

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2201

By Committee on Utilities and Telecommunications

2-1

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; **concerning KAN-ED**; amending K.S.A. 66-1,188,
5 **66-1,191, 66-1,195**, 66-2002, 66-2003 and 66-2007 and K.S.A. 2012
6 Supp. 66-1,187, 66-2005, 66-2006, 66-2008 ~~and~~, 66-2009 **and 75-7224**
7 and repealing the existing sections.

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

10 New Section 1. (a) There is hereby established the
11 telecommunications study committee. The committee shall study
12 telecommunications issues ~~and ensure that~~, ***the Kansas universal service***
13 ***fund, the federal universal service fund, the creation of a state***
14 ***broadband fund to support the deployment of advanced***
15 ***telecommunications capability to all areas of the state, the statement of***
16 the public policy of Kansas, as expressed in K.S.A. 66-2001, and
17 amendments thereto ~~{,}, is maintained, with priority being given to~~
18 ~~advancing statewide telecommunications infrastructure and other~~
19 ***telecommunications issues determined by the legislative coordinating***
20 ***council.***

21 (b) (1) The study committee shall be composed of ~~13~~ **20** voting
22 members, as follows: (1) ~~The chairperson, vice chairperson and ranking~~
23 ~~minority member of the senate committee on utilities;~~

24 (2) ~~the chairperson, vice chairperson and ranking minority member of~~
25 ~~the house committee on utilities and telecommunications;~~

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

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

28 ~~(5) three members appointed by the speaker of the house of~~
29 ~~representatives; and~~

30 ~~(6) one member appointed by the minority leader of the house of~~
31 ~~representatives~~ ***Nine members shall be from the senate committee on***
32 ***utilities as follows:***

1 (A) *The chairperson, vice-chairperson and ranking minority*
2 *member;*

3 (B) *five members appointed by the president of the senate; and*

4 (C) *one member appointed by the minority leader of the senate.*

5 (3) *Eleven members shall be from the house committee on utilities*
6 *and telecommunications as follows:*

7 (A) *The chairperson, vice-chairperson and ranking minority*
8 *member;*

9 (B) *seven members appointed by the speaker of the house of*
10 *representatives; and*

11 (C) *one member appointed by the minority leader of the house of*
12 *representatives.*

13 (c) Members shall be appointed to the study committee on or before
14 August 1, 2013 for a term ending on June 30, ~~2016~~ 2015. The chairperson
15 of the senate committee on utilities and the chairperson of the house
16 committee on utilities and telecommunications shall serve as co-
17 chairpersons of the committee. The co-chairpersons shall determine the
18 procedures for calling a meeting to order and conducting committee
19 business. The first meeting of the study committee shall be called by the
20 co-chairpersons of the committee following the conclusion of the 2013
21 regular session of the Kansas legislature. The committee shall have the
22 authority to meet at any time and at any place within the state on the call
23 of the co-chairpersons.

24 (d) The provisions of the acts contained in article 12 of chapter 46 of
25 the Kansas Statutes Annotated, and amendments thereto, applicable to
26 special committees shall apply to the telecommunications study committee
27 to the extent that the same do not conflict with the specific provisions of
28 this act applicable to the study committee.

29 (e) A quorum of the telecommunications study committee shall be
30 ~~seven~~ {11} members. All actions of the committee shall be taken by a
31 majority of all of the members of the committee.

32 (f) Any vacancy in the membership of the committee shall be filled
33 by appointment in the same manner prescribed by this section for the
34 original appointment.

35 (g) (1) *The department of revenue shall administer an audit of the*
36 *Kansas universal service fund. The audit shall examine the overall*
37 *efficiency and effectiveness of the KUSF. The department shall submit a*
38 *final audit report to the telecommunications study committee on or*
39 *before November 1, 2014.*

40 (2) *The telecommunications study committee shall determine the*
41 *scope of the audit. The audit may include an analysis of the following:*

42 (A) *The total amount of KUSF support received expressed on a per-*
43 *line basis;*

1 **(B) the total amount of rural utilities service debt or other debt, by**
2 **recipient or related entity, and the maturity date, amortization and**
3 **security for such debt;**

4 **(C) the capital expenditures on technology by type;**

5 **(D) affiliate transactions and transfers; and**

6 **(E) the compensation received by the recipient's executives,**
7 **partners, members and board.**

8 **(3) The department may review or request any document filed with**
9 **the commission, including confidential data, so long as a non-disclosure**
10 **agreement is signed by the auditors.**

11 **(4) The cost of the audit shall be paid from the KUSF.**

12 **(h)** The telecommunications study committee shall provide an annual
13 report to the senate committee on utilities and the house committee on
14 utilities and telecommunications. The committee shall make
15 recommendations and may introduce such legislation as it deems
16 necessary in performing the committee's duties. The committee shall issue
17 a ~~final~~ report and policy recommendations for telecommunications to the
18 senate committee on utilities, the senate committee on ways and means,
19 the house committee on utilities and telecommunications and the house
20 committee on appropriations prior to January ~~31, 2016~~ **16, 2015.**

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

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

28 ~~(k)~~ **(k)** The provisions of this section shall expire on June 30, ~~2016~~
29 **2015.**

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

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

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

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

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

1 or more telecommunications carriers, including such local exchange
2 carrier.

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

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

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

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

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

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

25 (k) "Operating area" means:

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

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

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

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

41 (n) "Telecommunications public utility" means any public utility, as
42 defined in K.S.A. 66-104, and amendments thereto, which owns, controls,
43 operates or manages any equipment, plant or generating machinery, or any

1 part thereof, for the transmission of telephone messages, as defined in
2 K.S.A. 66-104, and amendments thereto, or the provision of
3 telecommunications services in or throughout any part of Kansas.

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

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

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

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

31 **Sec. 4. K.S.A. 66-1,191 is hereby amended to read as follows: 66-**
32 **1,191. The commission, upon its own initiative, may investigate all**
33 **rates, joint rates, tolls, charges and exactions, classifications or**
34 **schedules of rates or joint rates and rules and regulations of**
35 **telecommunications public utilities over which the commission has**
36 **control. If after full hearing and investigation the commission finds**
37 **that such rates, joint rates, tolls, charges or exactions, classifications**
38 **or schedules of rates or joint rates or rules and regulations are unjust,**
39 **unreasonable, unjustly discriminatory or unduly preferential, the**
40 **commission shall have the power to fix and order substituted therefor**
41 **such rates, tolls, charges, exactions, classifications or schedules of**
42 **rates or joint rates and such rules and regulations as are just and**
43 **reasonable.**

1 **If upon any investigation it is found that any regulation,**
2 **measurement, practice, act or service complained of is unjust,**
3 **unreasonable, unreasonably inefficient or insufficient, unduly**
4 **preferential, unjustly discriminatory, or otherwise in violation of this**
5 **act or of the orders of the commission, or if it is found that any service**
6 **is inadequate or that any reasonable service cannot be obtained, the**
7 **commission may substitute therefor such other regulations,**
8 **measurements, practices, service or acts, and make such order**
9 **respecting any such changes in such regulations, measurements,**
10 **practices, service or acts as are just and reasonable. When, in the**
11 **judgment of the commission, public necessity and convenience**
12 **require, the commission may establish just and reasonable**
13 **concentration or other special rates, charges or privileges, but all such**
14 **rates, charges and privileges shall be open to all users of a like kind of**
15 **service under similar circumstances and conditions. Hearings shall be**
16 **conducted in accordance with the provisions of the Kansas**
17 **administrative procedure act, unless, in the case of a general**
18 **investigation, for good cause, the commission orders otherwise.**

19 **Sec. 5. K.S.A. 66-1,195 is hereby amended to read as follows: 66-**
20 **1,195. The commission shall have general supervision of all**
21 **telecommunications public utilities ~~doing business in this state over~~**
22 **which the commission has control and shall inquire into any neglect or**
23 **violations of the laws of this state by any *such* telecommunications**
24 **public utility or by the officers, agents or employees thereof. From**
25 **time to time, the commission shall carefully examine and inspect the**
26 **condition of each *such* telecommunications public utility, its**
27 **equipment, the manner of its conduct and its management with**
28 **reference to the public safety and convenience. Nothing in this section**
29 **shall be construed as relieving any telecommunications public utility**
30 **from its responsibility or liability for damage to person or property.**

31 **Sec.-4: 6. K.S.A. 66-2002 is hereby amended to read as follows: 66-**
32 **2002. The commission shall:**

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

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

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

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

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

7 (f) on or before January 1, 1997, establish, pursuant to K.S.A. 66-
8 2006, *and amendments thereto*, the Kansas lifeline service program,
9 hereinafter referred to as the KLSP;

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

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

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

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

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

31 (l) on or before January 1, 1997, initiate and complete a proceeding to
32 establish minimum quality of service standards which will be equally
33 applicable to all local exchange carriers ~~and telecommunications carriers~~
34 in the state; any local exchange carrier ~~or telecommunications carrier~~
35 violating such standards, for each occurrence, shall forfeit and pay a
36 penalty of not less than \$100, nor more than \$5,000; violations of such
37 standards shall be enforced in accordance with provisions of K.S.A. 66-
38 138 and 66-177, and amendments thereto; ~~and~~

39 (m) on January 1, 2000, prepare and submit a report to the legislature.
40 The report shall include an analysis of the manner in which the regulatory
41 framework has served to: Protect consumers; safeguard universal service;
42 ensure that consumers have reaped the benefits of competition; maximize
43 the use of market forces; and promote development of the

1 telecommunications infrastructure throughout the state. The commission
2 also shall recommend if and how the KUSF should be modified; *and*

3 *(n) report to the senate committee on utilities and the house*
4 *committee on utilities and telecommunications by January 15, 2014*
5 *concerning the status of the federal communications commission's*
6 *further notice of proposed rulemaking regarding Internet Protocol to*
7 *Internet Protocol interconnection in WC docket nos. 10-90 et al.,*
8 *including, but not limited to, any final, non-appealable order issued in*
9 *that proceeding regarding obligations to interconnect for the exchange*
10 *of voice traffic regardless of the technology used to transmit that traffic*
11 *that requires implementation by the commission.*

12 Sec.-5- 7. K.S.A. 66-2003 is hereby amended to read as follows: 66-
13 2003. (a) On or before September 1, 1996, the commission shall begin to
14 authorize applications for certificates of public convenience and necessity
15 to provide local exchange or exchange access service.

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

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

42 (d) As provided in the federal act, in order for telecommunications
43 carriers to provide local exchange service and exchange access service,

1 local exchange carriers *and electing carriers* shall provide the means to
2 interconnect their respective customers, including, but not limited to, toll
3 access, access to operator services, access to directory listings and
4 assistance, and access to E-911 service.

5 (e) Customers shall be accorded number portability and local dialing
6 parity in conformance with national standards to the extent economically
7 and technically feasible. Terms and prices for interconnection, unbundled
8 facilities and resale of existing retail telecommunications services shall be
9 negotiated in good faith between the parties. During the period from the
10 135th through the 160th day after the date on which an incumbent local
11 exchange carrier *or electing carrier* receives a request for negotiation
12 under this section, the carrier or any other party to the negotiation may
13 petition the commission to arbitrate any open issues. Arbitration shall
14 occur in conformance with the provisions of section 252 of the federal act.

15 (f) The commission shall require, consistent with the terms of the
16 federal act, that 1+ intraLATA dialing parity be provided by all local
17 exchange carriers, *electing carriers* and telecommunications carriers
18 coincidentally with the provision of in-region interLATA toll services in
19 the state by local exchange carriers *or electing carriers* with more than
20 150,000 access lines or their affiliates.

21 ~~Sec. 6-~~ **8.** K.S.A. 2012 Supp. 66-2005 is hereby amended to read as
22 follows: 66-2005. (a) Each local exchange carrier shall file a network
23 infrastructure plan with the commission on or after January 1, 1997, and
24 prior to January 1, 1998. Each plan, as a part of universal service
25 protection, shall include schedules, which shall be approved by the
26 commission, for deployment of universal service capabilities by July 1,
27 1998, and the deployment of enhanced universal service capabilities by
28 July 1, 2003, as defined pursuant to subsections (p) and (q) of K.S.A. 66-
29 1,187, and amendments thereto, respectively. With respect to enhanced
30 universal service, such schedules shall provide for deployment of ISDN, or
31 its technological equivalent, or broadband facilities, only upon a firm
32 customer order for such service, or for deployment of other enhanced
33 universal services by a local exchange carrier. After receipt of such an
34 order and upon completion of a deployment plan designed to meet the firm
35 order or otherwise provide for the deployment of enhanced universal
36 service, a local exchange carrier shall notify the commission. The
37 commission shall approve the plan unless the commission determines that
38 the proposed deployment plan is unnecessary, inappropriate, or not cost
39 effective, or would create an unreasonable or excessive demand on the
40 KUSF. The commission shall take action within 90 days. If the
41 commission fails to take action within 90 days, the deployment plan shall
42 be deemed approved. This approval process shall continue until July 1,
43 2000. Each plan shall demonstrate the capability of the local exchange

1 carrier to comply on an ongoing basis with quality of service standards to
2 be adopted by the commission no later than January 1, 1997.

3 (b) In order to protect universal service, facilitate the transition to
4 competitive markets and stimulate the construction of an advanced
5 telecommunications infrastructure, each local exchange carrier shall file a
6 regulatory reform plan at the same time as it files the network
7 infrastructure plan required in subsection (a). As part of its regulatory
8 reform plan, a local exchange carrier may elect traditional rate of return
9 regulation or price cap regulation. Carriers that elect price cap regulation
10 shall be exempt from rate base, rate of return and earnings regulation and
11 shall not be subject to the provisions of K.S.A. 66-136 and 66-127, and
12 amendments thereto, except as otherwise provided in such sections.
13 However, the commission may resume such regulation upon finding, after
14 a hearing, that a carrier that is subject to price cap regulation has: violated
15 minimum quality of service standards pursuant to subsection (l) of K.S.A.
16 66-2002, and amendments thereto; been given reasonable notice and an
17 opportunity to correct the violation; and failed to do so. Regulatory reform
18 plans also shall include:

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

25 (2) a commitment to provide basic rate ISDN service, or the
26 technological equivalent, at prices which are uniform throughout the
27 carrier's service area. Local exchange carriers shall not be required to
28 allow retail customers purchasing the foregoing discounted services to
29 resell those services to other categories of customers. Telecommunications
30 carriers may purchase basic rate ISDN services, or the technological
31 equivalent, for resale in accordance with K.S.A. 66-2003, and amendments
32 thereto. The commission may reduce prices charged for services outlined
33 in provisions (1) and (2) of this subsection, if the commitments of the local
34 exchange carrier set forth in those provisions are not being kept.

35 (c) Subject to the commission's approval, all local exchange carriers
36 shall reduce intrastate access charges to interstate levels as provided
37 herein. Rates for intrastate switched access, and the imputed access portion
38 of toll, shall be reduced over a three-year period with the objective of
39 equalizing interstate and intrastate rates in a revenue neutral, specific and
40 predictable manner. The commission is authorized to rebalance local
41 residential and business service rates to offset the intrastate access and toll
42 charge reductions. Any remaining portion of the reduction in access and
43 toll charges not recovered through local residential and business service

1 rates shall be paid out from the KUSF pursuant to K.S.A. 66-2008, and
2 amendments thereto. Each rural telephone company shall adjust its
3 intrastate switched access rates on March 1 of each odd-numbered year to
4 match its interstate switched access rates, subject to the following:

5 (1) Any reduction of a rural telephone company's cost recovery due to
6 reduction of its ~~interstate~~ *intrastate* access revenue, **except such revenue**
7 **recovered from another support mechanism**, shall be recovered from
8 the KUSF;

9 (2) any portion of rural telephone company reductions in intrastate
10 switched access rates which would result in an increase in KUSF recovery
11 in a single year which exceeds .75% of intrastate retail revenues used in
12 determining sums which may be recovered from Kansas
13 telecommunications customers pursuant to subsection (a) of K.S.A. 66-
14 2008, and amendments thereto, shall be deferred until March 1 of the next
15 following odd-numbered year; and

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

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

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

43 (1) For residential service, an affordable rate shall be the arithmetic

1 mean of residential local service rates charged in this state in all exchanges
2 served by rural telephone companies and in all exchanges in rate groups 1
3 through 3 as of February 20, 2002, of all other local exchange carriers, but
4 not including electing carriers, weighted by the number of residential
5 access lines to which each such rate applies, and thereafter rounded to the
6 nearest quarter-dollar, subject to the following provisions:

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

10 (B) If a rural telephone company's present residential rate, including
11 any separate charge for tone dialing, is below such average: (i) Such rate
12 shall be deemed affordable prior to March 1, 2003; (ii) as of March 1,
13 2003, and prior to March 1, 2004, a rate \$2 higher than the company's
14 present residential monthly rate, but not exceeding such weighted mean,
15 shall be deemed affordable; (iii) as of March 1, 2004, and prior to March
16 1, 2005, a rate \$4 higher than the company's present residential monthly
17 rate, but not exceeding such weighted mean, shall be deemed affordable;
18 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher
19 than the company's present residential monthly rate, but not exceeding
20 such weighted mean, shall be deemed affordable.

21 (C) As of March 1, 2007, and each two years thereafter, an affordable
22 residential service rate shall be the weighted arithmetic mean of local
23 service rates determined as of October 1 of the preceding year in the
24 manner hereinbefore specified, except that any increase in such mean
25 exceeding \$2 may be satisfied by increases in a rural telephone company's
26 residential monthly service rate not exceeding \$2 per year, effective March
27 1 of the year when such mean is determined, with the remainder applied at
28 the rate of \$2 per year, but not to exceed the affordable rate.

29 (2) For single line business service at any time, an affordable rate
30 shall be the existing rate or an amount \$3 greater than the affordable rate
31 for residential service as determined under provision (1) of this subsection,
32 whichever is higher, except that any increase in the business service
33 affordable rate exceeding \$2 may be satisfied by increases in a rural
34 telephone company's business monthly service rate not exceeding \$2 per
35 year, effective March 1 of the year when such rate is determined, with the
36 remainder applied at the rate of \$2 per year, but not to exceed the
37 affordable rate.

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

43 (4) Not later than March 1, 2003, tone dialing shall be made available

1 to all local service customers of each rural telephone company at no charge
2 additional to any increase in the local service rate to become effective on
3 that date. The amount of revenue received as of March 1, 2002, by a rural
4 telephone company from the provision of tone dialing service shall be
5 excluded from reductions in the company's KUSF support otherwise
6 resulting pursuant to this subsection.

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

12 (6) Upon motion by a rural telephone company, the commission may
13 determine a higher affordable local residential or business rate for such
14 company if such higher rate allows the company to provide additional or
15 improved service to customers, but any increase in a rural telephone
16 company's local rate attributable to the provision of increased calling
17 scope shall not be included in any subsequent recalculation of affordable
18 rates as otherwise provided in this subsection.

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

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

30 (f) For regulatory reform plans in which price cap regulation has been
31 elected, price cap plans shall have three baskets: Residential and single-
32 line business, including touch-tone; switched access services; and
33 miscellaneous services. The commission shall establish price caps at the
34 prices existing when the regulatory plan is filed subject to rate rebalancing
35 as provided in subsection (c) for residential services, including touch-tone
36 services, and for single-line business services, including touch-tone
37 services, within the residential and single-line business service basket. The
38 commission shall establish a formula for adjustments to the price caps. The
39 commission also shall establish price caps at the prices existing when the
40 regulatory plan is filed for the miscellaneous services basket. The
41 commission shall approve any adjustments to the price caps for the
42 miscellaneous service basket, as provided in subsection (g).

43 (g) On or before January 1, 1997, the commission shall issue a final

1 order in a proceeding to determine the price cap adjustment formula that
2 shall apply to the price caps for the local residential and single-line
3 business and the miscellaneous services baskets and for sub-categories, if
4 any, within those baskets. In determining this formula, the commission
5 shall balance the public policy goals of encouraging efficiency and
6 promoting investment in a quality, advanced telecommunications network
7 in the state. The commission also shall establish any informational filing
8 requirements necessary for the review of any price cap tariff filings,
9 including price increases or decreases within the caps, to verify such caps
10 would not be exceeded by any proposed price change. The adjustment
11 formula shall apply to the price caps for the local residential and single-
12 line business basket after December 31, 1999, and to the miscellaneous
13 services basket after December 31, 1997. The price cap formula, but not
14 actual prices, shall be reviewed every five years.

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

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

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

30 (k) A price cap is a maximum price for all services taken as a whole
31 in a given basket. Prices for individual services may be changed within the
32 service categories, if any, established by the commission within a basket.
33 An entire service category, if any, within the residential and single-line
34 business basket or miscellaneous services basket may be priced below the
35 cap for such category. Unless otherwise approved by the commission, no
36 service shall be priced below the price floor which will be long-run
37 incremental cost and imputed access charges. Access charges equal to
38 those paid by telecommunications carriers to local exchange carriers shall
39 be imputed as part of the price floor for toll services offered by local
40 exchange carriers on a toll service basis.

41 (l) A local exchange carrier may offer promotions within an exchange
42 or group of exchanges. All promotions shall be approved by the
43 commission and may not be unjust, unreasonably discriminatory or unduly

1 preferential.

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

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

12 (o) Subsequent to the adoption of guidelines pursuant to subsection
13 (n), the commission shall initiate a petitioning procedure under which the
14 local exchange carrier may request rate range pricing. The commission
15 shall act upon a petition within 21 days, subject to a 30-day extension. The
16 prices within a rate range shall be tariffed and shall apply to all customers
17 in a nondiscriminatory manner in an exchange or group of exchanges.

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

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

40 (A) Packages or bundles of services shall be price deregulated
41 statewide, however the individual telecommunication service components
42 of such packages or bundles shall remain available for purchase on an
43 individual basis at prices subject to price cap regulation in any exchange in

1 which the standards in subsection (q)(1)(B), (C) or (D) have not been met.
2 If standards in subsection (q)(1)(B), (C) or (D) have been met, the
3 individual telecommunication service components of such packages or
4 bundles shall remain available for purchase on an individual basis and
5 prices for packages or bundles shall not exceed the sum of the highest
6 prices of the a la carte components of the package or bundle;

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

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

34 (E) rates for lifeline services shall remain subject to price cap
35 regulation;

36 (F) up to and continuing until July 1, 2008, rates for the initial
37 residential local exchange access line and up to four business local
38 exchange access lines at one location shall remain subject to price cap
39 regulation. On and after July 1, 2008, the local exchange carrier shall be
40 authorized to adjust such rates without commission approval by not more
41 than the percentage increase in the consumer price index for all urban
42 consumers, as officially reported by the bureau of labor statistics of the
43 United States department of labor, or its successor index, in any one year

1 period and such rates shall not be adjusted below the price floor
2 established in subsection (k). Such rates shall not be affected by purchase
3 of one or more of the following: Call management services, intraLATA
4 long distance service or interLATA long distance service; and

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

9 (2) For the purposes of this subsection:

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

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

17 (C) telecommunications carriers offering only prepaid
18 telecommunications service shall not be considered entities providing local
19 telecommunications service.

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

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

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

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

43 (7) Prior to January 1, 2007, the commission shall determine the

1 weighted, statewide average rate of nonwireless basic local
2 telecommunications service as of July 1, 2006. Prior to January 1, 2007,
3 and annually thereafter, the commission shall determine the weighted,
4 average rate of nonwireless basic local telecommunications services in
5 exchanges that have been price deregulated pursuant to subsection (q)(1)
6 (B), (C) or (D). The commission shall report its findings on or before
7 February 1, 2007, and annually thereafter to the governor, the legislature
8 and each member of the standing committees of the house of
9 representatives and the senate which are assigned telecommunications
10 issues. The commission shall also provide in such annual report
11 information on the current rates for services provided by all
12 telecommunications carriers or other telecommunications service
13 providers regardless of the technology used to provide service in price
14 deregulated exchanges, service offerings provided by all
15 telecommunications carriers or other telecommunications service
16 providers regardless of the technology used and available in price
17 deregulated exchanges and the number of competitors in price deregulated
18 exchanges including, but not limited to, facilities based carriers,
19 commercial mobile radio service or broadband based service providers.

20 (8) For the purposes of this subsection:

21 (A) "Packages or bundles of services" means the offering of a local
22 telecommunications service with one or more of the following, subscribed
23 together, as one service option offered at one price, one or more call
24 management services, intraLATA long distance service, interLATA long
25 distance service, internet access, video services or wireless services.
26 Packages or bundles of services shall not include only a single residential
27 local exchange access line or up to four business local exchange access
28 lines at one location and intraLATA long distance service or interLATA
29 long distance service, or both;

30 (B) "local telecommunications service" means two-way voice service
31 capable of being originated and terminated within the exchange of the
32 local exchange telecommunications company seeking price deregulation of
33 its services, regardless of the technology used to provision the voice
34 service;

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

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

40 (E) "facilities based carrier" means a telecommunications carrier or
41 entity providing local telecommunications service either wholly or
42 partially over its own network. Facilities based carrier shall not include
43 any radio communication services provider licensed by the federal

1 communications commission to provide commercial mobile radio services;
2 and

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

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

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

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

26 (4) The commission shall resume price cap regulation of residential
27 services in any exchange meeting the conditions of subsection (q)(1)(B) by
28 placing it in the appropriate service basket, as approved by the
29 commission, upon a determination by the commission that the following
30 condition is not met: There are at least two or more nonaffiliated
31 telecommunications carriers or other entities, that are nonaffiliated with
32 the local exchange carrier, providing local telecommunications service to
33 residential customers, regardless of whether the entity provides local
34 service in conjunction with other services in that exchange area. One of
35 such nonaffiliated carriers or entities shall be required to be a facilities-
36 based carrier or entity and not more than one such nonaffiliated carriers or
37 entities shall be a provider of commercial mobile radio services in that
38 exchange.

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

43 (t) Cost studies to determine price floors shall be performed as

1 required by the commission in response to complaints. In addition,
2 notwithstanding the exemption in subsection (b), the commission may
3 request information necessary to execute any of its obligations under the
4 act. In response to a complaint that a price deregulated service is priced
5 below the price floor set forth in subsection (k), the commission shall issue
6 an order within 60 days after the filing of the complaint unless the
7 complainant agrees to an extension.

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

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

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

42 (x) (†) Any local exchange carrier with a majority of the carrier's
43 local exchange access lines in the state price deregulated pursuant to

1 subsection (q) may elect to no longer be regulated as a local exchange
2 carrier and, notwithstanding any other provisions, upon such election shall
3 instead be regulated as a telecommunications carrier, except as provided in
4 this subsection. A local exchange carrier making such election shall be
5 referred to as an "electing carrier." A local exchange carrier may make
6 such election by providing the commission with at least 90 days' written
7 notice of election. The notice of election shall include a verified statement
8 that a majority of the carrier's local exchange access lines are price
9 deregulated. Such notification shall include information regarding the
10 number of access lines the carrier serves in each of the carrier's exchanges.
11 Within 45 days of receipt of such a notification, the commission shall
12 review the information concerning the carrier's local exchange access lines
13 and upon failure of the commission, within 45 days of receipt of the
14 notification, to determine that a majority of such lines of the carrier are not
15 price deregulated the commission shall designate the carrier as an electing
16 carrier.

17 ~~(2) An electing carrier shall not be subject to price regulation and~~
18 ~~shall be subject to nondiscriminatory regulation by the commission in the~~
19 ~~same manner as and subject to no more regulation than other~~
20 ~~telecommunications carriers operating in the state, except that the carrier~~
21 ~~shall remain subject to:~~

22 ~~(A) The reasonable resale of retail telecommunications services, as~~
23 ~~well as unbundling and interconnection obligations as required by K.S.A.~~
24 ~~66-2003, and amendments thereto;~~

25 ~~(B) the requirements of subsection (c) concerning intrastate access~~
26 ~~charges;~~

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

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

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

31 ~~(3) An electing carrier's rates for single residential or business local~~
32 ~~exchange access lines in its rural exchanges shall be no higher than the~~
33 ~~average of such rates for single residential or business local exchange~~
34 ~~access lines respectively in its urban exchanges.~~

35 ~~(4) An electing carrier may elect to be relieved of the requirement to~~
36 ~~serve as carrier of last resort, as required by K.S.A. 66-2009, and~~
37 ~~amendments thereto, by providing written notification to the commission~~
38 ~~of the specific urban exchanges for which the electing carrier is electing to~~
39 ~~be relieved of carrier of last resort obligations, in the electing carrier's~~
40 ~~urban exchanges.~~

41 ~~(5) Notwithstanding any other provision of law to the contrary, an~~
42 ~~electing carrier that notifies the commission that the electing carrier~~
43 ~~chooses to be relieved of carrier of last resort obligations in specific urban~~

1 exchanges or any local exchange carrier that does not have a carrier of last
2 resort obligation in a specific exchange shall not be eligible for KUSF
3 funding for carrier of last resort obligations, as required by K.S.A. 66-
4 2009, and amendments thereto, or high cost support in those specific
5 exchanges, but would remain eligible for KUSF support for Kansas lifeline
6 service program purposes.

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

10 (7) For the purposes of this subsection:

11 (A) "Facilities based carrier" means a telecommunications carrier or
12 entity providing local telecommunications service either wholly or
13 partially over its own network. Facilities based carrier shall not include
14 any radio communication services provider licensed by the federal
15 communications commission to provide commercial mobile radio services;

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

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

22 (y) Notwithstanding the provisions of this act, *and subject to any*
23 *applicable exemption from interconnection generally*, a
24 telecommunications carrier is entitled to interconnection with a *local*
25 *exchange carrier* or an electing carrier to transmit and route voice traffic
26 between both the telecommunications carrier and the *local exchange*
27 *carrier* or electing carrier regardless of the technology by which the voice
28 traffic is originated by and terminated to a consumer. The commission
29 shall afford such telecommunications carrier all substantive and procedural
30 rights available to such carrier regarding interconnection pursuant to 47
31 U.S.C. §§ 251 and 252 as in effect on the effective date of this act.
32 *Nothing in this subsection shall be construed to confer jurisdiction upon*
33 *the commission for services that are exempt from or otherwise not subject*
34 *to commission jurisdiction.*

35 (z) (1) *Telecommunications carriers and electing carriers shall not be*
36 *subject to regulation by the commission for the provision of*
37 *telecommunications services, except that the commission shall retain the*
38 *authority and jurisdiction to authorize applications, suspension or*
39 *cancellation of certificates of public convenience and necessity to provide*
40 *local exchange or exchange access service in the state of Kansas, but the*
41 *commission may not use this certification authority to regulate*
42 *telecommunications carriers or electing carriers beyond the jurisdiction*
43 *provided the commission in this subsection.*

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

3 (A) *Carry out the commission's obligations established in 47 U.S.C.*
4 *§§ 251 and 252; ~~and~~*

5 (B) *implement rules delegated to the state by the federal*
6 *communications commission or federal law ~~unless specifically prohibited~~*
7 *by state law; or*

8 (C) *regulate intrastate switched access rates, terms and conditions,*
9 *including the implementation of federal law concerning intercarrier*
10 *compensation.*

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

12 (A) *Carry out the commission's obligations pursuant to the*
13 *underground utilities damage prevention act, K.S.A. 66-1801 et seq., and*
14 *amendments thereto, and the overhead power line accident prevention act,*
15 *K.S.A. 66-1709 et seq., and amendments thereto;*

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

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

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

23 (E) **assess costs and expenses pursuant to K.S.A. 66-1501 et seq.,**
24 **and amendments thereto, but the commission shall not use this**
25 **authority to regulate telecommunications carriers or electing carriers**
26 **beyond the jurisdiction provided the commission in this subsection;**
27 **~~and~~**

28 (F) **request information from telecommunications carriers and**
29 **electing carriers pursuant to K.A.R. 82-1-234a(b) and subject to the**
30 **provisions of K.A.R. 82-1-221a and K.S.A. 66-1220a, and amendments**
31 **thereto, but the commission shall not use this authority to regulate**
32 **telecommunications carriers or electing carriers beyond the**
33 **jurisdiction provided the commission in this subsection; and**

34 (G) *administer consumer complaints against telecommunications*
35 *carriers and electing carriers to investigate fraud, undue discrimination*
36 *and other practices harmful to consumers, but the commission shall not*
37 *use this authority to regulate telecommunications carriers or electing*
38 *carriers beyond the jurisdiction provided the commission in this*
39 *subsection.*

40 Sec. 7. 9. K.S.A. 2012 Supp. 66-2006 is hereby amended to read as
41 follows: 66-2006. (a) On or before January 1, 1997, the commission shall
42 establish the Kansas lifeline service program, hereinafter referred to as the
43 KLSP. The purpose of the KLSP shall be to promote the provision of

1 universal service by local exchange carriers to persons with low income.
2 The KLSP shall be targeted to maintain affordable rates for residential
3 local exchange service. The commission shall approve a means test to
4 determine the eligibility of customers for such low-income assistance.

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

11 (1) On or before January 1, 2009, the department of social and
12 rehabilitation services, hereinafter referred to as the department, or any
13 other successor state agency, may provide each participating carrier a list
14 of those persons residing in the state that participate in programs which
15 also qualify such persons to receive KLSP services. This listing shall
16 consist of those persons who have consented to the release of their
17 personal information to the KLSP carrier to receive KLSP services and
18 include at a minimum the name, address and telephone number of such
19 persons. Every six months thereafter, the department may provide to each
20 participating carrier an updated list of persons consenting to such KLSP
21 services. The secretary of the department may adopt rules and regulations
22 to coordinate the acquisition and provision of the information to be
23 provided pursuant to this subsection (b).

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

27 (3) The participating carrier shall discontinue providing KLSP
28 services to an eligible customer if the eligible customer notifies the
29 participating carrier that the customer wishes to discontinue receiving
30 those services.

31 (4) Each participating carrier receiving customer information
32 pursuant to this subsection (b) shall execute a confidentiality agreement
33 with the department prior to receiving non-public customer eligibility
34 information. The agreement will specify that the customer information is
35 released by the department to the participating carrier for the sole purpose
36 of providing KLSP to eligible customers, and that the information cannot
37 be released or used by the carrier for any other purpose unless authorized
38 by the customer or otherwise required by law.

39 (c) To generate and facilitate participation in the lifeline service
40 program, provide choice for Kansas consumers, and allow collection of
41 federal lifeline program reimbursements, the KCC shall approve a wireline
42 (non-CMRS) facilities-based telephone service provider's application for
43 eligible telecommunications carrier, hereinafter referred to as the ETC,

1 designation in a nonrural service area for the purpose of receiving low-
2 income federal universal service fund support for participation in the
3 lifeline service program, for the area equal to the applicant provider's own
4 service area, provided the applicant provider meets all other ETC
5 eligibility requirements. The commission, however, may condition that
6 such designation remain consistent with the guidelines of the federal
7 program.

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

15 ~~Sec. 8.~~ **10.** K.S.A. 66-2007 is hereby amended to read as follows: 66-
16 2007. (a) All local exchange carriers ~~and telecommunications carriers,~~ *not*
17 *including electing carriers,* providing long distance service in Kansas shall
18 reduce their statewide averaged basic long distance rates to reflect the net
19 reductions in access charges; however, such carriers shall be allowed to
20 increase long distance rates to reflect the KUSF funding requirements set
21 forth in K.S.A. 66-2008, *and amendments thereto.*

22 (b) The commission shall approve, upon not more than 120 days'
23 notice, any basic local exchange price increases that in the aggregate in
24 any one year are \$1.50 or less per access line per month, that are proposed
25 by any rural telephone company which is subject to traditional rate of
26 return regulation and that comply with the requirements of this section.
27 Any such proposed price increases shall be presumed reasonable and not
28 subject to commission investigation and review if the rural telephone
29 company has followed the notice requirements set forth below. However,
30 the commission shall initiate an investigation if more than 15% of the
31 subscribers subject to the rate increase request such an investigation within
32 60 days of the date of distribution of the notice of the proposed change.
33 Upon filing such an application for a rate increase, any rural telephone
34 company seeking expedited approval of the proposed rate under this
35 section shall send a notice to its subscribers by regular mail, which may be
36 included with regular subscriber mailings. Such mailings shall include the
37 name, mailing address and telephone number of the commission. The
38 notice shall include a schedule of the proposed local exchange rates, the
39 effective date of the rates and a description of the procedures by which the
40 subscribers can petition the commission to determine the reasonableness of
41 the proposed rates, including a provision specifically stating that protest by
42 15% or more of subscribers subject to the proposed rate increase would
43 require the commission to initiate an investigation concerning the

1 reasonableness of the proposed rate increase.

2 (c) The commission shall have the right to investigate and determine
3 the reasonableness of an increase in local exchange rates and charges
4 under subsection (b) by any rural telephone company within one year of
5 the time local exchange rates or charges are increased. If the commission
6 determines such rate or charge increases are unreasonable, the commission
7 shall have the authority to order a rate hearing and, after such hearing,
8 shall have the authority to rescind all or any portion of the increases found
9 to be unreasonable.

10 Sec. 9- 11. K.S.A. 2012 Supp. 66-2008 is hereby amended to read as
11 follows: 66-2008. On or before January 1, 1997, the commission shall
12 establish the Kansas universal service fund, hereinafter referred to as the
13 KUSF.

14 (a) The commission shall require every telecommunications carrier,
15 telecommunications public utility and wireless telecommunications service
16 provider that provides intrastate telecommunications services and, to the
17 extent not prohibited by federal law, every provider of interconnected VoIP
18 service, as defined by 47 C.F.R. § 9.3 (October 1, 2005), to contribute to
19 the KUSF on an equitable and nondiscriminatory basis. Any
20 telecommunications carrier, telecommunications public utility, wireless
21 telecommunications service provider or provider of interconnected VoIP
22 service which contributes to the KUSF may collect from customers an
23 amount equal to such carrier's, utility's or provider's contribution, but such
24 carrier, provider or utility may collect a lesser amount from its customer.

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

28 (b) Pursuant to the federal act, distributions from the KUSF shall be
29 made in a competitively neutral manner to qualified telecommunications
30 public utilities, telecommunications carriers and wireless
31 telecommunications providers, that are deemed eligible both under
32 subsection (e)(1) of section 214 of the federal act and by the commission.

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

34 (1) *Annual distributions from the KUSF for a local exchange carrier*
35 *subject to price cap regulation pursuant to K.S.A. 66-2005, and*
36 *amendments thereto, shall be capped at **the lesser of:***

37 (A) *90% of KUSF support the carrier received for the 12-month*
38 *period ending February 28, 2013; ~~not including;~~ or*

39 (B) **\$11,400,000.**

40 ***The amounts prescribed in subparagraph (A) or (B) shall not include***
41 ***KUSF support for Kansas lifeline service program purposes, pursuant to***
42 ***K.S.A. 66-2006, and amendments thereto.***

43 (2) *Local exchange carriers subject to price cap regulation pursuant*

1 to K.S.A. 66-2005, and amendments thereto, shall not receive KUSF
2 support for any residential or business lines within an exchange that the
3 commission has granted price deregulation pursuant to subsections ~~(q)(B)~~
4 **(q)(1)(B)**, (C); or (D) ~~or (E)~~ of K.S.A. 66-2005, and amendments thereto,
5 except for areas within any census block in such an exchange in which
6 there is no wireline carrier providing local exchange access lines that
7 does not receive KUSF support, not including KUSF support for Kansas
8 lifeline service program purposes pursuant to K.S.A. 66-2006, and
9 amendments thereto, for such access lines.

10 (3) Local exchange carriers subject to price cap regulation pursuant
11 to K.S.A. 66-2005, and amendments thereto, shall receive the same per
12 line, per month KUSF support as established in the April 13, 2000 notice
13 in commission docket numbers 99-GIMT-326-GIT and 00-GIMT-236-GIT
14 subject to the cap percentage in subsection (c)(1), not including KUSF
15 support for Kansas lifeline service program purposes pursuant to K.S.A.
16 66-2006, and amendments thereto, except that the amount shall be
17 reduced by any funding received by such carrier from the federal
18 communication commission's connect America fund II for the same
19 household, if feasible, or for the same census block.

20 (4) The commission shall discontinue the use of the "identical
21 support" rule and shall cap all competitive eligible telecommunications
22 carriers' KUSF high cost support as of March 1, 2013, and beginning
23 March 1, 2014, over a period of four years in annual equal increments,
24 reduce to zero, beginning March 1, 2018, the amount of KUSF high cost
25 support received by competitive eligible telecommunications carriers.
26 Nothing in this section shall be construed to affect competitive eligible
27 telecommunications carriers' eligibility for Kansas lifeline service
28 program purposes pursuant to K.S.A. 66-2006, and amendments thereto.
29 For the purposes of this subsection, "competitive eligible
30 telecommunications carrier" means a telecommunications carrier
31 designated by the commission as an eligible telecommunications carrier
32 after January 1, 1998. "Competitive eligible telecommunications carrier"
33 shall not mean any local exchange carrier or any electing carrier
34 designated by the commission as an eligible telecommunications carrier
35 by order dated December 5, 1997, in docket No. 98-GIMT-241-GIT, or
36 any such local exchange carrier's or electing carrier's successors or
37 assigns.

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

40 (d) (1) **Subject to paragraph (2), the commission may periodically**
41 **review the KUSF to determine if the costs of qualified**
42 **telecommunications public utilities, telecommunications carriers and**
43 **wireless telecommunications service providers to provide local service**

1 *justify modification of the KUSF. If the commission determines that any*
2 *changes are needed, the commission shall modify the KUSF accordingly*
3 *and annually report such changes to the senate standing committee on*
4 *utilities and the house standing committee on utilities and*
5 *telecommunications.*

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

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

1 ~~requests shall be subject to simplified filing procedures and the expedited~~
 2 ~~review procedures, as outlined in the stipulation attached to the order of~~
 3 ~~November 19, 1990 in docket no. 127,140-U (Phase IV).~~

4 ~~(e)(f)~~ **(e) (1)** For each local exchange carrier electing pursuant to
 5 subsection (b) of K.S.A. 66-2005, and amendments thereto, to operate
 6 under traditional rate of return regulation, all KUSF support, including any
 7 adjustment thereto pursuant to this section shall be based on such carrier's
 8 embedded costs, revenue requirements, investments and expenses. ~~The~~
 9 ~~commission shall continue, Until at least March 1, 2017, to determine~~
 10 ~~KUSF support for local exchange carriers electing traditional rate of~~
 11 ~~return regulation pursuant to subsection (b) of K.S.A. 66-2005, and~~
 12 ~~amendments thereto, in the same manner and using the same policies and~~
 13 ~~procedures in effect on January 1, 2013. any modification of such support~~
 14 ~~shall be made only as a direct result of changes in those factors~~
 15 ~~enumerated in this subsection, except that the total KUSF distributions~~
 16 ~~made to all local exchange carriers operating under traditional rate of~~
 17 ~~return regulation pursuant to subsection (b) of K.S.A. 66-2005, and~~
 18 ~~amendments thereto, shall not exceed an annual \$29,000,000 cap. A~~
 19 ~~waiver of the cap shall be granted based on a demonstration by a carrier~~
 20 ~~that such carrier would experience significant hardship due to force~~
 21 ~~majeure or natural disaster as determined by the commission. Nothing~~
 22 ~~in this subsection shall prohibit the commission from conducting a~~
 23 ~~general investigation regarding effects of federal universal service~~
 24 ~~reform on KUSF support and the telecommunications public policy of~~
 25 ~~the state of Kansas as expressed in K.S.A. 66-2001, and amendments~~
 26 ~~thereto. The commission may present any findings and~~
 27 ~~recommendations to the telecommunications study committee~~
 28 ~~established in section 1, and amendments thereto.~~

29 **(2)** *Notwithstanding any other provision of law, no KUSF support*
 30 *received by a local exchange carrier electing pursuant to subsection (b)*
 31 *of K.S.A. 66-2005, and amendments thereto, to operate under traditional*
 32 *rate of return regulation shall be used to offset any loss of federal*
 33 *universal service fund support for such carrier.*

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

43 Sec. ~~10~~ **12.** K.S.A. 2012 Supp. 66-2009 is hereby amended to read as

1 follows: 66-2009. (a) Local exchange carriers, *not including electing*
2 *carriers*, that provided switched local exchange services in the state prior
3 to January 1, 1996, or their successors, shall serve as the carrier of last
4 resort in their exchanges and shall be eligible to receive KUSF funding.
5 However, with respect to the Hill City exchange area in which multiple
6 carriers were certified prior to January 1, 1996, the commission's
7 determination, subject to court appeals, shall determine which authorized
8 carrier shall serve as carrier of last resort. The local exchange carrier
9 serving as the carrier of last resort shall remain the carrier of last resort and
10 shall be entitled to recover the costs of serving as carrier of last resort.

11 (b) Beginning March 1, 1997, the amount of KUSF funds owed to
12 each qualifying telecommunications carrier, telecommunications public
13 utility or wireless telecommunications service provider in the state, based
14 upon the revenue requirements assigned to the funds for such qualifying
15 utility, carrier or provider, shall be allocated by the fund administrator in
16 equal monthly installments.

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

18 (A) "Alternative service provider" means any person or entity
19 providing local telecommunications services or any person or entity
20 allowing another person or entity to use its equipment or facilities to
21 provide local telecommunications services or any person or entity securing
22 rights to select an alternative service provider for a property owner or
23 developer, and does not include a local exchange carrier providing service
24 within its commission-approved local exchange service area.

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

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

33 (D) "Local telecommunications service" means two-way voice
34 service capable of being originated and terminated within a local exchange
35 service area, regardless of the technology used to provision the voice
36 service.

37 (E) "Owner or developer" means the owner or developer of a
38 business or residential property, any condominium association or
39 homeowners' association thereof, any other person or entity having
40 ownership in, or control over, the property, or any person acting on behalf
41 of such owner or developer.

42 (F) "Real property" includes, but is not limited to, any single tenant or
43 multi-tenant business or residential property, subdivisions, condominiums,

1 apartments, office buildings or office parks.

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

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

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

16 (C) collects from the occupants or residents of the real property
17 mandatory charges for the provision of any local telecommunications
18 service provided by an alternative service provider to the occupants or
19 residents in any manner, including, but not limited to, collection through
20 rent, fees or dues.

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

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

35 (5) If all conditions described in paragraph (2) or (4) of subsection (c)
36 cease to exist at the property, and the owner or developer requests in
37 writing that the local exchange carrier make local telecommunications
38 service available to occupants of the real property and confirms in writing
39 that all conditions described in paragraph (2) or (4) of subsection (c) have
40 ceased to exist at the property, the carrier of last resort obligation under
41 this section shall again apply to the local exchange carrier at the real
42 property. The local exchange carrier shall provide notice to the
43 commission that it is assuming the carrier-of-last-resort obligation. The

1 local exchange carrier may require that the owner or developer pay to the
2 local exchange carrier in advance a reasonable fee to recover costs that
3 exceed the costs that would have been incurred to construct or acquire
4 facilities to serve customers at the real property initially. The commission
5 may verify that the fee enables the local exchange carrier to recover its
6 costs that exceed the costs that would have been incurred to construct or
7 acquire facilities to serve customers at the real property initially, including,
8 but not limited to, amounts necessary to install or retrofit any facilities or
9 equipment, to cut or trench sidewalks and streets and to restore roads,
10 sidewalks, block walls or landscapes to original conditions. The local
11 exchange carrier shall have a reasonable period of time following the
12 request from the owner or developer to make arrangements for local
13 telecommunications service availability. If a local exchange carrier is
14 relieved of its carrier of last resort obligation under paragraph (2) or (4) of
15 subsection (c), the owner or developer shall notify all occupants and any
16 subsequent owner of the specific real property of the following: (1) That
17 the incumbent local exchange carrier does not have facilities installed to
18 serve the specific real property, and that such carrier has been relieved of
19 its carrier of last resort obligations; and (2) the name of the person that will
20 be providing local telecommunications service to the real property, and the
21 type of technology that will be used to provide such service. An incumbent
22 local exchange carrier may meet the carrier's obligations under this section
23 using any available alternative technology. If any conditions described in
24 paragraph (2) or (4) of subsection (c) again exist at the real property, the
25 relief in paragraph (2) or (4) of subsection (c) shall again apply.

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

32 (7) If an owner or developer of real property permits an alternative
33 service provider to install its facilities or equipment used to provide local
34 telecommunications service to such property based on a condition of
35 exclusion of the local exchange carrier, the owner or developer must
36 provide written notice to the purchaser of any such real property that there
37 is an exclusion of that local exchange carrier, and that the alternative
38 service provider is the exclusive provider of service to such property.

39 ***Sec. 13. K.S.A. 2012 Supp. 75-7224 is hereby amended to read as***
40 ***follows: 75-7224. (a) The board shall:***

41 ***(1) Provide a program to facilitate the use of broadband***
42 ***technology-based video communication for distance learning and***
43 ***telemedicine by schools, libraries and hospitals;***

1 (2) *transition schools, libraries and hospitals that have a direct*
2 *KAN-ED connection as of January 1, 2012, to a commercially provided*
3 *broadband internet connection no later than June 30, 2013. At the time*
4 *a school, library or hospital has been transitioned off a KAN-ED*
5 *connection, the board shall pay up to \$350 per month to such school,*
6 *library or hospital for the cost of broadband service until June 30, 2013;*

7 (3) *provide the secretary of commerce any information necessary*
8 *to conduct the needs assessment described in subsection (b);*

9 (4) *assist schools, libraries and hospitals to apply for federal grants*
10 *to be used for purposes consistent with this act; and*

11 (5) *collect data regarding:*

12 (A) *Distance learning and telemedicine usage; and*

13 (B) *the volume of data accessed.*

14 *The board shall develop a methodology for updating and validating*
15 *any data collected for periodic revisions of the program, standards and*
16 *priorities.*

17 (b) (1) *The secretary of commerce shall facilitate the execution of*
18 *the needs assessment and the creation of the report. The secretary shall*
19 *contract with a third party that has expertise in telecommunications*
20 *services for educational institutions to conduct such needs assessment*
21 *and create such report.*

22 (2) *The needs assessment shall include, for each school, library and*
23 *hospital connected to the network as of January 1, 2012: Current and*
24 *future broadband service and quality needs and a determination of all*
25 *KAN-ED expenses for shared services or infrastructure, including any*
26 *costs deferred by federal moneys, that are providing services and*
27 *network connections. Based on the results of the needs assessment, the*
28 *secretary of commerce, in coordination with the third party contractor,*
29 *shall create a report that: (A) Compares the utilization, efficiency and*
30 *effectiveness of KAN-ED to other similar programs in other states for*
31 *schools, libraries and hospitals; (B) determines if the KAN-ED program,*
32 *as of the effective date of this act, is worth its cost in terms of price,*
33 *service, quality, needed network upgrades and increased utilization of*
34 *broadband by schools, libraries and hospitals; (C) determines if there*
35 *are alternative models or opportunities for broadband procurement by*
36 *schools, libraries and hospitals; (D) determines if the services and*
37 *applications offered by KAN-ED lead to full utilization of broadband*
38 *technology by schools, libraries, hospitals and their surrounding*
39 *communities; and (E) recommends any cost-effective broadband*
40 *services that are available.*

41 (3) *The board shall reimburse the cost of conducting such needs*
42 *assessment and report described in paragraph (2), not to exceed*
43 *\$250,000.*

1 ***(4) The results of such needs assessment and the report shall be***
2 ***submitted to the board on or before January 1, 2013.***

3 ***(c) The board may request and receive assistance from any school,***
4 ***any library, any hospital, the state corporation commission, any other***
5 ***agency of the state or any telecommunications, cable or other***
6 ***communications services provider to gather necessary data to implement***
7 ***such program.***

8 ***(d) The board shall establish: (1) Technical standards for operation***
9 ***and maintenance of the program; (2) the method of monitoring***
10 ***operations of the program; and (3) the method or methods of adjusting***
11 ***the program to reflect the needs of schools, libraries and hospitals as***
12 ***determined by the needs assessment or ongoing data collection for each***
13 ***such entity. Such standards and methods shall be included in the board's***
14 ***report to the legislature pursuant to K.S.A. 2012 Supp. 75-7226, and***
15 ***amendments thereto.***

16 ***(e) Based on the findings of the needs assessments or collected***
17 ***data, the board shall develop a plan to: (1) Facilitate the use of***
18 ***broadband technology-based video communication for distance learning***
19 ***and telemedicine by schools, libraries and hospitals; and (2) transition***
20 ***schools, libraries and hospitals that have a direct KAN-ED connection***
21 ***as of January 1, 2012, to a commercially provided broadband internet***
22 ***connection no later than June 30, 2013. The plan may require users of***
23 ***the program to bear part of its cost. Such plan shall be included in the***
24 ***board's report to the legislature pursuant to K.S.A. 2012 Supp. 75-7226,***
25 ***and amendments thereto.***

26 ***(f) The board may appoint such advisory committees as the board***
27 ***determines necessary to carry out the purposes of this act. The***
28 ***membership of advisory committees may include both members of the***
29 ***board and persons who are not board members. Such advisory***
30 ***committees, to the extent appropriate, shall include both***
31 ***communications services providers and participants knowledgeable***
32 ***about topics such as network facilities and services, distance learning***
33 ***and telemedicine, user training and such other topics as may be***
34 ***necessary or useful. Members of advisory committees appointed by the***
35 ***board shall receive amounts provided for in subsection (e) of K.S.A. 75-***
36 ***3223, and amendments thereto.***

37 ***(g) The board shall have all other powers necessary to achieve the***
38 ***purposes of this act, including, but not limited to, the power to: (1) Fix,***
39 ***charge and collect user fees for services provided by the KAN-ED***
40 ***program in accordance with the plan developed pursuant to subsection***
41 ***(e); and (2) receive any appropriations, fees, donations, grants, bequests***
42 ***and devises, conditional and otherwise, of money, property, services or***
43 ***other things of value for the purposes of this act.***

1 ***(h) The state department of education, the office of information***
2 ***technology services of the department of administration, the state***
3 ***corporation commission and all other state agencies shall cooperate with***
4 ***the board in providing information and other assistance requested by the***
5 ***board for the performance of its duties pursuant to this act at no cost to***
6 ***such agencies.***

7 Sec. ~~11-13~~, **14**. K.S.A. 66-1,188, 66-1,191, 66-1,195, 66-2002, 66-
8 2003 and 66-2007 and K.S.A. 2012 Supp. 66-1,187, 66-2005, 66-2006,
9 66-2008 ~~and~~, 66-2009 **and 75-7224** are hereby repealed.

10 Sec. ~~12-14~~, **15**. This act shall take effect and be in force from and
11 after its publication in the statute book.