebalancing authorized by the commission under subsection (c).

15 (j) The price caps for the miscellaneous services basket shall be  
16 adjusted annually after December 31, 1997, based on the adjustment  
17 formula determined by the commission under subsection (g).

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

29 (l) A local exchange carrier may offer promotions within an exchange  
30 or group of exchanges. All promotions shall be approved by the  
31 commission and may not be unjust, unreasonably discriminatory or unduly  
32 preferential.

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

39 (n) On or before July 1, 1997, the commission shall establish  
40 guidelines for reducing regulation prior to price deregulation of price cap  
41 regulated services in the miscellaneous services basket, the switched  
42 access services basket, and the residential and single-line business basket.

43 (o) Subsequent to the adoption of guidelines pursuant to subsection

1 (n), the commission shall initiate a petitioning procedure under which the  
2 local exchange carrier may request rate range pricing. The commission  
3 shall act upon a petition within 21 days, subject to a 30-day extension. The  
4 prices within a rate range shall be tariffed and shall apply to all customers  
5 in a nondiscriminatory manner in an exchange or group of exchanges.

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

24 (q)(1) Beginning July 1, 2006, price regulation of  
25 telecommunications services in the residential and single-line business  
26 service basket and the miscellaneous services basket for local exchange  
27 carriers subject to price cap regulation shall be as follows:

28 (A) Packages or bundles of services shall be price deregulated  
29 statewide, however the individual telecommunication service components  
30 of such packages or bundles shall remain available for purchase on an  
31 individual basis at prices subject to price cap regulation in any exchange in  
32 which the standards in subsection (q)(1)(B), (C) or (D) have not been met.  
33 If standards in subsection (q)(1)(B), (C) or (D) have been met, the  
34 individual telecommunication service components of such packages or  
35 bundles shall remain available for purchase on an individual basis and  
36 prices for packages or bundles shall not exceed the sum of the highest  
37 prices of the a la carte components of the package or bundle;

38 (B) in any exchange in which there are 75,000 or more local  
39 exchange access lines served by all providers, rates for all  
40 telecommunications services shall be price deregulated;

41 (C) in any exchange in which there are fewer than 75,000 local  
42 exchange access lines served by all providers, the commission shall price  
43 deregulate all business telecommunication services upon a demonstration

1 by the requesting local telecommunications carrier that there are two or  
2 more nonaffiliated telecommunications carriers or other entities, that are  
3 nonaffiliated with the local exchange carrier, providing local  
4 telecommunications service to business customers, regardless of whether  
5 the entity provides local service in conjunction with other services in that  
6 exchange area. One of such nonaffiliated carriers or entities shall be  
7 required to be a facilities-based carrier or entity and not more than one of  
8 such nonaffiliated carriers or entities shall be a provider of commercial  
9 mobile radio services in that exchange;

10 (D) in any exchange in which there are fewer than 75,000 local  
11 exchange access lines served by all providers, the commission shall price  
12 deregulate all residential telecommunication services upon a  
13 demonstration by the requesting local telecommunications carrier that  
14 there are two or more nonaffiliated telecommunications carriers or other  
15 entities, that are nonaffiliated with the local exchange carrier, providing  
16 local telecommunications service to residential customers, regardless of  
17 whether the entity provides local service in conjunction with other services  
18 in that exchange area. One of such nonaffiliated carriers or entities shall be  
19 required to be a facilities-based carrier or entity and not more than one of  
20 such nonaffiliated carriers or entities shall be a provider of commercial  
21 mobile radio services in that exchange;

22 (E) rates for lifeline services shall remain subject to price cap  
23 regulation;

24 (F) up to and continuing until July 1, 2008, rates for the initial  
25 residential local exchange access line and up to four business local  
26 exchange access lines at one location shall remain subject to price cap  
27 regulation. On and after July 1, 2008, the local exchange carrier shall be  
28 authorized to adjust such rates without commission approval by not more  
29 than the percentage increase in the consumer price index for all urban  
30 consumers, as officially reported by the bureau of labor statistics of the  
31 United States department of labor, or its successor index, in any one year  
32 period and such rates shall not be adjusted below the price floor  
33 established in subsection (k). Such rates shall not be affected by purchase  
34 of one or more of the following: Call management services, intraLATA  
35 long distance service or interLATA long distance service; and

36 (G) local exchange carriers shall offer a uniform price throughout  
37 each such exchange for services subject to price deregulation, under this  
38 subsection, including packages or bundles of services, except as provided  
39 in subsection (1) or as otherwise approved by the commission.

40 (2) For the purposes of this subsection:

41 (A) Any entity providing voice service shall be considered as a local  
42 telecommunications service provider regardless of whether such entity is  
43 subject to regulation by the commission;

1 (B) a provider of local telecommunications service that requires the  
2 use of a third party, unaffiliated broadband network or dial-up internet  
3 network for the origination of local voice service shall not be considered a  
4 local telecommunications service provider;

5 (C) telecommunications carriers offering only prepaid  
6 telecommunications service shall not be considered entities providing local  
7 telecommunications service.

8 (3) If the services of a local exchange carrier are classified as price  
9 deregulated under this subsection, the carrier may thereafter adjust its rates  
10 for such price deregulated services upward or downward as it determines  
11 appropriate in its competitive environment, with tariffs for such services  
12 deemed effective upon filing with the commission. Price deregulated  
13 services shall be subject to the price floor in subsection (k), and shall not  
14 be unreasonably discriminatory or unduly preferential within an exchange.

15 (4) The commission shall act upon a petition filed pursuant to  
16 subsection (q)(1)(C) or (D) within 21 days, subject to an extension period  
17 of an additional 30 days, and upon a good cause showing of the  
18 commission in the extension order, or within such shorter time as the  
19 commission shall approve. The commission shall issue a final order within  
20 the 21-day period or within a 51-day period if an extension order has been  
21 issued.

22 (5) The commission may resume price cap regulation of a local  
23 exchange carrier, deregulated under this subsection upon finding, after a  
24 hearing, that such carrier has: Violated minimum quality of service  
25 standards pursuant to subsection (1) of K.S.A. 66-2002, and amendments  
26 thereto; been given reasonable notice and an opportunity to correct the  
27 violation; and failed to do so.

28 (6) The commission on July 1, 2006, and on each date that any  
29 service is deregulated, shall record the rates of each service which has  
30 been price deregulated in each exchange.

31 (7) Prior to January 1, 2007, the commission shall determine the  
32 weighted, statewide average rate of nonwireless basic local  
33 telecommunications service as of July 1, 2006. Prior to January 1, 2007,  
34 and annually thereafter, the commission shall determine the weighted,  
35 average rate of nonwireless basic local telecommunications services in  
36 exchanges that have been price deregulated pursuant to subsection (q)(1)  
37 (B), (C) or (D). The commission shall report its findings on or before  
38 February 1, 2007, and annually thereafter to the governor, the legislature  
39 and each member of the standing committees of the house of  
40 representatives and the senate which are assigned telecommunications  
41 issues. The commission shall also provide in such annual report  
42 information on the current rates for services provided by all  
43 telecommunications carriers or other telecommunications service

1 providers regardless of the technology used to provide service in price  
2 deregulated exchanges, service offerings provided by all  
3 telecommunications carriers or other telecommunications service  
4 providers regardless of the technology used and available in price  
5 deregulated exchanges and the number of competitors in price deregulated  
6 exchanges including, but not limited to, facilities based carriers,  
7 commercial mobile radio service or broadband based service providers.

8 (8) For the purposes of this subsection:

9 (A) "Packages or bundles of services" means the offering of a local  
10 telecommunications service with one or more of the following, subscribed  
11 together, as one service option offered at one price, one or more call  
12 management services, intraLATA long distance service, interLATA long  
13 distance service, internet access, video services or wireless services.  
14 Packages or bundles of services shall not include only a single residential  
15 local exchange access line or up to four business local exchange access  
16 lines at one location and intraLATA long distance service or interLATA  
17 long distance service, or both;

18 (B) "local telecommunications service" means two-way voice service  
19 capable of being originated and terminated within the exchange of the  
20 local exchange telecommunications company seeking price deregulation of  
21 its services, regardless of the technology used to provision the voice  
22 service;

23 (C) "broadband network" means a connection that delivers services at  
24 speeds exceeding two hundred kilobits per second in both directions;

25 (D) "prepaid telecommunications service" means a local service for  
26 which payment is made in advance that excludes access to operator  
27 assistance and long distance service;

28 (E) "facilities based carrier" means a telecommunications carrier or  
29 entity providing local telecommunications service either wholly or  
30 partially over its own network. Facilities based carrier shall not include  
31 any radio communication services provider licensed by the federal  
32 communications commission to provide commercial mobile radio services;  
33 and

34 (F) "call management services" means optional telecommunications  
35 services that allow a customer to manage call flow generated over the  
36 customer's local exchange access line.

37 (r) (1) Upon complaint or request, the commission may investigate a  
38 price deregulated service.

39 (2) The commission shall resume price cap regulation of a service  
40 provided in any exchange area by placing it in the appropriate service  
41 basket, as approved by the commission, upon a determination by the  
42 commission that the conditions in subsection (q)(1)(C) or (D) are no  
43 longer satisfied in that exchange area.



1 (3) The commission shall resume price cap regulation of business  
2 services in any exchange meeting the conditions of subsection (q)(1)(B) by  
3 placing it in the appropriate service basket, as approved by the  
4 commission, upon a determination by the commission that the following  
5 condition is not met: There are at least two nonaffiliated  
6 telecommunications carriers or other entities, that are nonaffiliated with  
7 the local exchange carrier, providing local telecommunications service to  
8 business customers, regardless of whether the entity provides local service  
9 in conjunction with other services in that exchange area. One of such  
10 nonaffiliated carriers or entities shall be required to be a facilities-based  
11 carrier or entity and not more than one such nonaffiliated carriers or  
12 entities shall be a provider of commercial mobile radio services in that  
13 exchange.

14 (4) The commission shall resume price cap regulation of residential  
15 services in any exchange meeting the conditions of subsection (q)(1)(B) by  
16 placing it in the appropriate service basket, as approved by the  
17 commission, upon a determination by the commission that the following  
18 condition is not met: There are at least two or more nonaffiliated  
19 telecommunications carriers or other entities, that are nonaffiliated with  
20 the local exchange carrier, providing local telecommunications service to  
21 residential customers, regardless of whether the entity provides local  
22 service in conjunction with other services in that exchange area. One of  
23 such nonaffiliated carriers or entities shall be required to be a facilities-  
24 based carrier or entity and not more than one such nonaffiliated carriers or  
25 entities shall be a provider of commercial mobile radio services in that  
26 exchange.

27 (s) The commission shall require that for all local exchange carriers  
28 all such price deregulated basic intraLATA toll services be geographically  
29 averaged statewide and not be priced below the price floor established in  
30 subsection (k).

31 (t) Cost studies to determine price floors shall be performed as  
32 required by the commission in response to complaints. In addition,  
33 notwithstanding the exemption in subsection (b), the commission may  
34 request information necessary to execute any of its obligations under the  
35 act. In response to a complaint that a price deregulated service is priced  
36 below the price floor set forth in subsection (k), the commission shall issue  
37 an order within 60 days after the filing of the complaint unless the  
38 complainant agrees to an extension.

39 (u) A local exchange carrier may petition for individual customer  
40 pricing. The commission shall respond expeditiously to the petition within  
41 a period of not more than 30 days subject to a 30-day extension.

42 (v) No audit, earnings review or rate case shall be performed with  
43 reference to the initial prices filed as required herein.

1       ~~(w) Telecommunications carriers shall not be subject to price~~  
2 ~~regulation, except that: Access charge reductions shall be passed through~~  
3 ~~to consumers by reductions in basic intrastate toll prices; and basic toll~~  
4 ~~prices shall remain geographically averaged statewide. As required under~~  
5 ~~K.S.A. 66-131, and amendments thereto, and except as provided for in~~  
6 ~~subsection (c) of K.S.A. 66-2004, and amendments thereto,~~  
7 ~~telecommunications carriers that were not authorized to provide switched~~  
8 ~~local exchange telecommunications services in this state as of July 1,~~  
9 ~~1996, including cable television operators who have not previously offered~~  
10 ~~telecommunications services, must receive a certificate of convenience~~  
11 ~~based upon a demonstration of technical, managerial and financial~~  
12 ~~viability and the ability to meet quality of service standards established by~~  
13 ~~the commission. Any telecommunications carrier or other entity seeking~~  
14 ~~such certificate shall file a statement, which shall be subject to the~~  
15 ~~commission's approval, specifying with particularity the areas in which it~~  
16 ~~will offer service, the manner in which it will provide the service in such~~  
17 ~~areas and whether it will serve both business customers and residential~~  
18 ~~customers in such areas. Any structurally separate affiliate of a local~~  
19 ~~exchange carrier that provides telecommunications services shall be~~  
20 ~~subject to the same regulatory obligations and oversight as a~~  
21 ~~telecommunications carrier, as long as the local exchange carrier's affiliate~~  
22 ~~obtains access to any services or facilities from its affiliated local~~  
23 ~~exchange carrier on the same terms and conditions as the local exchange~~  
24 ~~carrier makes those services and facilities available to other~~  
25 ~~telecommunications carriers. The commission shall oversee~~  
26 ~~telecommunications carriers to prevent fraud and other practices harmful~~  
27 ~~to consumers and to ensure compliance with quality of service standards~~  
28 ~~adopted for all local exchange carriers and telecommunications carriers in~~  
29 ~~the state.~~

30       (x) ~~(+)~~ Any local exchange carrier with a majority of the carrier's  
31 local exchange access lines in the state price deregulated pursuant to  
32 subsection (q) may elect to no longer be regulated as a local exchange  
33 carrier and, notwithstanding any other provisions, upon such election shall  
34 instead be regulated as a telecommunications carrier, except as provided in  
35 this subsection. A local exchange carrier making such election shall be  
36 referred to as an "electing carrier." A local exchange carrier may make  
37 such election by providing the commission with at least 90 days' written  
38 notice of election. The notice of election shall include a verified statement  
39 that a majority of the carrier's local exchange access lines are price  
40 deregulated. Such notification shall include information regarding the  
41 number of access lines the carrier serves in each of the carrier's exchanges.  
42 Within 45 days of receipt of such a notification, the commission shall  
43 review the information concerning the carrier's local exchange access lines

1 and upon failure of the commission, within 45 days of receipt of the  
2 notification, to determine that a majority of such lines of the carrier are not  
3 price deregulated the commission shall designate the carrier as an electing  
4 carrier.

5 ~~(2) An electing carrier shall not be subject to price regulation and  
6 shall be subject to nondiscriminatory regulation by the commission in the  
7 same manner as and subject to no more regulation than other  
8 telecommunications carriers operating in the state, except that the carrier  
9 shall remain subject to:~~

10 ~~(A) The reasonable resale of retail telecommunications services, as  
11 well as unbundling and interconnection obligations as required by K.S.A.  
12 66-2003, and amendments thereto;~~

13 ~~(B) the requirements of subsection (c) concerning intrastate access  
14 charges;~~

15 ~~(C) the requirements of the KLSP, as required by K.S.A. 66-2006,  
16 and amendments thereto;~~

17 ~~(D) price cap regulation for lifeline services; and~~

18 ~~(E) shall remain eligible to receive KUSF funding.~~

19 (3) An electing carrier's rates for single residential or business local  
20 exchange access lines in its rural exchanges shall be no higher than the  
21 average of such rates for single residential or business local exchange  
22 access lines respectively in its urban exchanges.

23 (4) An electing carrier may elect to be relieved of the requirement to  
24 serve as carrier of last resort, as required by K.S.A. 66-2009, and  
25 amendments thereto, by providing written notification to the commission  
26 of the specific urban exchanges for which the electing carrier is electing to  
27 be relieved of carrier of last resort obligations, in the electing carrier's  
28 urban exchanges.

29 (5) Notwithstanding any other provision of law to the contrary, an  
30 electing carrier that notifies the commission that the electing carrier  
31 chooses to be relieved of carrier of last resort obligations in specific urban  
32 exchanges or any local exchange carrier that does not have a carrier of last  
33 resort obligation in a specific exchange shall not be eligible for KUSF  
34 funding for carrier of last resort obligations, as required by K.S.A. 66-  
35 2009, and amendments thereto, or high cost support in those specific  
36 exchanges, but would remain eligible for KUSF support for Kansas lifeline  
37 service program purposes.

38 (6) Notwithstanding the provisions of this subsection (x), an electing  
39 carrier shall offer single residential local exchange access lines in the  
40 electing carrier's exchanges.

41 (7) For the purposes of this subsection:

42 (A) "Facilities based carrier" means a telecommunications carrier or  
43 entity providing local telecommunications service either wholly or

1 ~~partially over its own network. Facilities based carrier shall not include~~  
2 ~~any radio communication services provider licensed by the federal~~  
3 ~~communications commission to provide commercial mobile radio services;~~

4 ~~(B) "rural exchange" means any exchange in which there are fewer~~  
5 ~~than 6,000 local exchange access lines served by the electing carrier and~~  
6 ~~all facilities based carriers; and~~

7 ~~(C) "urban exchange" means any exchange in which there are 75,000~~  
8 ~~or more local exchange access lines served by the electing carrier and all~~  
9 ~~facilities based carriers.~~

10 (y) Notwithstanding the provisions of this act, *and subject to any*  
11 *applicable exemption from interconnection generally*, a  
12 telecommunications carrier is entitled to interconnection with a *local*  
13 *exchange carrier* or an electing carrier to transmit and route voice traffic  
14 between both the telecommunications carrier and the *local exchange*  
15 *carrier* or electing carrier regardless of the technology by which the voice  
16 traffic is originated by and terminated to a consumer. The commission  
17 shall afford such telecommunications carrier all substantive and procedural  
18 rights available to such carrier regarding interconnection pursuant to 47  
19 U.S.C. §§ 251 and 252 as in effect on the effective date of this act.  
20 *Nothing in this subsection shall be construed to confer jurisdiction upon*  
21 *the commission for services that are exempt from or otherwise not subject*  
22 *to commission jurisdiction.*

23 (z) (1) *Telecommunications carriers and electing carriers shall not be*  
24 *subject to regulation by the commission for the provision of*  
25 *telecommunications services, except that the commission shall retain the*  
26 *authority and jurisdiction to authorize applications, suspension or*  
27 *cancellation of certificates of public convenience and necessity to provide*  
28 *local exchange or exchange access service in the state of Kansas, but the*  
29 *commission may not use this certification authority to regulate*  
30 *telecommunications carriers or electing carriers beyond the jurisdiction*  
31 *provided the commission in this subsection.*

32 (2) *Nothing in this section shall be construed to restrict the*  
33 *commission's authority and jurisdiction to:*

34 (A) *Carry out the commission's obligations established in 47 U.S.C.*  
35 *§§ 251 and 252; and*

36 (B) *implement rules delegated to the state by the federal*  
37 *communications commission or federal law unless specifically prohibited*  
38 *by state law; or*

39 (C) *regulate intrastate switched access rates, terms and conditions,*  
40 *including the implementation of federal law concerning intercarrier*  
41 *compensation.*

42 (3) *The commission shall retain the authority and jurisdiction to:*

43 (A) *Carry out the commission's obligations pursuant to the*

1 *underground utilities damage prevention act, K.S.A. 66-1801 et seq., and*  
2 *amendments thereto, and the overhead power line accident prevention act,*  
3 *K.S.A. 66-1709 et seq., and amendments thereto;*

4 *(B) require the reasonable resale of retail telecommunications*  
5 *services, as well as unbundling and interconnection obligations as*  
6 *required by K.S.A. 66-2003, and amendments thereto;*

7 *(C) administer the Kansas lifeline service program pursuant to*  
8 *K.S.A. 66-2006, and amendments thereto; and*

9 *(D) administer contributions to the Kansas universal service fund*  
10 *pursuant to subsection (a) of K.S.A. 66-2008, and amendments thereto.*

11 Sec. 7. K.S.A. 2012 Supp. 66-2006 is hereby amended to read as  
12 follows: 66-2006. (a) On or before January 1, 1997, the commission shall  
13 establish the Kansas lifeline service program, hereinafter referred to as the  
14 KLSP. The purpose of the KLSP shall be to promote the provision of  
15 universal service by local exchange carriers to persons with low income.  
16 The KLSP shall be targeted to maintain affordable rates for residential  
17 local exchange service. The commission shall approve a means test to  
18 determine the eligibility of customers for such low-income assistance.

19 ~~(b) Every local exchange carrier providing residential local~~  
20 ~~telecommunications services that have been price deregulated in this state~~  
21 ~~pursuant to subsection (q) of K.S.A. 66-2005, and amendments thereto,~~  
22 ~~shall, and any other A local exchange carrier, electing carrier or~~  
23 ~~telecommunications carrier may, automatically enroll its existing and~~  
24 ~~eligible customers in the KLSP, subject to the following:~~

25 (1) On or before January 1, 2009, the department of social and  
26 rehabilitation services, hereinafter referred to as the department, or any  
27 other successor state agency, may provide each participating carrier a list  
28 of those persons residing in the state that participate in programs which  
29 also qualify such persons to receive KLSP services. This listing shall  
30 consist of those persons who have consented to the release of their  
31 personal information to the KLSP carrier to receive KLSP services and  
32 include at a minimum the name, address and telephone number of such  
33 persons. Every six months thereafter, the department may provide to each  
34 participating carrier an updated list of persons consenting to such KLSP  
35 services. The secretary of the department may adopt rules and regulations  
36 to coordinate the acquisition and provision of the information to be  
37 provided pursuant to this subsection (b).

38 (2) The participating carrier shall use the list for the sole purpose of  
39 identifying those of its existing customers to whom it is currently  
40 providing telephone service.

41 (3) The participating carrier shall discontinue providing KLSP  
42 services to an eligible customer if the eligible customer notifies the  
43 participating carrier that the customer wishes to discontinue receiving

1 those services.

2 (4) Each participating carrier receiving customer information  
3 pursuant to this subsection (b) shall execute a confidentiality agreement  
4 with the department prior to receiving non-public customer eligibility  
5 information. The agreement will specify that the customer information is  
6 released by the department to the participating carrier for the sole purpose  
7 of providing KLSP to eligible customers, and that the information cannot  
8 be released or used by the carrier for any other purpose unless authorized  
9 by the customer or otherwise required by law.

10 (c) To generate and facilitate participation in the lifeline service  
11 program, provide choice for Kansas consumers, and allow collection of  
12 federal lifeline program reimbursements, the KCC shall approve a wireline  
13 (non-CMRS) facilities-based telephone service provider's application for  
14 eligible telecommunications carrier, hereinafter referred to as the ETC,  
15 designation in a nonrural service area for the purpose of receiving low-  
16 income federal universal service fund support for participation in the  
17 lifeline service program, for the area equal to the applicant provider's own  
18 service area, provided the applicant provider meets all other ETC  
19 eligibility requirements. The commission, however, may condition that  
20 such designation remain consistent with the guidelines of the federal  
21 program.

22 (d) *Telecommunications carriers and electing carriers may cease*  
23 *participation in the KLSP at any time upon provision of 90-days prior*  
24 *written notification to the commission. Telecommunications carriers and*  
25 *electing carriers participating in the KLSP shall be eligible to receive*  
26 *KUSF support for KLSP services, but shall not be subject to any*  
27 *regulation by the commission based on such participation other than that*  
28 *provided for in subsection (z) of K.S.A. 66-2005, and amendments thereto.*

29 Sec. 8. K.S.A. 66-2007 is hereby amended to read as follows: 66-  
30 2007. (a) All local exchange carriers ~~and telecommunications carriers~~, *not*  
31 *including electing carriers*, providing long distance service in Kansas shall  
32 reduce their statewide averaged basic long distance rates to reflect the net  
33 reductions in access charges; however, such carriers shall be allowed to  
34 increase long distance rates to reflect the KUSF funding requirements set  
35 forth in K.S.A. 66-2008, *and amendments thereto.*

36 (b) The commission shall approve, upon not more than 120 days'  
37 notice, any basic local exchange price increases that in the aggregate in  
38 any one year are \$1.50 or less per access line per month, that are proposed  
39 by any rural telephone company which is subject to traditional rate of  
40 return regulation and that comply with the requirements of this section.  
41 Any such proposed price increases shall be presumed reasonable and not  
42 subject to commission investigation and review if the rural telephone  
43 company has followed the notice requirements set forth below. However,

1 the commission shall initiate an investigation if more than 15% of the  
2 subscribers subject to the rate increase request such an investigation within  
3 60 days of the date of distribution of the notice of the proposed change.  
4 Upon filing such an application for a rate increase, any rural telephone  
5 company seeking expedited approval of the proposed rate under this  
6 section shall send a notice to its subscribers by regular mail, which may be  
7 included with regular subscriber mailings. Such mailings shall include the  
8 name, mailing address and telephone number of the commission. The  
9 notice shall include a schedule of the proposed local exchange rates, the  
10 effective date of the rates and a description of the procedures by which the  
11 subscribers can petition the commission to determine the reasonableness of  
12 the proposed rates, including a provision specifically stating that protest by  
13 15% or more of subscribers subject to the proposed rate increase would  
14 require the commission to initiate an investigation concerning the  
15 reasonableness of the proposed rate increase.

16 (c) The commission shall have the right to investigate and determine  
17 the reasonableness of an increase in local exchange rates and charges  
18 under subsection (b) by any rural telephone company within one year of  
19 the time local exchange rates or charges are increased. If the commission  
20 determines such rate or charge increases are unreasonable, the commission  
21 shall have the authority to order a rate hearing and, after such hearing,  
22 shall have the authority to rescind all or any portion of the increases found  
23 to be unreasonable.

24 Sec. 9. K.S.A. 2012 Supp. 66-2008 is hereby amended to read as  
25 follows: 66-2008. On or before January 1, 1997, the commission shall  
26 establish the Kansas universal service fund, hereinafter referred to as the  
27 KUSF.

28 (a) The commission shall require every telecommunications carrier,  
29 telecommunications public utility and wireless telecommunications service  
30 provider that provides intrastate telecommunications services and, to the  
31 extent not prohibited by federal law, every provider of interconnected VoIP  
32 service, as defined by 47 C.F.R. § 9.3 (October 1, 2005), to contribute to  
33 the KUSF on an equitable and nondiscriminatory basis. Any  
34 telecommunications carrier, telecommunications public utility, wireless  
35 telecommunications service provider or provider of interconnected VoIP  
36 service which contributes to the KUSF may collect from customers an  
37 amount equal to such carrier's, utility's or provider's contribution, but such  
38 carrier, provider or utility may collect a lesser amount from its customer.

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

42 (b) Pursuant to the federal act, distributions from the KUSF shall be  
43 made in a competitively neutral manner to qualified telecommunications

1 public utilities, telecommunications carriers and wireless  
2 telecommunications providers, that are deemed eligible both under  
3 subsection (e)(1) of section 214 of the federal act and by the commission.

4 (c) *Beginning January 1, 2014:*

5 (1) *Annual distributions from the KUSF for a local exchange carrier*  
6 *subject to price cap regulation pursuant to K.S.A. 66-2005, and*  
7 *amendments thereto, shall be capped at 90% of KUSF support the carrier*  
8 *received for the 12-month period ending February 28, 2013, not including*  
9 *KUSF support for Kansas lifeline service program purposes, pursuant to*  
10 *K.S.A. 66-2006, and amendments thereto.*

11 (2) *Local exchange carriers subject to price cap regulation pursuant*  
12 *to K.S.A. 66-2005, and amendments thereto, shall not receive KUSF*  
13 *support for any residential or business lines within an exchange that the*  
14 *commission has granted price deregulation pursuant to subsections (q)(B),*  
15 *(C), (D) or (E) of K.S.A. 66-2005, and amendments thereto, except for*  
16 *areas within any census block in such an exchange in which there is no*  
17 *wireline carrier providing local exchange access lines that does not*  
18 *receive KUSF support, not including KUSF support for Kansas lifeline*  
19 *service program purposes pursuant to K.S.A. 66-2006, and amendments*  
20 *thereto, for such access lines.*

21 (3) *Local exchange carriers subject to price cap regulation pursuant*  
22 *to K.S.A. 66-2005, and amendments thereto, shall receive the same per*  
23 *line, per month KUSF support as established in the April 13, 2000 notice*  
24 *in commission docket numbers 99-GIMT-326-GIT and 00-GIMT-236-GIT*  
25 *subject to the cap percentage in subsection (c)(1), not including KUSF*  
26 *support for Kansas lifeline service program purposes pursuant to K.S.A.*  
27 *66-2006, and amendments thereto, except that the amount shall be*  
28 *reduced by any funding received by such carrier from the federal*  
29 *communication commission's connect America fund II for the same*  
30 *household, if feasible, or for the same census block.*

31 (4) *The commission shall discontinue the use of the "identical*  
32 *support" rule and shall cap all competitive eligible telecommunications*  
33 *carriers' KUSF high cost support as of March 1, 2013, and beginning*  
34 *March 1, 2014, over a period of four years in annual equal increments,*  
35 *reduce to zero, beginning March 1, 2018, the amount of KUSF high cost*  
36 *support received by competitive eligible telecommunications carriers.*  
37 *Nothing in this section shall be construed to affect competitive eligible*  
38 *telecommunications carriers' eligibility for Kansas lifeline service*  
39 *program purposes pursuant to K.S.A. 66-2006, and amendments thereto.*  
40 *For the purposes of this subsection, "competitive eligible*  
41 *telecommunications carrier" means a telecommunications carrier*  
42 *designated by the commission as an eligible telecommunications carrier*  
43 *after January 1, 1998. "Competitive eligible telecommunications carrier"*



1 shall not mean any local exchange carrier or any electing carrier  
2 designated by the commission as an eligible telecommunications carrier  
3 by order dated December 5, 1997, in docket No. 98-GIMT-241-GIT, or  
4 any such local exchange carrier's or electing carrier's successors or  
5 assigns.

6 (5) An electing carrier shall no longer be eligible to receive high cost  
7 support from the KUSF.

8 (d) The commission shall periodically review the KUSF to determine  
9 if the costs of qualified telecommunications public utilities,  
10 telecommunications carriers and wireless telecommunications service  
11 providers to provide local service justify modification of the KUSF. If the  
12 commission determines that any changes are needed, the commission shall  
13 modify the KUSF accordingly undertake a review of the capped amount of  
14 KUSF support available for each local exchange carrier operating under  
15 price cap regulation that receives such support, not including Kansas  
16 lifeline service program purposes pursuant to K.S.A. 66-2006, and  
17 amendments thereto, and determine if a lesser amount is appropriate for  
18 KUSF distributions after March 1, 2019. Reviews of such carriers shall be  
19 based on the forward-looking costs of providing basic voice service, using  
20 inputs that reflect the actual geography being served and that reflect the  
21 scale and scope of the local exchange carrier providing basic local voice  
22 service within each exchange.

23 (d)(e) Any qualified telecommunications carrier, telecommunications  
24 public utility or wireless telecommunications service provider may request  
25 supplemental funding from the KUSF based upon a percentage increase in  
26 access lines over the 12-month period prior to the request. The  
27 supplemental funding shall be incurred for the purpose of providing  
28 services to and within the service area of the qualified telecommunications  
29 carrier, telecommunications public utility or wireless telecommunications  
30 service provider. Supplemental funding from the KUSF shall be used for  
31 infrastructure expenditures necessary to serve additional customers within  
32 the service area of such qualifying utility, provider or carrier. All affected  
33 parties shall be allowed to review and verify a request of such a qualified  
34 utility, carrier or provider for supplemental funding from the KUSF, and to  
35 intervene in any commission proceeding regarding such request. The  
36 commission shall issue an order on the request within 120 days of filing.  
37 Additional funding also may be requested for: The recovery of shortfalls  
38 due to additional rebalancing of rates to continue maintenance of parity  
39 with interstate access rates; shortfalls due to changes to access revenue  
40 requirements resulting from changes in federal rules; additional investment  
41 required to provide universal service and enhanced universal service,  
42 deployed subject to subsection (a) of K.S.A. 66-2005, and amendments  
43 thereto; and for infrastructure expenditures in response to facility or

1 service requirements established by any legislative, regulatory or judicial  
2 authority. Such requests shall be subject to simplified filing procedures and  
3 the expedited review procedures, as outlined in the stipulation attached to  
4 the order of November 19, 1990 in docket no. 127,140-U (Phase IV).

5 ~~(e)~~(f) For each local exchange carrier electing pursuant to subsection  
6 (b) of K.S.A. 66-2005, and amendments thereto, to operate under  
7 traditional rate of return regulation, all KUSF support, including any  
8 adjustment thereto pursuant to this section shall be based on such carrier's  
9 embedded costs, revenue requirements, investments and expenses. *The*  
10 *commission shall continue, until at least March 1, 2017, to determine*  
11 *KUSF support for local exchange carriers electing traditional rate of*  
12 *return regulation pursuant to subsection (b) of K.S.A. 66-2005, and*  
13 *amendments thereto, in the same manner and using the same policies and*  
14 *procedures in effect on January 1, 2013. Any modification of such support*  
15 *shall be made only as a direct result of changes in those factors*  
16 *enumerated in this subsection.*

17 ~~(f)~~(g) Additional supplemental funding from the KUSF, other than as  
18 provided in subsection ~~(f)~~(e), may be authorized at the discretion of the  
19 commission. However, the commission may require approval of such  
20 funding to be based upon a general rate case filing. With respect to any  
21 request for additional supplemental funding from the KUSF *and to any*  
22 *audit of a rural telephone company's KUSF support*, the commission shall  
23 act expeditiously, ~~but~~ and shall ~~not~~ be subject to the ~~120-day~~ 240-day  
24 deadline ~~set forth in subsection (d) for rate case applications pursuant to~~  
25 *K.S.A. 66-117, and amendments thereto.*

26 Sec. 10. K.S.A. 2012 Supp. 66-2009 is hereby amended to read as  
27 follows: 66-2009. (a) Local exchange carriers, *not including electing*  
28 *carriers*, that provided switched local exchange services in the state prior  
29 to January 1, 1996, or their successors, shall serve as the carrier of last  
30 resort in their exchanges and shall be eligible to receive KUSF funding.  
31 However, with respect to the Hill City exchange area in which multiple  
32 carriers were certified prior to January 1, 1996, the commission's  
33 determination, subject to court appeals, shall determine which authorized  
34 carrier shall serve as carrier of last resort. The local exchange carrier  
35 serving as the carrier of last resort shall remain the carrier of last resort and  
36 shall be entitled to recover the costs of serving as carrier of last resort.

37 (b) Beginning March 1, 1997, the amount of KUSF funds owed to  
38 each qualifying telecommunications carrier, telecommunications public  
39 utility or wireless telecommunications service provider in the state, based  
40 upon the revenue requirements assigned to the funds for such qualifying  
41 utility, carrier or provider, shall be allocated by the fund administrator in  
42 equal monthly installments.

43 (c) (1) For the purposes of this subsection:

1 (A) "Alternative service provider" means any person or entity  
2 providing local telecommunications services or any person or entity  
3 allowing another person or entity to use its equipment or facilities to  
4 provide local telecommunications services or any person or entity securing  
5 rights to select an alternative service provider for a property owner or  
6 developer, and does not include a local exchange carrier providing service  
7 within its commission-approved local exchange service area.

8 (B) "Alternative technology" means any technology that offers local  
9 telecommunications service and functionality comparable to that provided  
10 through an exiting alternative service provider's facilities, and may include  
11 a technology that does not require the use of any public right-of-way.

12 (C) "Greenfield area" means an area that requires entirely new  
13 construction of local loops, in addition to the deployment of any necessary  
14 switching and other network equipment, to serve new real property  
15 developments.

16 (D) "Local telecommunications service" means two-way voice  
17 service capable of being originated and terminated within a local exchange  
18 service area, regardless of the technology used to provision the voice  
19 service.

20 (E) "Owner or developer" means the owner or developer of a  
21 business or residential property, any condominium association or  
22 homeowners' association thereof, any other person or entity having  
23 ownership in, or control over, the property, or any person acting on behalf  
24 of such owner or developer.

25 (F) "Real property" includes, but is not limited to, any single tenant or  
26 multi-tenant business or residential property, subdivisions, condominiums,  
27 apartments, office buildings or office parks.

28 (2) A local exchange carrier obligated by this section to serve as the  
29 carrier of last resort is hereby relieved of that obligation, and shall not be  
30 obligated to provide basic local telecommunications service to any  
31 occupants of real property if the owner or developer of the real property, or  
32 a person acting on behalf of the owner or developer of real property,  
33 engages in any of the following acts:

34 (A) Permits an alternative service provider to install its facilities or  
35 equipment used to provide local telecommunications service based on a  
36 condition of exclusion of the local exchange carrier, during the  
37 construction phase of the real property;

38 (B) accepts or agrees to accept incentives or rewards from an  
39 alternative service provider that are contingent upon the provision of any  
40 or all local telecommunications services by one or more alternative service  
41 providers to the exclusion of the local exchange carrier; or

42 (C) collects from the occupants or residents of the real property  
43 mandatory charges for the provision of any local telecommunications

1 service provided by an alternative service provider to the occupants or  
2 residents in any manner, including, but not limited to, collection through  
3 rent, fees or dues.

4 (3) The local exchange carrier relieved of its carrier of last resort  
5 obligation to provide basic local telecommunications service to the  
6 occupants of the real property, pursuant to subsection (c), shall notify the  
7 commission of that fact within 120 days after receiving knowledge of the  
8 existence of such fact.

9 (4) A local exchange carrier that is not automatically relieved of its  
10 carrier of last resort obligation pursuant to paragraph (2) of subsection (c)  
11 may seek a waiver of its carrier of last resort obligation from the  
12 commission for good cause shown based on the facts and circumstances of  
13 the provision of local telecommunications service or internet access  
14 service to a particular real property. Upon petition for such relief, notice  
15 shall be given by the local exchange carrier at the same time to the  
16 relevant owner or developer. The commission shall make a determination  
17 concerning the petition on or before 90 days after such petition is filed.

18 (5) If all conditions described in paragraph (2) or (4) of subsection (c)  
19 cease to exist at the property, and the owner or developer requests in  
20 writing that the local exchange carrier make local telecommunications  
21 service available to occupants of the real property and confirms in writing  
22 that all conditions described in paragraph (2) or (4) of subsection (c) have  
23 ceased to exist at the property, the carrier of last resort obligation under  
24 this section shall again apply to the local exchange carrier at the real  
25 property. The local exchange carrier shall provide notice to the  
26 commission that it is assuming the carrier-of-last-resort obligation. The  
27 local exchange carrier may require that the owner or developer pay to the  
28 local exchange carrier in advance a reasonable fee to recover costs that  
29 exceed the costs that would have been incurred to construct or acquire  
30 facilities to serve customers at the real property initially. The commission  
31 may verify that the fee enables the local exchange carrier to recover its  
32 costs that exceed the costs that would have been incurred to construct or  
33 acquire facilities to serve customers at the real property initially, including,  
34 but not limited to, amounts necessary to install or retrofit any facilities or  
35 equipment, to cut or trench sidewalks and streets and to restore roads,  
36 sidewalks, block walls or landscapes to original conditions. The local  
37 exchange carrier shall have a reasonable period of time following the  
38 request from the owner or developer to make arrangements for local  
39 telecommunications service availability. If a local exchange carrier is  
40 relieved of its carrier of last resort obligation under paragraph (2) or (4) of  
41 subsection (c), the owner or developer shall notify all occupants and any  
42 subsequent owner of the specific real property of the following: (1) That  
43 the incumbent local exchange carrier does not have facilities installed to

1 serve the specific real property, and that such carrier has been relieved of  
2 its carrier of last resort obligations; and (2) the name of the person that will  
3 be providing local telecommunications service to the real property, and the  
4 type of technology that will be used to provide such service. An incumbent  
5 local exchange carrier may meet the carrier's obligations under this section  
6 using any available alternative technology. If any conditions described in  
7 paragraph (2) or (4) of subsection (c) again exist at the real property, the  
8 relief in paragraph (2) or (4) of subsection (c) shall again apply.

9 (6) When real property is located in a greenfield area, a carrier of last  
10 resort shall not automatically be excused from its obligations under  
11 paragraph (2) of subsection (c) unless the alternative service provider  
12 possesses or shall possess at the time of commencement of service the  
13 capability to provide local telecommunications service or the functional  
14 equivalent of such service through any form of technology.

15 (7) If an owner or developer of real property permits an alternative  
16 service provider to install its facilities or equipment used to provide local  
17 telecommunications service to such property based on a condition of  
18 exclusion of the local exchange carrier, the owner or developer must  
19 provide written notice to the purchaser of any such real property that there  
20 is an exclusion of that local exchange carrier, and that the alternative  
21 service provider is the exclusive provider of service to such property.

22 Sec. 11. K.S.A. 66-1,188, 66-2002, 66-2003 and 66-2007 and K.S.A.  
23 2012 Supp. 66-1,187, 66-2005, 66-2006, 66-2008 and 66-2009 are hereby  
24 repealed.

25 Sec. 12. This act shall take effect and be in force from and after its  
26 publication in the statute book.