SESSION OF 2013

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2201

As Amended by House Committee on Utilities and Telecommunications

Brief*

HB 2201 would create the Telecommunications Study Committee, would further deregulate telecommunications in Kansas, and would make changes to distributions from the Kansas Universal Service Fund (KUSF).

Telecommunications Study Committee

The bill would create the Telecommunications Study Committee to study telecommunications issues and ensure that that the telecommunication public policy of Kansas is maintained with priority given to advancing statewide telecommunications infrastructure. The Committee would be composed of 13 voting members, from the House and Senate, appointed on or before August 1, 2013, for a term ending June 30, 2016. The members would be the chairperson, vice-chairperson and ranking minority member of the Senate Committee on Utilities and the House Committee on Utilities and Telecommunications, three members from the Senate, and four from the House of Representatives with proportionate partisan representation. The Committee would be required to provide an annual report to the Senate and House committees on utilities. Prior to January 31, 2016, the Committee would be required to provide a final report and policy recommendations for telecommunications to the Senate Committee on Utilities, Senate Committee on Ways and Means, the House Committee on Utilities and Telecommunications and the

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

House Committee on Appropriations.

Regulatory Authority of the Kansas Corporation Commission Regarding Telecommunications

The bill would remove KCC regulation of telecommunications carriers and electing carriers except in specific instances.

Specifically, electing carriers would no longer be required to do the following:

- Serve as carrier of last resort;
- Offer single residential local exchange access lines in the electing carrier's exchanges;
- Set rates for single residential or business local exchange access lines in its rural exchanges that are no higher than the average of such rates for single residential or business local exchange access lines respectively in its urban exchanges;
- Be subject to price cap regulation for lifeline services; and
- Comply with requirements concerning intrastate access charges.

In addition, electing carriers and telecommunications carriers would no longer be subject to the KCC regulations concerning:

- Consumer protection;
- Minimum quality of service standards; and
- Statewide long distance price regulation.

Electing carriers and telecommunications carriers also would no longer be required to participate in the Kansas Lifeline Service Program (KLSP) and would be allowed to withdraw participation in the KLSP with 90 days' notice to the KCC.

Telecommunications carriers would no longer be regulated in the following areas:

- Pass through of access charge reductions to consumers; and

- Geographical averaging of basic toll prices statewide.

The KCC would retain regulatory authority over telecommunications carriers and electing carriers in the following areas:

- Entitlement of telecommunications carriers to interconnect with a local exchange carrier or an electing carrier to transmit and route voice traffic between both the telecommunications care and the local exchange carrier or electing carrier regardless of the technology used to originate or terminate the voice traffic to a consumer;

- Authorization of applications, suspension or cancellation of certificates of public convenience;

- Assessment of costs and expenses to fund KCC operating expenses; and

- Authorization to request information for discovery purposes.

The KCC would retain authority to do the following:

- Determine wholesale rates;

- Approve resale restrictions;

- Approve reasonable limitation on resale to the extent permitted by the federal act;
- Carry out obligations established in 47 U.S.C. 251 and 252;
- Implement rules delegated to the state by the Federal Communications Commission or federal law;
- Regulate intrastate switched access rates, terms and conditions;
- Carry out obligations pursuant to the Underground Utilities Damage Prevention Act;
- Require the reasonable resale of retail telecommunications services, as well as unbundling and interconnection obligations;
- Administer the Kansas Lifeline Service Program; and
- Administer contributions to the KUSF.

The bill would clarify that an electing carrier still would be required to offer to allow reasonable resale of its retail telecommunications services and to sell unbundled local loop, switch and trunk facilities to telecommunications carriers as required by the Federal Telecommunications Act of 1996 (federal act).

Kansas Universal Service Fund

The bill would make a number of changes to distributions from the KUSF. The changes are grouped below by the type of carrier that would be impacted.

Local Exchange Carriers Subject to Price Cap Regulation: Annual distributions from the KUSF would be capped at 90 percent of the support the carrier received in the 12-month period ending February 28, 2013, beginning January 1, 2014. KLSP support (Lifeline) would not be subject to the 90 percent cap.

Carriers would not be allowed to received KUSF support for residential or business lines within an exchange that the KCC has granted price deregulation, except for areas within a census block in such exchange in which there is no wireline carrier providing local exchange access lines that does not receive KUSF support. The amount of KUSF support would be limited to the same per line, per month amount established on April 13, 2000. The amount would further be reduced by funding received through the federal Connect America Fund II.

The KCC would be required to review the capped amount of the KUSF support based on forward-looking costs of providing basic voice service, using inputs that reflect the actual geography being served and that reflect the scale and scope of the carrier providing basic local voice service within each exchange.

Local Exchange Carriers Electing Traditional Rate of Return Regulation. The KCC would be directed to only make modifications to carriers' KUSF support as a direct result of changes in embedded costs, revenue requirements, investments and expenses, until at least March 1, 2017.

In addition, the KCC would be required to complete audits of rural telephone companies' KUSF support within 240 days.

Competitive Eligible Telecommunications Carriers. The use of the "identical support" rule would be discontinued and carriers' KUSF high cost support would be capped as of March 1, 2013. The support would be reduced to zero beginning March 1, 2018.

Background

During the hearing on the bill in the House Committee on Utilities and Telecommunications, testimony in support of the bill was provided by AT&T who described the bill as a compromise resulting from the efforts of numerous members of the telecommunications industry. AT&T stated the bill is an update to Kansas' communications laws which would lower KUSF fees and reduce unnecessary and counterproductive regulation on competitive companies while providing stability for other companies as they adapt for the future. Other conferees testifying in support of the bill included representatives from Central National Bank, Century Link, and Kansas Rural Independent Telephone Companies. Written testimony in favor of the bill was received from The 60 Plus Association.

Neutral testimony on the bill was presented by Cox, KCC, Kansas Cable Telecommunications Association, and Sprint.

Testimony in opposition to the bill was presented by Citizens Utility Ratepayer Board (CURB) and Viaero Wireless. The CURB representative expressed concern the bill would not be in agreement with the Kansas statutory telecommunications public policy if enacted as introduced. Specifically, the elimination of consumer protections related to quality of service, Lifeline availability, price discrimination, and pricing caps does not agree with the policy.

The House Committee on Utilities and Telecommunications made the following amendments to the bill.

- Technical amendments to ensure the bill's compliance with Kansas law;
- Required KUSF funding to rural telephone companies be off-set by revenue recovered from

another support mechanism as it relates to reduction of its intrastate access revenue;

- Authorized the KCC to assess costs and expenses when conducting an investigation and to request information from telecommunications carriers and electing carriers;

- Clarified how and when the KCC would modify KUSF funding to local exchange carriers electing traditional rate of return regulation; and

- Authorized the KCC to implement rules delegated to the state by the federal communications commission or federal law without regard to state law prohibitions.

No fiscal note was available at the time of the bill's hearing in the House Committee.