

**SENATE BILL No. 119**

By Committee on Utilities

2-1

1 AN ACT concerning telecommunications; relating to the Kansas universal  
2 service fund, distributions; Kansas lifeline service; amending K.S.A.  
3 2016 Supp. 66-2006 and 66-2008 and repealing the existing sections.  
4

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

6 Section 1. K.S.A. 2016 Supp. 66-2006 is hereby amended to read as  
7 follows: 66-2006. (a) On or before January 1, 1997, the commission shall  
8 establish the Kansas lifeline service program, hereinafter referred to as the  
9 KLSP. The purpose of the KLSP shall be to promote the provision of  
10 universal service by local exchange carriers to persons with low income.  
11 The KLSP shall be targeted to maintain affordable rates for residential  
12 local exchange service. The commission shall approve a means test to  
13 determine the eligibility of customers for such low-income assistance.

14 (b) A local exchange carrier, electing carrier or telecommunications  
15 carrier may automatically enroll its existing and eligible customers in the  
16 KLSP, subject to the following:

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

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

34 (3) The participating carrier shall discontinue providing KLSP  
35 services to an eligible customer if the eligible customer notifies the  
36 participating carrier that the customer wishes to discontinue receiving

1 those services.

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

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

22 *(d) Consistent with federal law governing the lifeline service*  
23 *program, including, but not limited to, exercises by the federal*  
24 *communications commission of the commission's forbearance*  
25 *responsibilities under 47 U.S.C. § 160, a wireless telecommunications*  
26 *provider designated as an eligible telecommunications carrier to offer*  
27 *lifeline service in this state shall be eligible to be designated as an eligible*  
28 *telecommunications carrier for KLSP purposes, whether or not such*  
29 *wireless telecommunications provider is a facilities-based or non-*  
30 *facilities-based provider.*

31 ~~(d)~~ (e) Telecommunications carriers and electing carriers may cease  
32 participation in the KLSP at any time upon provision of 90-days prior  
33 written notification to the commission. Telecommunications carriers and  
34 electing carriers participating in the KLSP shall be eligible to receive  
35 KUSF support for KLSP services, but shall not be subject to any  
36 regulation by the commission based on such participation other than that  
37 provided for in ~~subsection (z) of K.S.A. 66-2005(z)~~, and amendments  
38 thereto.

39 Sec. 2. K.S.A. 2016 Supp. 66-2008 is hereby amended to read as  
40 follows: 66-2008. On or before January 1, 1997, the commission shall  
41 establish the Kansas universal service fund, hereinafter referred to as the  
42 KUSF.

43 (a) The commission shall require every telecommunications carrier,

1 telecommunications public utility and wireless telecommunications service  
2 provider that provides intrastate telecommunications services and, to the  
3 extent not prohibited by federal law, every provider of interconnected VoIP  
4 service, as defined by 47 C.F.R. § 9.3, to contribute to the KUSF based  
5 upon the provider's intrastate telecommunications services net retail  
6 revenues on an equitable and nondiscriminatory basis. The commission  
7 shall not require any provider to contribute to the KUSF under a different  
8 contribution methodology than such provider uses for purposes of the  
9 federal universal service fund, including for bundled offerings. Any  
10 telecommunications carrier, telecommunications public utility, wireless  
11 telecommunications service provider or provider of interconnected VoIP  
12 service which contributes to the KUSF may collect from customers an  
13 amount equal to such carrier's, utility's or provider's contribution, but such  
14 carrier, provider or utility may collect a lesser amount from its customer.

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

18 (b) Pursuant to the federal act, distributions from the KUSF shall be  
19 made in a competitively neutral manner to qualified telecommunications  
20 public utilities, telecommunications carriers and wireless  
21 telecommunications providers, that are deemed eligible ~~both under~~  
22 ~~subsection (e)(1) of section 214 of the federal act pursuant to 47 U.S.C. §~~  
23 *214(e) and K.S.A. 66-2001 et seq., and amendments thereto*, and by the  
24 commission.

25 (c) Beginning January 1, 2014:

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

29 (A) 90% of KUSF support the carrier received for the 12-month  
30 period ending February 28, 2013; or

31 (B) \$11,400,000.

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

35 (2) Local exchange carriers subject to price cap regulation pursuant to  
36 K.S.A. 66-2005, and amendments thereto, shall not receive KUSF support  
37 for any residential or business lines within an exchange that the  
38 commission has granted price deregulation pursuant to K.S.A. 66-2005(q)  
39 (1)(B), (C) or (D), and amendments thereto, except for areas within any  
40 census block in such an exchange in which there is no wireline carrier  
41 providing local exchange access lines that does not receive KUSF support,  
42 not including KUSF support for Kansas lifeline service program purposes  
43 pursuant to K.S.A. 66-2006, and amendments thereto, for such access

1 lines.

2 (3) Local exchange carriers subject to price cap regulation pursuant to  
3 K.S.A. 66-2005, and amendments thereto, shall receive the same per line,  
4 per month KUSF support as established in the April 13, 2000 notice in  
5 commission docket numbers 99-GIMT-326-GIT and 00-GIMT-236-GIT  
6 subject to the cap percentage in subsection (c)(1), not including KUSF  
7 support for Kansas lifeline service program purposes pursuant to K.S.A.  
8 66-2006, and amendments thereto, except that the amount shall be reduced  
9 by any funding received by such carrier from the federal communication  
10 commission's connect America fund II for the same household, if feasible,  
11 or for the same census block.

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

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

31 (d) (1) Subject to paragraph (2), the commission may periodically  
32 review the KUSF to determine if the costs of qualified telecommunications  
33 public utilities, telecommunications carriers and wireless  
34 telecommunications service providers to provide local service justify  
35 modification of the KUSF. If the commission determines that any changes  
36 are needed, the commission shall modify the KUSF accordingly and  
37 annually report such changes to the senate standing committee on utilities  
38 and the house standing committee on utilities and telecommunications.

39 (2) The commission shall undertake a review of the capped amount of  
40 KUSF support available for each local exchange carrier operating under  
41 price cap regulation that receives such support, not including Kansas  
42 lifeline service program purposes pursuant to K.S.A. 66-2006, and  
43 amendments thereto, and determine if a lesser amount is appropriate for

1 KUSF distributions after March 1, 2019. Reviews of such carriers shall be  
2 based on the forward-looking costs of providing basic voice service, using  
3 inputs that reflect the actual geography being served and that reflect the  
4 scale and scope of the local exchange carrier providing basic local voice  
5 service within each exchange.

6 (e) (1) For each local exchange carrier electing pursuant to K.S.A.  
7 66-2005(b), and amendments thereto, to operate under traditional rate of  
8 return regulation, all KUSF support, including any adjustment thereto  
9 pursuant to this section, shall ensure the reasonable opportunity for  
10 recovery of such carrier's intrastate embedded costs, revenue requirements,  
11 investments and expenses, subject to the annual cap established pursuant  
12 to subsection (e)(3). Any modification of such support shall be made only  
13 as a direct result of changes in those factors enumerated in this subsection.  
14 Nothing in this subsection shall prohibit the commission from conducting  
15 a general investigation regarding effects of federal universal service  
16 reform on KUSF support and the telecommunications public policy of the  
17 state of Kansas as expressed in K.S.A. 66-2001, and amendments thereto.  
18 The commission may present any findings and recommendations to the  
19 telecommunications study committee established in K.S.A. 2016 Supp. 66-  
20 2018, and amendments thereto.

21 (2) Notwithstanding any other provision of law, no KUSF support  
22 received by a local exchange carrier electing pursuant to K.S.A. 66-  
23 2005(b), and amendments thereto, to operate under traditional rate of  
24 return regulation shall be used to offset any reduction of federal universal  
25 service fund support for recovery of such carrier's interstate costs and  
26 investments.

27 (3) Notwithstanding any other provision of law, the total KUSF  
28 distributions, not to include KUSF support for Kansas lifeline service  
29 program purposes, pursuant to K.S.A. 66-2006, and amendments thereto,  
30 made to all local exchange carriers operating under traditional rate of  
31 return regulation pursuant to K.S.A. 66-2005(b), and amendments thereto,  
32 shall not exceed an annual \$30,000,000 cap. In any year that the total  
33 KUSF support for such carriers would exceed the annual cap, each  
34 carrier's KUSF support shall be proportionately based on the amount of  
35 support each such carrier would have received absent the cap. A waiver of  
36 the cap shall be granted based on a demonstration by a carrier that such  
37 carrier would experience significant hardship due to force majeure or  
38 natural disaster as determined by the commission.

39 (f) Additional supplemental funding from the KUSF, other than as  
40 provided in subsection (e), may be authorized at the discretion of the  
41 commission. However, the commission may require approval of such  
42 funding to be based upon a general rate case filing. With respect to any  
43 request for additional supplemental funding from the KUSF and to any

1 audit of a rural telephone company's KUSF support, the commission shall  
2 act expeditiously, and shall be subject to the 240-day deadline for rate case  
3 applications pursuant to K.S.A. 66-117, and amendments thereto.

4 Sec. 3. K.S.A. 2016 Supp. 66-2006 and 66-2008 are hereby repealed.

5 Sec. 4. This act shall take effect and be in force from and after its  
6 publication in the Kansas register.